Amended pursuant to the Order of Mr Justice Foxton dated 4 February 2022 and re-amended pursuant to the Order of Mrs Justice Cockerill DBE dated 19 July 2022 and re-re-re-amended pursuant to CPR r.17.1(2)(b)

Claim No: CL-2019-000752

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
COMMERCIAL COURT (QBD)

IN AN ARBITRATION CLAIM
AND IN THE MATTER OF APPLICATIONS UNDER S.67 AND S.68 OF THE ARBITRATION ACT 1996

BETWEEN:

THE FEDERAL REPUBLIC OF NIGERIA

Claimant

- and –

PROCESS & INDUSTRIAL DEVELOPMENTS LIMITED

Defendant

Claim No: CL-2018-000182

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
COMMERCIAL COURT (QBD)

IN AN ARBITRATION CLAIM
AND IN THE MATTER OF AN APPLICATION UNDER S.66 OF THE ARBITRATION ACT 1996

BETWEEN

PROCESS & INDUSTRIAL DEVELOPMENTS LIMITED

Claimant

- and –

THE FEDERAL REPUBLIC OF NIGERIA

Defendant

RE-RE-AMENDED REPLY OF THE FEDERAL REPUBLIC OF NIGERIA

INTRODUCTION AND SUMMARY

1. This is the Re-Re-Amended Reply of the Federal Republic of Nigeria (**"FRN"**) in response to the Re-Re-Re-Amended Statement of Case of Process & Industrial Developments Limited (**"P&ID"**) dated ~~6 November 2020~~ ~~4 March 2022~~ ~~2 September 2022~~ 13 December 2022 (**"the Re-Re-Re-Amended Defence"**). Defined terms used in FRN's Re-Re-Re-Amended Statement of Case dated ~~18 September 2020~~ ~~2 February 2022~~ ~~8 July 2022~~ 1 December 2022 are adopted herein.

2. FRN does not address each and every plea in the Re-Re-Re-Amended Defence in this Re-Re-Amended Reply. Save insofar as they consist of admissions, and save where expressly admitted or not admitted herein, FRN joins issue with each and every plea in the Re-Re-Re-Amended Defence.

3. FRN does not plead to the general summary of P&ID's case at paragraphs 1-10, save that:

    1) It is denied, contrary to paragraph 7.2, that P&ID intended to and would have been able to perform its obligations under the GSPA. FRN has adduced ~~will adduce factual and (with the Court's permission)~~ expert evidence on this issue ~~in due course~~: paragraphs 7.2) and 13 below.

    1A) P&ID's case at paragraph 7.3A that it did not corrupt or collude with anyone in order to obtain the FRN Privileged Documents is implausible on its face and is denied: paragraph 33A below.

    2) Contrary to paragraph 7.4.2, it is denied that the Awards may not be set aside on the ground that the GSPA was procured by bribes and/or that FRN's allegations of bribery are irrelevant and liable to be struck-out. FRN's case is that:

        i. The Awards are liable to be set- aside on the ground that the GSPA was procured by bribery and/or criminality. By way of summary, FRN will argue that an arbitration award may, as a matter of law, be set aside under s.68(2)(g) of the 1996 Act on the ground that the underlying contract was procured by bribery, *a fortiori* where the contract was a

sham which the party guilty of bribery did not intend to perform when entering into it. Further or alternatively, at all material times during the arbitration P&ID concealed and/or procured the concealment of the fact that the GSPA and/or arbitration agreement had been procured by bribery and/or criminality, and as such the Awards may be set aside under s.68(2)(g) of the 1996 Act.

ii. In any event, FRN's allegations of bribery are relevant to each of the remaining grounds on which FRN seeks to set- aside the Awards, namely that P&ID entered into the GSPA knowing that it was unable and unwilling to perform the contract; that Mr Michael Quinn gave perjured evidence to the Tribunal, including to the effect that P&ID would have been able to perform (and failed to mention the bribes in his evidence and/or represented impliedly and falsely that P&ID had entered into the GSPA in wholly legitimate circumstances); that P&ID colluded with Mr Olasupo Shasore and/or individuals responsible for representing FRN in the arbitration and/or individuals responsible for obtaining evidence or giving instructions to FRN's legal team and/or individuals directly and/or indirectly involved in FRN's defence, in respect of the arbitration; and that the purported arbitration clause in the GSPA was procured by fraud: paragraphs 80 and 88 of FRN's Re-Re-Re-Amended Statement of Case.

iii. There is therefore no basis on which FRN's allegations of bribery are liable to be struck-out.

3) It is denied, contrary to paragraph 7.4.3, that Mr Michael Quinn's perjured evidence and/or the receipt by P&ID of the FRN Privileged Documents ~~was~~ were not causative of the Awards: paragraphs 31 and 37F below and/or paragraphs 63, 63A, 79I-L and 80 of the Re-Re-Re-Amended Statement of Case. Further or alternatively, these matters and/or P&ID's withholding and concealment of the true position and/or the fact that P&ID corruptly colluded with Mr Shasore and/or individuals responsible for representing FRN in the arbitration and/or individuals responsible for obtaining evidence or giving instructions to FRN's legal team and/or individuals directly and/or indirectly

involved in FRN's defence, in respect of the arbitration, each mean that the Awards were obtained by fraud and/or procured in a way contrary to public policy for the purposes of s.68(2)(g).

4) It is denied, contrary to paragraph 8, that FRN was on notice at the time of the arbitration of the matters on which it relies in its Re-Re-Re-Amended Statement of Case and herein and it is denied that it could reasonably have discovered them. The fraud continued to be concealed from FRN by P&ID and those with whom it colluded. Paragraph 4 of the Re-Re-Re-Amended Statement of Case is repeated. There was therefore no failure by FRN to make a timely objection.

5) Further or alternatively, as a matter of public policy, it is no defence for the fraudster, P&ID, to say that the innocent party, FRN, should have discovered its fraud at the time of the arbitration and that FRN is now out of time, whether by virtue of s.73 of the 1996 Act or, if alleged, on any other basis. There was nothing to put FRN on notice of the need to investigate whether there had been a fraud or whether there was an ongoing fraud: a mere suspicion (had there been one) does not suffice. The statutory bar in s.73 does not apply in circumstances where FRN had no actual knowledge of the facts of P&ID's fraud. Further, given that P&ID continues to deny the inferences of fraud which FRN asserts, it cannot say that FRN should have discovered those inferences sooner.

6) Further or alternatively, as a matter of public policy, the application of s.73 of the 1996 Act does not permit an award which has been fraudulently obtained to stand and/or permit the Court to be used as the vehicle for a fraud.

7) The illegitimacy and alleged abuse at paragraph 10 are denied. The present proceedings are being conducted on the premise that the seat of the arbitration was London, as found by Butcher J in his judgment dated 16 August 2019. The alleged inconsistency identified in paragraph 10 confuses the question of whether the arbitration agreement was procured by fraud, with whether P&ID achieved as a matter of law what the fraud was aimed at, namely a London-seated arbitration.

THE PARTIES

4. As to paragraph 12, it is denied that the allegations of historic fraud and corruption against ~~Mr~~ Messrs Michael Quinn and ~~Mr~~ Brendan Cahill in paragraph 11 of FRN's Re-Re-Re-Amended Statement of Case are inadmissible and/or irrelevant. The allegations are relevant to FRN's allegations of fraud and corruption against P&ID, which was at the material time under the control of those individuals. FRN's investigations into the previous wrongdoing of Messrs Michael Quinn and Cahill are continuing and FRN will rely on such further information as comes to light in support of its pleading that Messrs Michael Quinn and Cahill had a history of involvement in illegal activities.

4A. As to paragraphs 12A-12C:

1) P&ID's interpretation of the documents referred to therein is denied. The correct interpretation is that Mr McNaughton expressed his willingness and intention to provide witness and/or documentary evidence of the corrupt activities of P&ID and its associated individuals and companies until Mr Cahill and/or Mr Hallett, acting on behalf of and/or in concert with P&ID (including in concert with at least Mr Andrew and Mr Burke QC), agreed to pay him the sum of £97,000 (plus up to an additional £60,000 depending on tax liabilities) from the proceeds of the Awards, by way of a purported settlement agreement purportedly dated 10 April 2020.

2) P&ID's admission that Mr McNaughton stated his intention to send documents to the EFCC, but then told Mr Hallett on 25 January 2020 that he had no intention of doing so, but then expressed the contrary intention on 29 September 2020, is noted. Mr McNaughton's position varied according to how effectively he was cajoled by Mr Hallett and/or Mr Cahill not to take steps that might damage P&ID's defence of these proceedings and his view of the likelihood of their following through on the proposal that he would receive payment, as is clear from the face of the emails.

3) It followed from the terms of the settlement agreement (whereby payment to Mr McNaughton was linked to P&ID recovering proceeds from its claim against FRN) and/or a collateral agreement thereto and/or a common understanding between Mr McNaughton, P&ID, Mr Cahill and ICIL that, in return for his entitlement to a payment out of the proceeds of the Awards, he would not

provide evidence or documents relating to the corrupt working practices of P&ID and its related companies or individuals to the FRN or its lawyers. Further to, and consistent with this, (i) by email dated 1 January 2022, Mr Hallett informed Mr McNaughton that Mr Cahill, *"[is] asking you to make no comment [to FRN's lawyers] while working out a satisfactory solution for settlement of your back pay"*; (ii) by email dated 29 March 2022, Mr Hallett informed Mr McNaughton that, *"I also mentioned [to Mr Cahill] that you were being bothered by [FRN's lawyers] and he said that all being well, he should be in a position to discuss a bonus on top of what is already agreed and he owes you. Personally I think that fending off their approaches merits a bonus anyway...*"; (iii) it is to be inferred that communications to similar effect were made by Mr Hallett and/or Mr Cahill to Mr McNaughton on other occasions too.

4) The truth of the allegations made by Mr McNaughton are supported by the contemporaneous documents now disclosed by P&ID as a result of FRN's disclosure applications, as particularised below and in the Re-Re-Re-Amended Statement of Case, and/or are inferred to be true in light of the facts and matter set out in FRN's pleadings as to the corrupt activities of those associated with P&ID.

5) It is denied that Mr Hallett and/or Mr Cahill were not acting on behalf of P&ID during their correspondence with Mr McNaughton and/or in entering into the purported settlement agreement with him. Further, it is denied that Mr Cahill and Mr Nolan were not acting on behalf of P&ID when communicating and making payments to Mr Odama. It is noted that P&ID does not deny knowledge of the said correspondence or settlement agreement. For the avoidance of doubt, FRN's case is that Mr Cahill and Mr Michael Quinn (until his death) acted on behalf of P&ID, and their actions were attributable to P&ID at all material times to date, including during the procurement of the GSPA and the Awards; the settlement negotiations between FRN and P&ID, and in relation to Mr Cahill's actions in connection with these proceedings and Mr McNaughton. Further, Mr Andrew (a current director of P&ID) and/or Mr Richard Deitz (on behalf of Jeffrey Johnson and/or Mr Emile du Toit, current directors of P&ID) endorsed and/or authorised Mr Cahill to try to resolve the position with Mr McNaughton and to prevent the further dissemination of material and evidence unhelpful to

P&ID's case. The steps taken by Mr Cahill (and Mr Hallett and Mr Nolan on instruction and/or in concert with Mr Cahill) in relation to Mr McNaughton and Mr Odama were within this authority. The intention of Mr Cahill, Mr Hallett and Mr Nolan was that adverse witness evidence and/or documents adverse to P&ID's case would not be made available.

6) Paragraph 12DA(2) is denied. Mr Cahill did not make only a *"single payment"* of $500 to Mr Odama. In fact, Mr Odama received a payment of NGN 100,000 from Ms Bello (ICIL's accountant) on or around 12 February 2020, as recorded in an email from Mr McNaughton to Mr Hallett of the same date. Moreover, the US$500 payment made in May 2020 was one of multiple further payments to be made to Mr Odama. In a WhatsApp message from Mr Cahill to Mr Smyth on 22 May 2020 he said *"Tell Godwin the first payment will be 500 dollars. Send it on Monday"*. It is to be inferred from the reference to the *"first payment"* that further payments were made and/or promised to Mr Odama. It is averred that all of the said payments were made on behalf of P&ID. It is moreover apparent from banking documents in the disclosure that Mr Odama received further payments from the bank account of Babcock as follows: (i) NGN 500,000 on 14 April 2020, (ii) NGN 520,000 on 14 April 2020, (iii) NGN 100,000 on 20 April 2020, (iv) NGN 230,000 on 23 April 2020, (v) NGN 50,000 on 4 May 2020, (vi) NGN 100,000 on 4 May 2020, (vii) NGN 90,000 on 5 May 2020, (viii) NGN 150,000 on 8 May 2020, and (ix) NGN 550,000 on 12 May 2020. It is averred that these payments (in total equivalent to approximately US$5,900) were made on behalf of P&ID. It is to be further inferred, including from the content of McNaughton's emails, that Mr Odama held documents evidencing the fact of corruption by individuals or companies associated with P&ID and/or records of cash withdrawals or payments being made by other ICIL group companies on behalf of P&ID for corrupt purposes, which have either been destroyed or otherwise have not been made available by P&ID by way of disclosure in these proceedings.

THE GSPA

4B. As to paragraph 13.3:

1) The pleading as to US$700,000 of cash withdrawals referred to in paragraph 12 of the Re-Re-Re-Amended Statement of Case is based on the following transactions recorded in P&ID's own documents:

   i. A cash withdrawal, labelled *"Dublin expenses"* and *"Papa"*, which it is to be inferred is a reference to Mr Quinn, of NGN 10 million (approx. US$84,000) on 14 May 2008. The withdrawal is recorded on an internal spreadsheet named *"Dublin Exps 2008"*.

   ii. A cash withdrawal of US$300,000 from an account of Omnipol SA, labelled *"PR"*, on 15 May 2008. The withdrawal is recorded on an internal spreadsheet named *"Omnipol"*.

   iii. A cash withdrawal of EUR320,000 under the reference *"ICIL Abuja"* and *"PR"*, on 15 May 2008. The withdrawal is recorded on an internal spreadsheet named *"May-Jun Exs"*.

   iv. Cash withdrawals of NGN 250,000 and NGN 100,000, labelled as *"Dublin Expenses"*, on 15 May 2008. The withdrawals are recorded on an internal spreadsheet named *"Dublin Exps 2008"*.

2) As to paragraph 13.3.2, P&ID is put to proof (a) that the credits of US$320,000 and US$300,000 into ICIL's account number 0024024414 on 19 May 2008 were the proceeds of the transactions referred to in subparagraphs (1)(ii) and (iii) above; and (b) as to the ultimate destination and use of those funds. It is noted in this respect that Mr James Nolan and Mr Anekperechi Nworgu withdrew US$250,000 of cash from the account on 21 May 2008, a further US$250,000 on 26 May 2008, and James Nolan withdrew a further US$200,000 on 5 June 2008. P&ID has not given disclosure showing to whom or for what that cash was paid.

3) P&ID's admission that a representative attended the gas roadshow is noted. P&ID has failed to identify that representative.

4) P&ID has not pleaded any positive case as to, or provided any explanation for, the *"Dublin expense"* for *"Papa"* of US$84,000 recorded in P&ID's spreadsheet on 14 May 2008, being the day before the gas roadshow took place in Abuja, which was attended by Mr Quinn.

5) As regards paragraphs 13.3.3 and 13.3.4, FRN's case is adequately pleaded. Its case is that some or all of the cash withdrawals in subparagraph (1) above were used to pay bribes to officials attending the roadshow, including at least Dr Lukman, in order to gain their favour and induce them to promote and push forward P&ID's proposal for the GSPA. It is averred that this is why the transactions referred to in subparagraph (1) above were labelled *"PR"* and *"Dublin expenses"*. By using cash and keeping incomplete and obscured records of these transactions, which deliberately do not identify the recipients of the *"PR"* and *"Dublin expense"* payments, P&ID has concealed the precise amounts and destinations of the bribes.

6) It is denied, if alleged, that FRN is required to plead references to the exact document(s) upon which it relies for each and every allegation in its Re-Re-Re-Amended Statement of Case, or in this Re-Re-Amended Reply.

5. As to the former projects purportedly carried out by ~~Mr~~ Messrs Michael Quinn and ~~Mr~~ Cahill referred to at paragraph 16.2.1 of the Re-Re-Re-Amended Defence:

1) The so-called 'butanization project' referred to at paragraph 16.2.1.1 was largely unsuccessful, in the sense that many of the storage bullets were ~~under-utilised or entirely~~ unused.

2) The purported project relating to the processing of associated gas into methanol was, by Mr Cahill's own admission in these proceedings, unsuccessful and ultimately aborted.

3) The contracts with Tita-Kuru referred to at paragraph 16.2.1.4 culminated in Messrs Michael Quinn and Cahill stealing the designs for another gas processing plant, which had been paid for and were legally owned by Tita-Kuru, and passing them off as their own in support of P&ID's bid for the GSPA: paragraph 27 below.

4) Save as aforesaid, no admissions are made.

6. As to paragraph 16.2.2, it is denied that the use of an offshore corporate entity was legitimate or appropriate for the GSPA, in particular taking into account P&ID's size, lack of track record, lack of finance, and lack of any partnership with a larger, well-established industry participant (such as Shell, BP or Chevron). Further, while it is

admitted that P&ID Nigeria was incorporated in Nigeria, P&ID rather than P&ID Nigeria was the contracting party to the GSPA, in breach of the Nigerian Companies and Allied Matters Act 2004, which required ~~the~~ FRN's counterparty to the GSPA to be a Nigerian company.

7. As to paragraph 16.3.2:

    1) P&ID's admission that it did not have the resources to finance the performance of the GSPA itself is noted. This is an implicit admission that Mr Michael Quinn's evidence to the Tribunal that *"all of the project finance was in place"* by 14 May 2010, was perjured. This implicit admission is repeated in P&ID's Response to FRN's Request for Further Information dated 13 November 2020, in which P&ID states that it spoke to certain named companies regarding funding (which is not admitted), but that it is unable to say which company (if any) expressed interest in financing the GSPA project and unable to provide the details of any alleged conversation. In any event, FRN does not admit that any of the companies named by P&ID would have been able to provide the project financing required and P&ID is put to proof of that fact.

    2) It is denied that there would have been *"no reason to anticipate difficulties in obtaining finance for a project such as the GSPA"*. It is highly unlikely that finance on the scale required by the GSPA would have been available to a small offshore company such as P&ID with no track record of constructing gas processing plants. In any event, none of the milestones that would have been necessary to obtain funding, including (without limitation) a prospectus package with engineering designs, execution planning, evidence of Engineering, Procurement and Construction (**"EPC"**) contractor readiness including a 'signature ready' EPC contract, economic modelling and product offtake agreements, were or could have been satisfied by P&ID. FRN has ~~will seek to~~ adduced expert evidence on this issue ~~in due course~~.

    3) Further, it is likely that any entity providing finance would have required P&ID (as the project sponsor) itself to expend significant resources in preliminary work, including in: assembling a group of public and private stakeholders to implement the project (such as the local government responsible for allocating the land for the project and the suppliers of the wet gas); procuring a long-term

offtake agreement to ensure a stable market price for the project product; and developing strategies to address the risks associated with the project, including risks arising from its location in Nigeria. Any expression of interest in financing the project would have been conditional upon such preliminary work having been undertaken or commenced. P&ID did not have the resources for this initial expenditure on which financing would have been dependent and had not undertaken any of this work or given indications of any intention or ability to do so. Alternatively, any such resources, intention or ability on the part of P&ID would have been insufficient for the requirements of any potential financier.

8. As to paragraphs 16.4-16.5:

    1) P&ID's admission that it did not have experience of constructing gas processing plants is noted.

    2) The plea that Messrs Michael Quinn and Cahill had *"an interest in energy and power generation from alternative fuel sources"*, and that they had been *"involved in creating and managing a number of different business projects abroad"*, is embarrassing for want of particularity. To the extent that the projects being referred to are those at paragraph 16.2.1 of the Re-Re-Re-Amended Defence, paragraph 5 above is repeated.

    3) It is denied that the facility envisaged by the GSPA was *"not a novel concept"* and would have been *"relatively straightforward to design and construct"*. On P&ID's own evidence, the facility would have cost in excess of half a billion US Dollars to construct. Furthermore, the project would have presented significant technical challenges. FRN has ~~will seek permission to~~ adduced expert evidence on this issue ~~in due course~~. Moreover, P&ID has abandoned its case at paragraph 57.2.4A of the Re-Re-Re-Amended Defence that *"only a small amount of further design work would have been required"* to construct the facilities envisaged by the GSPA. It follows that, on P&ID's own case, a substantial amount of design and engineering work would have had to be carried out in order to perform the contract.

    4) It is denied that P&ID had previously undertaken and completed designs for a larger and more complex gas processing plant. The alleged designs were funded

by Tita-Kuru and were purportedly produced by a team of sub-contractors. It is in any event noted that P&ID's revised case at paragraphs 57.2.3 and 57.2.4A of the Re-Re-Re-Amended Defence is that the designs for Tita-Kuru's proposed project were not capable, or substantially capable, of being used for the purposes of the GSPA.

5) It is in any event denied, if alleged, that P&ID could have 'carried across' the alleged designs for the Tita-Kuru plant to construct the facilities envisaged by the GSPA, which involved different processes and different end products from the planned Tita-Kuru plant. P&ID has belatedly admitted this at paragraph 57.2.3 of its Re-Re-Re-Amended Defence and in the expert report of Mr Newenham dated 19 July 2022.

6) It is denied that P&ID would or could have sub-contracted the engineering, design and construction work necessary under the GSPA. No EPC contractor would have been willing to work with a small offshore company, with no relevant track-record, on a project of this scale. In any event, had P&ID genuinely intended to perform the GSPA, it would have produced 'signature-ready' agreements with an EPC contractor, selected pursuant to a tender process, by the date on which the GSPA was executed. P&ID has not alleged that any EPC contractor was appointed by this date (or at all), or that a tender even took place (which would likely have taken 6-12 months). Furthermore, without an agreement with an EPC contractor, it would have been impossible to obtain finance. FRN has ~~will~~ ~~seek permission to~~ adduced expert evidence on this issue ~~in due course~~.

9. As to paragraph 16.6 it is noted that, despite the cross-reference to *"the reasons set out below"*, there is no reference in the remainder of the Re-Re-Re-Amended Defence to any intention on behalf of ~~Mr~~ Messrs Michael Quinn and ~~Mr~~ Cahill to obtain finance through ICIL Ireland. This is in any event inconsistent with paragraph 16.2.2 of the Re-Re-Re-Amended Defence, which refers to the intended use of an *"offshore corporate entity"*, namely P&ID, for the purpose of obtaining third party funding. To the extent that P&ID is alleging that ICIL Ireland would have obtained third party funding for the purpose of funding the construction of the 70km pipeline, that is inconsistent with the fact that the company issued a letter of comfort in its own name, and without

mentioning the need for any third party funding, undertaking to finance the pipeline. P&ID is in any event put to proof of the net asset position of ICIL Ireland in 2009.

9A. As to paragraph 20, it is denied that the GSPA did not need to be notified to or authorised by the Bureau of Public Procurement, Federal Executive Council or National Office for Technology Acquisition and Promotion. FRN will rely on its expert evidence on Nigerian law in this respect. As to the denial that the GSPA was unenforceable by reason of it not having been notified to or authorised by those bodies, see paragraph 12 below. FRN's case is not that the Awards are liable to be set aside on this basis alone. Rather, the fact that the GSPA was not notified to the required bodies is evidence that it was kept away from outside scrutiny.

10. As to paragraph 20.1 it is denied, if alleged, that the GSPA was publicly known about and/or discussed in Nigeria prior to its execution. P&ID has not identified any discussion in the media or any other public forum about the GSPA prior to 11 January 2010, when the contract was executed. FRN's case is that the fact of the GSPA, and in any event its detailed terms, were kept within a tight-knit group of individuals within the MPR until the contract was signed.

11. As to paragraph 20.2, it is denied that any warranty in the GSPA was valid in circumstances where the GSPA, including the purported warranties therein, had been procured by P&ID's fraud. For the same reason, P&ID was not entitled to rely on any such warranty and, given its knowledge of its own fraud, did not rely on any warranty. FRN is therefore permitted to deny that the GSPA was validly authorised.

12. As to paragraph 20.3, it is denied that FRN is barred by the principles of *res judicata*, estoppel, merger, and/or abuse of process from alleging that the GSPA was void by reason of its failure to comply with the requirements of Nigerian law. The issues which arise in the present proceedings as to the GSPA's compliance with Nigerian law (including as to P&ID's fraud) were not issues in the arbitration and were not determined in those proceedings. For the avoidance of doubt, FRN's case is not that the Awards are liable to be set aside on the sole basis that these requirements were not met. Rather, the fact that the requirements were not met supports FRN's case that the fact and/or terms of the GSPA were concealed from scrutiny by individuals outside the MPR.

13. Paragraph 22 is denied. FRN has ~~will~~ ~~seek permission to~~ adduced expert evidence in response to P&ID's plea that it would, in fact, have been able to perform the GSPA and, further, as to whether any reasonable person would have genuinely believed it could have performed the GSPA. Without prejudice to ~~such~~ that evidence ~~to be served in due course~~, FRN avers that:

    1) P&ID would not have been able to complete the project within the timescales envisaged by the GSPA unless it had a 'signature ready' contract with an EPC contractor (and likely also with a project management consultant (**"PMC"**)) as at the date of the GSPA, and had executed a final contract with those contractors as soon as the GSPA was executed. P&ID does not allege that it had even identified an appropriate EPC contractor or PMC, or sought to do so through a tender.

    2) It is highly unlikely that any EPC contractor would have been willing to work on a project on the scale of the GSPA with a company such as P&ID. Paragraph 8.6) above is repeated.

    3) P&ID did not have access to the highly skilled personnel required to operate a gas processing plant, nor did it have any plan for hiring or sub-contracting such personnel.

    4) P&ID never obtained a 'Licence to Establish a Gas Plant Facility Conceptual Study and Basic Design', as required by the Nigerian Guidelines for the Establishment of a Natural Gas Plant Facility (DPR 2006). Such a licence should have been in place before the GSPA was signed. In order to obtain this, P&ID would have had to undertake considerable preliminary work, including in respect of design, feedstock composition and flow and offtake. This was not done. To the extent that P&ID had any involvement in preliminary work (which is not admitted), that was for the Tita-Kuru plant, a different project with a different end product. That preliminary work was therefore irrelevant or insufficient for the purposes of the GSPA project, as P&ID now admits at paragraphs 57.2.3 and 57.2.4A of the Re-Re-Re-Amended Defence.

5) P&ID did not own the site on which the plant was allegedly to be constructed in Calabar. It therefore could not have secured access to carry out the surveying required to carry out design and early construction work.

6) P&ID could not have completed even basic engineering designs for the project without first knowing the specification of the wet gas to be processed by the facilities. Recital (i) to the GSPA provided that P&ID had undertaken *"all necessary studies"* in this respect. However, P&ID has disclosed no such studies, nor has it even asserted that they were carried out. It is to be inferred that P&ID had not carried out the studies that would have been necessary to complete basic designs for the plant, contrary to its representation in the GSPA.

7) P&ID would not have been able to obtain the necessary finance for the project. Paragraph 7.2) above is repeated.

8) Contrary to the views expressed by P&ID's technical and finance experts, the fact that FRN did not secure a supply of wet gas does not mean that it was reasonable for P&ID to take no meaningful steps to perform the contract. As explained in FRN's expert evidence on technical and finance issues, any reasonable party having entered into an agreement to construct a gas processing facility on the scale of the GSPA, and within the contractually stipulated timeframes, would have taken, and would have been required to take, a series of preparatory design, engineering, commercial and finance-related steps prior to signing the GSPA, and certainly prior to FRN's alleged breach in failing to identify a source of gas and supply it to the Site. It is moreover noted that P&ID encouraged Tita-Kuru to produce substantial engineering design work for the Project Alpha facilities, said to have cost US$40 million, in circumstances where no source of wet gas had been identified (and no such source was ever identified).

9) Further and in any event:

    i. P&ID is contractually estopped, by reason of the statement in recital (i) of the GSPA that *"P&ID has undertaken all necessary studies, including the identification of suitable associated gas fields and is ready to commence a fast track development of the project in accordance with*

the terms of this Agreement", from contending that P&ID was not able to commence development of the GSPA project because of an alleged failure to identify one or more sources of associated gas and/or to provide studies identifying the specification of that gas; and/or

ii. It is an abuse of process for P&ID to aver that it was not able to prepare any, or any substantial, designs for the GSPA facilities, or to obtain finance, in circumstances where P&ID's case before the Tribunal was that it had already completed 90% of the said designs and had already secured finance for the GSPA project.

BRIBES PAID TO NIGERIAN OFFICIALS

13A. As to paragraph 24.1, FRN will rely on its expert evidence on Nigerian law. Without prejudice to that, and in summary:

1) It is denied that paragraph 6(3) of the Code of Conduct for Public Officers provides a defence to the offences under the Corrupt Practices and Other Offences Act 2000. Paragraph 6(3) only provides a defence to complaints brought under the Code of Conduct. The 2000 Act contains no equivalent defence.
2) Further, it is denied that paragraph 6(3) of the Code of Conduct provides any exception to the general prohibition in paragraph 6(1).
3) It is in any event denied that the payments made to Nigerian public officials, as particularised in the Re-Re-Re-Amended Statement of Case and herein, were customary gifts or benefits given to relatives or personal friends. They were bribes corruptly paid and received in connection with the procurement of the GSPA and/or the Awards and/or to procure the recipients' silence in respect of P&ID's wrongdoing and the bribes that had been paid. Paragraph 6(3) of the Code of Conduct does not justify or provide any defence to any gift or promise made corruptly with an intention to influence or gain favour, and the presumptions as set out in the Corrupt Practices and Other Offences Act 2000 remain.

14. As to paragraph 24.3, it is noted that P&ID does not deny that further payments have been made to Nigerian officials, but rather states that it is *"not aware"* of any such payments. ~~it is denied that FRN's request for a list of payments made to Ms Taiga or~~

~~Mr Tijani was inappropriate, disproportionate or overly broad. FRN renewed its request for this information and~~ P&ID has, in its response to an RFI dated 24 June 2020, provided details of ~~further payments made. P&ID has now stated that ICIL Ireland made~~ additional payments to Ms Grace Taiga of €45,516.61 on 1 November 2019 and €22,694.95 on 6 January 2020. P&ID has also provided details of further payments to Conserve Oil, of US$54,679.79 on 16 July 2013, US$50,000 on 12 August 2013 and NGN 55,504,768 on 6 March 2014. FRN avers, for the reasons it sets out at paragraph 28 of its Re-Re-Re-Amended Statement of Case, that these payments to Ms Grace Taiga were bribes. FRN reserves the right to contend that these payments to Conserve Oil were, along with the payments set out at paragraph 35 of its Re-Re-Re-Amended Statement of Case, part of the scheme to bribe Mr Tijani. If alleged, it is denied that P&ID has given full disclosure of all payments made to Nigerian officials or of the circumstances of those payments. The second and third sentences of paragraph 22.4) of FRN's Re-Re-Re-Amended Statement of Case are repeated.

14A. As to paragraph 24.4, P&ID's statement that a contract tainted by illegality is not *"necessarily"* unenforceable is not a proper response to paragraph 22(5) of the Re-Re-Re-Amended Statement of Case. Moreover, there is no basis in P&ID's expert evidence for its denial that a contract induced by bribery is unenforceable. P&ID's admission of the remainder of paragraph 22(5), including that under Nigerian law the fact that a contract has been induced or affected by bribery is a defence to a claim brought under that contract, is noted.

14B. As to paragraph 25A, P&ID is put to proof that (i) the payments referred to in the first sentence of paragraph 25A.2 are duplicates as alleged and (ii) the payment of EUR 65,000 referred to at subparagraph 23(6A) of the Re-Re-Re-Amended Statement of Case was a receipt of monies by ICIL rather than a payment to Ms Taiga.

14C. The admission in paragraph 25B that Mr Cahill, Mr Andrew and Mr Burke KC were aware of the payments made to Ms Grace Taiga is noted.

Payments to Grace, Ise and Vera Taiga

15. The allegation at paragraph 27 that the payments to Ms Grace Taiga were made on behalf of Mr Michael Quinn and/or Mr Cahill personally is denied. The payments, and the two additional payments to Ms Grace Taiga detailed in paragraph 1) above, were

bribes made on behalf of P&ID. P&ID has not explained how, on its case, the making of payments for Ms Grace Taiga's medical expenses was a lawful use of company money by the payor entities and/or how those payments were accounted for by those entities.

16. To the extent that paragraphs 28 and 32 are intended to allege that the payments to Ms Grace Taiga were unconnected to the GSPA because they were not made until *"years after the GSPA had been terminated"* and *"long after the GSPA was concluded"*, that is denied. At least one payment intended for Ms Grace Taiga, transferred to her daughter Ms Vera Taiga, was made on 30 December 2009, less than two weeks before the GSPA was executed. P&ID failed to disclose this payment in its evidence served in response to FRN's application for an extension of time. The payment only came to light when FRN obtained disclosure from a number of banks in the US pursuant to an order of the New York District Court. The proper inference is that P&ID sought to conceal this payment from FRN, and that there are further payments to Ms Grace Taiga and/or to other Nigerian officials which FRN has not yet uncovered and which P&ID is concealing from FRN and the Court. The payments made to or for the benefit of Grace Taiga after she ceased to be a government employee: (i) were further bribes intended by or on behalf of P&ID to procure her to continue to conceal and withhold the fact of the payment of bribes and/or of corruptly promised payments to her and others in connection with the conclusion of the GSPA (including her continuing breach of her duties under section 23(2) of the Corrupt Practices and Other Related Offences Act to report such bribes); and/or (ii) represented part of payments corruptly promised to her by or on behalf of P&ID prior to the conclusion of the GSPA (including her entitlement to a share of the sums P&ID was able to obtain in consequence of its having entered into the GSPA, and/or advances in respect of such promised sums).

16A. For the avoidance of doubt, it is denied that the payments made to Grace, Ise and Vera Taiga were customary gifts or benefits to personal friends. The allegation is implausible on its face. The payments were bribes paid in connection with the procurement of the GSPA and the Awards, and/or the procurement of Grace Taiga's continued silence in respect of the same. FRN will rely, amongst other things, on the fact that Ms Taiga was promised, and believed herself to hold, a substantial stake in P&ID and/or the Awards. Such an interest is not consistent with customary gift giving between friends. Moreover, paragraph 12A above is repeated. It is in any event noted that P&ID has failed to

identify the 'personal friendship(s)' in respect of which each of the payments were allegedly made, or the custom that is said to underlie them.

17. As to paragraphs 29 and 31-32, it is denied that the transactions were *"bona fide humanitarian payments"* to Ms Grace Taiga. Even if the payments were made for the purpose of paying Ms Grace Taiga's medical expenses, which is denied, they were bribes under Nigerian (and English) law. Paragraphs 22(1)-(3) of FRN's Re-Re-Re-Amended Statement of Case are repeated.

17Aa. As to paragraph 30.3, it is denied that the payments of US$5,000 and US$2,000 paid to Ms Grace Taiga on 14 June and 4 October 2004 were made personally on behalf of Mr Quinn. They were made on behalf of the ICIL group of companies, including in particular the companies that were awarded contracts by the Ministry of Defence identified at paragraph 23A(6) below. It is noted that the two payments appear in an internal spreadsheet entitled *"Taiga G – Sept 2019"* under the heading *"Payments from Industrial"* which, it is to be inferred, is a reference to ICIL. Given her role as a senior legal advisor at the Ministry of Defence at the time, Ms Taiga was in a position to influence the award of, and terms of, contracts entered into by ICIL group companies.

17A. As to paragraph 32A:

1) It is denied that the payments to Ms Omafuvwe Taiga identified at paragraph 30A.2) of the Re-Re-Re-Amended Statement of Case were intended to help Ms Grace Taiga with her legal costs. They were corrupt payments intended to procure the continuing silence of Ms Grace Taiga and/or pursuant to the corrupt arrangement pleaded at paragraphs 19 and 30C of the Re-Re-Re-Amended Statement of Case. Even if the payments were intended to help Ms Grace Taiga pay her legal expenses, which is denied, they would nonetheless constitute unlawful bribes. Paragraphs 22.1), .2) and 30 of the Re-Re-Re-Amended Statement of Case are repeated.

2) Contrary to P&ID's case at paragraph 32A.4) that it is *"not aware"* of any payments in kind being made to Ms Grace Taiga, P&ID has disclosed WhatsApp messages in which (i) on 9 December 2019 Ms Grace Taiga thanked Mr Cahill for sending what she described as *"the first goods"*; and (ii) on 21 December 2019 Ms Ise Taiga said to Mr Cahill *"I would therefore*

recommend that we continue or proceed with 'procurement of goods' to Nigeria using our old faithful …". It is to be inferred that payments in kind have been utilised by P&ID as a means to avoid detection of such payments.

3) As to paragraph 32A.6), P&ID's denial that it committed to pay to Ms Grace Taiga proceeds recovered from the Awards, and/or that she has been promised or granted an interest in P&ID, is inconsistent with the following documents (without limitation), which prove and/or give rise to an inference that Ms Grace Taiga was given or promised an interest in P&ID and/or stands to benefit from the Award:

    i. The WhatsApp message from Ms Grace Taiga to Mr Cahill dated 18 December 2014 in which she informed Mr Cahill that *"Papa"* had informed her of the *"good news of the commencement of settlement some time ago"* and that she was *"hoping to spend d Christmas hols in London!"*. It is to be inferred that (i) *"Papa"* is a reference to Mr Michael Quinn; and (ii) the commencement of settlement discussions was *"good news"* for Ms Grace Taiga because she stood to benefit from the outcome of those discussions.

    ii. The WhatsApp message from Ms Grace Taiga to Mr Cahill dated 6 July 2015 in which she wrote *"I keep remembering Papa telling me Grace u will be so wealthy u will travel all over d world as much as you wish! Hmmm!"*. It is to be inferred that *"Papa"* (Mr Michael Quinn) told Ms Grace Taiga that she would become wealthy because she stood to be paid substantial proceeds from the Awards.

    iii. The email sent from Mr Ken Smyth to Mr Cahill dated 9 September 2017 attaching a document named *"Sale of Shares Split"*. In the document, under the heading *"Commitments"*, Ms Grace Taiga is listed as being owed US$20,000. It is to be inferred that this 'commitment' reflected part of Ms Grace Taiga's interest in P&ID and/or part of her entitlement to be paid out of any proceeds recovered under the Awards.

    iv. A further version of the *"Sale of Shares Split"* document sent by ~~Ms~~

~~Marian McDonnell to~~ Mr Smyth to Ms Marian McDonnell by email on 26 October 2017 lists a 'commitment' of US$50,000 for *"Grace, Isa and Isaac"* (it is to be inferred that the reference to *"Isaac"* is to Isaac Ebubeogu, the secretary of ICIL who was asked to burn all of the files in the ICIL office in May 2015: paragraph 79F.2) of the Re-Re-Re-Amended Statement of Case). In a yet further version of the document attached to an email from ~~Mr Cahill to~~ Mr Smyth to Mr Cahill dated 29 August 2019 Ms Grace Taiga's name is listed next to a 'commitment' of US$500,000. It is to be inferred that this 'commitment' reflected part of Ms Grace Taiga's interest in P&ID and/or formed part of her entitlement to be paid out of any proceeds recovered under the Awards.

17Ba. As to paragraph 34, P&ID is put to proof that the payment referred to in paragraph 32(3) of the Re-Re-Re-Amended Statement of Case is the same payment as that referred to in paragraph 23(2A) of the Re-Re-Re-Amended Statement of Case. Further, FRN notes a typographical error at paragraph 32 1c) of the Re-Re-Re-Amended Statement of Case, where "US$5,164.10" should read "US$5,614.10".

17B. As to paragraphs 35B, 35BA, 35BB and 35C:

1) It is denied that the payments to Ms Ise Taiga identified at paragraph 34B of the Re-Re-Re-Amended Statement of Case were made for reasons of *"benevolence"* but, even if they were, they nonetheless constituted unlawful bribes.

2) In addition to the payments identified at paragraph 34B of the Re-Re-Re-Amended Statement of Case, FRN has uncovered a further payment made by Kristholm Limited (**"Kristholm"**) to Ms Ise Taiga in the amount of ~~US$~~£5,057.63 on 22 September 2004, and by Marshpearl in the amounts of ~~US$~~£2,020.60 and ~~US$~~£5,045.98 on 23 November 2004 and 16 February 2005, respectively. It is to be inferred that these payments were unlawful bribes intended for Ms Grace Taiga. Paragraph 34C of the Re-Re-Re-Amended Statement of Case is repeated.

3) The payments to Ms Ise Taiga form part of a *modus operandi* of companies

owned and/or controlled by Messrs Michael Quinn and Cahill of paying bribes to, and corrupting, public officials: paragraph 23A below.

4) P&ID is put to proof that the payment referred to in paragraph 34Ba(1) of the Re-Re-Re-Amended Statement of Case is the same as the payment identified at paragraphs 23(aa1) and 32(1) thereof.

5) It is denied that the cash payment of NGN 1 million to Ms Ise Taiga on 15 December 2020 was made by Mr Nolan personally. Such an allegation is implausible on its face and, if true, there is no reason why Ms Ise Taiga would have confirmed receipt of the cash to Mr Cahill, or that this would have then been forwarded to Mr Andrew, the following day. The payment was a bribe made on behalf of P&ID. Further, (at least) Mr Andrew (a current director of P&ID) endorsed and/or authorised this payment by Mr Nolan, as he similarly endorsed and/or authorised the other payments to or for the benefit of Ms Taiga in the period since October 2017.

Payments to Taofiq Tijani

18. As to paragraph 36.2:

1) The allegation that the payments at paragraphs 35(2)-(5) of FRN's Re-Re-Re-Amended Statement of Case were *"referable"* to the Bonga Audit project is embarrassing for want of particularity. To the extent that P&ID avers that those payments and the payments to Conserve Oil detailed in paragraph 1) above were made in return for work carried out on the project, it can and should provide details of the same, including invoices and receipts documenting the payments that P&ID made to Conserve Oil and Mr Tijani in connection with the project.

2) P&ID is put to proof as to the details of the Bonga Audit project, including the dates on which work was carried out, the work product produced, the dates on which payments were made to sub-contractors, and the alleged role that Mr Tijani and Conserve Oil played in the Audit, including the dates on which Conserve Oil produced invoices for its services and the dates on which those invoices were paid.

3) It is averred that Mr Tijani's only involvement in the Bonga Audit project was to recommend Conserve Oil, a company owned by his friend Mr Odebunmi, to Messrs Quinn and Hitchcock as a potential sub-contractor for the supply of local engineers. Mr Tijani held no stake in Conserve Oil at the time of the Bonga Audit, and did not play any role in connection with the conduct of the Audit.

4) It is denied that Conserve Oil was *"Mr Tijani's company"*. Mr Tijani did not acquire any interest in the company until several years after the conclusion of the purported Bonga Audit project. Mr Tijani's wife was appointed as a proxy director in around June 2015, and Mr Tijani was appointed as a signatory on the company's bank account in or around March 2016.

5) P&ID has failed to particularise why the payments at paragraphs 35(3) and (5) of FRN's Re-Re-Re-Amended Statement of Case were made to Mr Tijani personally if they were truly intended as payments for work carried out by Conserve Oil (which is denied).

Payment to Mr Dikko

19. As to paragraph 40, it is noted that P&ID ~~does not deny that Mr Michael Quinn made a cash payment of US$2,000 to Mr Dikko, and instead~~ avers that this *"would not have been surprising in view of Mr Quinn's generous nature"*.

Payments to Dr Lukman

19A. As to paragraph 42.2.3, it is denied that Mr Ajumogobia reviewed or approved the GSPA before it was signed on 11 January 2010. The correspondence referred to by P&ID does not suggest otherwise.

P&ID's arrangement with Mr Kuchazi

20. As to paragraph 47.1, it is denied that the level of commission agreed with Mr Kuchazi, amounting to 3% of P&ID's post-tax profits or, on the current alleged value of the Awards, approximately US$290 million, was a *"reasonable and commercial level of commission"*. Mr Kuchazi's own evidence to the English Court was that his role was *"limited to delivering and receiving messages and letters on behalf of P&ID Nigeria"*.

The proper inference is that Mr Kuchazi was employed by P&ID to exercise his influence improperly over and/or pay bribes to Nigerian officials.

Cash withdrawals

21. The allegation at paragraph 50.2 that Messrs Michael Quinn and Cahill *"were engaged in business activities in Nigeria separate from the GSPA at the time of the cash withdrawals"* relied upon by FRN is wholly unparticularised and embarrassing for want of particularity. P&ID is put to proof as to:

    1) the *"business activities"* which it is alleged were being carried out by companies under the control of Mr Michael Quinn and/or Mr Cahill at the time of the cash withdrawals.

    2) whether, and if so how, each of those purported businesses used cash withdrawn from the account of ICIL Nigeria.

22. In light of P&ID's inadequately particularised case, FRN reserves the right to request further information and/or disclosure on these points in due course.

23. As to paragraph 51.6, it is denied that cash payments in breach of money laundering legislation were and are *"routinely made"*.

23A. As to paragraph 51.7, the track record of P&ID and the individuals associated with it of corrupting Nigerian officials is demonstrated by (without limitation, and in addition to the matters described at paragraph 11 of the Re-Re-Re-Amended Statement of Case) the following payments that have already been identified from the disclosure provided to FRN:

    1) The payments made to Ms Ise Taiga between September 2004 and December 2005, at a time when Ms Grace Taiga held the position of Legal Advisor at the Ministry of Defence. See paragraph 34B of the Re-Re-Re-Amended Statement of Case and paragraph 17B above.

    2) Payments were made to, or for the benefit of (through his family members), General Martin Luther Agwai, who was at the time serving as the Chief of Nigerian Army Staff, as follows:

        i. On 11 February 2004, payments of US$10,042.32, US$20,051.47 and

US$20,051.47 made by Kristholm.

ii. On 16 February 2004, a payment of US$20,051.40 made by Kristholm.

iii. On 4 October 2005, a payment of ~~US$~~£5,031.99 made by Marshpearl.

3) Payments were made to Ambassador Dauda Danladi, who at the material time was working at the Ministry of Defence, as follows:

iaa. On 31 October 2002, a payment of US$22,650 by Kristholm, as recorded as a *"commision* [sic]*"* on P&ID's spreadsheet entitled *"Kristholm"*.

ia. On 30 December 2002, a payment of US$20,000 as recorded on P&ID's spreadsheet entitled *"Marshpearl budgets September 18th 2003"*.

i. On 7 March 2003, a payment of US$50,077.46 by Kristholm (on the same day as which a payment for exactly the same sum was made to Mr Adetunji Adebayo and a similar payment was made to Dr Kaigama: see subparagraph (4)(i) below).

ii. On 6 May 2003, a payment of US$100,127.86 by Kristholm, (on the same day as which payments for exactly the same sum were made to Dr Kaigama, as to which see subparagraph (4)(ii) below, and a person or entity identified as *"Asset and Resour"*).

iii. On 19 December 2003, a payment of US$5,041.46 by Kristholm.

iv. At some point in time between January and September 2005, a payment of NGN 2 million, as recorded on P&ID's spreadsheet entitled *"Police PR – Adam"*.

4) Payments were made to Dr Kaigama, who was at the material time a Permanent Secretary in the Federal Civil Service, as follows:

iaa. On 30 December 2002, a payment of US$30,000 as recorded on P&ID's spreadsheet entitled *"Marshpearl budgets September 18th 2003"*.

ia. On 10 February 2003 a payment of £1,022.35 was made to Aisha Kaigama who, it is to be inferred, was the wife of Dr Kaigama (including in light of the fact that P&ID had a track record of making payments to the wives of Nigerian officials, as to which see subparagraph 23A(5A) below).

i. On 7 March 2003, a payment of US$60,087.46 by Kristholm (on the same day as which a substantial payment was made to Ambassador Danladi: subparagraph (3)(i) above).

ii. On 6 May 2003, a payment of US$100,127.86 by Kristholm (on the same day as which exactly the same payment was made to Ambassador Danladi: subparagraph (3)(ii) above).

iii. On 5 September 2003, a payment of US$50,077.31 by Marshpearl.

iv. On 26 January 2004, a payment of USD 50,081.13 by Kristholm.

v. On 6 February 2004 a payment of US$50,081.10 by Kristholm.

vi. On 7 September 2006, a payment of US$10,032.26 by Kristholm.

5) It is to be inferred that the abovementioned payments to Dr Kaigama and his wife were unlawful bribes, given his official role and the absence of any other legitimate explanation for the payments from P&ID.

5A) A number of payments were made for the benefit of the then-Minister of Police Affairs, Mr Bozimo. This includes payments to an individual named Mrs Joyce Bozimo whom, it is understood from a letter written by Mr Nolan dated 13 May 2008, is the wife of Mr Bozimo. FRN relies on the following payments:

i. A payment from Marshpearl to "J Bozimo" of £2,000 on 25 April 2006.

ii. A payment referenced "Bozimo" of US$7,458.17 on 14 June 2006. It is noted that six days later, on 20 June 2006, the Central Bank of Nigeria was requested to issue a letter of credit for the benefit of Marshpearl on behalf of the Minister of Police Affairs, i.e. Mr

Bozimo.

iii. A payment referenced "Bozimo London Clinic" of US$19,461.65 on 27 June 2006.

iv. A payment referenced "J Bozimo" of US$3,790 on 25 August 2006.

v. A payment referenced "Mrs Bozomo Medical Bills" of US$6,348.11 on 2 October 2006.

vi. A payment from Marshpearl referenced "Joyce Bozimo" of £3,372.70 on 3 October 2006.

vii. A payment from Marshpearl referenced "Joyce Bozimo" of £8,043.40 on 27 October 2006.

viii. A payment referenced "MRS BOZIMO" of US$2,850 on 17 November 2006.

ix. A payment from Marshpearl referenced "Joyce Bozimo" of £1,534.61 on 20 November 2006.

x. A payment from Kristholm referenced "Mr E E Bozimo" of US$10,567.80 on 3 April 2007

xi. A payment from Marshpearl referenced "Joyce Bozimo" of £10,046.41 on 11 June 2007.

xii. Payments from Trinity Biotech of NGN 400,000, NGN 190,000, NGN 140,000, NGN 140,000 and NGN 42,000 on 14 August 2007, 6 September 2007, 27 September 2007, 1 November 2007 and 21 November 2007, respectively. The payments are variously described as cash withdrawals, expenses or salary payments for "Yvonne Bozimo". It is understood that Yvonne Bozimo occupies a property with Mrs Joyce Bozimo in London.

xiii. One or more payments from Trinity Biotech referred to as a budget for "mrs bossimo" of US$36,000 between the dates of September 2008 and April 2009, as set out in P&ID's document referenced

7501266_00214518.

xiv. A payment from Marshpearl referenced "EE Bozimo" of £10,051.73 on 12 September 2008.

xv. Payments from Trinity Biotech to Mrs Bozimo of NGN 1,500,000, NGN 500,000 and NGN 500,000 on 17 September 2008, 6 February 2009 and 28 May 2009, respectively.

It is to be inferred that the said payments were bribes in connection with contracts awarded to P&ID-related companies by Mr Bozimo.

6) At or around the time that the said payments were made to or for the benefit of General Agwai, Ambassador Danladi, ~~and~~ Dr Kaigama and Mr Bozimo, a number of P&ID-related entities were awarded contracts by the Ministry of Defence, some of which were signed and/or witnessed by Dr Kaigama. In particular:

i. On 20 May 2002 a contract was signed between Marshpearl and the Ministry of Defence for the refurbishment of 36 Scorpion combat vehicles (**"the Scorpion Contract"**). The contract was signed by Dr Kaigama and Mr Michael Quinn. On 2 July 2002 a supplementary agreement was signed between the same parties.

ii. On 19 March 2003 Marshpearl was awarded a contract to refurbish four Scorpion combat vehicles. The contract was signed by Dr Kaigama and Mr Michael Quinn.

iii. On 9 May 2003 Marshpearl was awarded a contract to refurbish a further eighteen Scorpion combat vehicles. The contract was signed by Dr Kaigama and Mr Michael Quinn. It is noted that a payment of $350,286.06, labelled *"commission"* and *"ammo"*, was made by Kristholm to Mr Adebayo three days earlier, on 6 May 2003.

iv. On 3 December 2004 Albion Marine Co Limited (Cyprus) was awarded a contract to supply 19 fast response rescue craft. The contract was signed by Mr Bukar Goni Aji (Permanent Secretary at the Ministry of Defence at the time) and Mr Neil Hitchcock, and was

witnessed by Ms Grace Taiga.

v. Also on 3 December 2004 Goidel Limited (Cyprus) was awarded a contract to supply an ambulance craft. The contract was signed by Messrs Bukar Goni Aji and James Nolan, and witnessed by Ms Grace Taiga.

vi. On 27 December 2004 Marshpearl was awarded a supplementary agreement to the Scorpion Contract for the supply of communications equipment. The contract was signed by Mr Bukar Goni Aji and Mr Adam Quinn, and was witnessed by Ms Grace Taiga.

vii. On 30 December 2004 Marshpearl was awarded a contract for the supply of an Integrated Communications System. The contract was signed by Mr Bukar Goni Aji and Mr Michael Quinn, and witnessed by Ms Grace Taiga.

viii. On 10 February 2005 Marshpearl was awarded a further contract, supplemental to the Scorpion Contract, to supply communications equipment for the Scorpion vehicles.

ix. On 15 August 2005, a contract was signed between Hobson Industries Limited and the Ministry of Defence for the refurbishment of 36 Piranha Mark 1-Mowag Wheeled Armoured Personnel Carriers for the use of the Nigerian Army. Mr Bukar Goni Aji was the representative of the Ministry of Defence at the time.

ixa. On 22 November 2005, the Ministry of Police Affairs awarded a contract to Marshpearl for the refurbishment of 100 armoured personnel carriers.

ixb. On 2 February 2006, the Ministry of Police Affairs awarded a contract for the supply of goods and services in connection with the refurbishment of armoured personnel carriers. The contract price was US$18,487,240.

x. On 4 December 2006, Marshpearl was awarded a contract for the supply of 58HF Additional Matador Base Station 500 Watts

Communication Radios for the Nigerian Army.

xi. Also on 4 December 2006, Marshpearl was awarded a contract for the provision of 39 VHF and 2HF Vehicular Radios for 22 of the refurbished Scorpion vehicles.

xii. On an unknown date, ostensibly in 2006, it appears that a contract was entered into between Kristholm and the Ministry of Defence for the supply of spare parts for Armoured Personnel Carriers. FRN has not identified a final signed copy of this agreement.

xiii. On 23 January 2007, the Ministry of Defence awarded a contract to Primetake Limited for the supply of a Mobile Turbine Generator and Trailer.

xiv. On 15 May 2007, the Ministry of Police Affairs awarded a contract to SESFTF Progress Limited for the supply of ammunition and bulletproof vests worth £3,173,354.08.

xv. On 23 July 2009, Albion Marine Co Limited was awarded a contract with a value of US$593,012.57 for the supply of protective patrol equipment for the marine police.

xvi. On 16 September 2009, Albion Marine Co Limited was awarded a contract with a value of US$760,263.08 for the supply of night vision and assorted items of protective equipment for the marine police.

xvii. On 30 October 2009, Primetake Limited was awarded two contracts for the supply of long-range shells worth US$536,927.59 and US$596,302.31, respectively.

7) It is to be inferred from the positions of General Agwai and Ambassador Danladi at the Ministry of Defence; the position of Dr Kaigama and the fact that he signed and/or witnessed a number of the abovementioned contracts; the position of Mr Bozimo at the Ministry of Police Affairs; and the absence of any other legitimate explanation from P&ID for making the payments, that the payments were unlawful bribes made in connection with those and/or other contracts.

8) In his email to Mr Cahill of 29 September 2020 Mr McNaughton, a former employee of companies controlled by Messrs Michael Quinn and/or Cahill, stated that he is aware of a substantial number of corrupt payments made by such companies including (but not limited to) those payments made to Ministry of Defence staff marked with the letters *"PR"* on the spreadsheets attached to his email. It is averred that those payments, which took place during the course of 2002, were unlawful bribes paid in connection with contracts and/or valuable work awarded by the Ministry of Defence to companies controlled by Messrs Michael Quinn and/or Cahill. It is noted in this respect that the Ministry of Defence awarded contracts to Marshpearl on 20 May and 2 July 2002, both of which were signed by Dr Kaigama (as to whom see subparagraphs (4)-(6) above).

9) The 29 September 2020 email from Mr McNaughton further states that *"Grace Taiga who was legal advisor for the MOD on the Albion Marine fast response craft contract received N 2 million for her help"*. It is averred that such payment was an unlawful bribe. Further, as confirmed in an email from Mr Smyth to Mr Cahill dated 25 May 2020, companies associated with Messrs Cahill and Michael Quinn had been paying unlawful bribes to Ms Grace Taiga since around 2004. It is to be inferred from these matters, together with the totality of the evidence of corruption involving companies associated with Messrs Cahill and Michael Quinn, and Ms Grace Taiga as set out herein and in the Re-Re-Re-Amended Statement of Case, that Ms Grace Taiga received bribes in connection with the contracts in which she was involved pleaded at sub-paragraph 6) above.

9A) In his email of 20 January 2020 Mr McNaughton alleged that James Nolan had negotiated the settlement of a claim by Babcock for £5.3 million against Benue State with Gabriel Suswam, the then-governor of the State. The negotiation took place through Mr Terngu Tsegba, a member of the Nigerian National Assembly. Mr McNaughton alleges that the debt under the settlement agreement was to be repaid in monthly tranches, and that 40% of the settlement amount over £2,000,000 was to be paid by way of a kickback to and/or via Mr Tsegba. Disclosure given by P&ID demonstrates that payments were indeed made to Mr Tsegba from Babcock around the relevant

time. For example, an internal ICIL document named "JUNE 2010 DAILY CASH CONTROL" refers to a payment to "Tsegba" of NGN 27,000,000 and states that he is owed a further NGN 3,000,000. Furthermore, a report sent from Mr McNaughton to Mr Hitchcock on 10 February 2010 identifies an "old debt payment" of NGN 190,000,000 paid in respect of Babcock, which was received by a company identified as "Makurdi", which is understood to be a reference to Babcock (being the place where Babcock carried on business). According to the report, "Makurdi" (i.e. Babcock) transmitted NGN 148,000,000 of this sum onwards and retained the rest. An internal record sent by Mr Piet Koekemoer to Messrs Lloyd Quinn and Neil Murray on 28 June 2010 reports that this "Deposit from Markurdi" was transferred to a Skye Bank account and that the receipt of the sum into the Skye Bank account was followed by a series of cash withdrawals between 25 and 31 August 2009, described as "Dublin expenses", totalling NGN 59,000,000, which represents approximately 40% (39.9%) of the NGN 148,000,000 of "old debt" proceeds transferred by "Makurdi" (i.e. Babcock). It is to be inferred that these cash withdrawals were used to fund the payment of Mr Tsegba's 40% entitlement.

10) In its letters dated 8 and 25 March 2022 FRN invited P&ID to explain the payments identified in the abovementioned subparagraphs (1)-(6). As at the date of serving this Re-Re-Amended Reply, no substantive response has been received ~~and no explanations have been offered.~~ The only explanation offered, in Mr Murray's second statement dated 5 May 2022, that some of the payments to General Agwai and/or Dr Kaigama were to cover the expenses of 'inspection' visits (notwithstanding the fact that those individuals did not attend the visits themselves), is denied.

23B. As to paragraph 51B:

1) FRN has identified the officials who received the identified bribes to the extent that it is able to do so. To the extent that FRN has been unable to do so that is because P&ID kept deliberately incomplete and obscure records of the payments using codewords (in particular *"PR"* and *"Dublin expenses"*), made the payments in cash, and omitted to identify the recipients of the cash

payments in its internal spreadsheets, to avoid creating a paper trail which would have revealed the nature, destination and extent of the bribes paid.

2) As pleaded at paragraphs 55, 55A and 56 of the Re-Re-Re-Amended Statement of Case, FRN's case is that, in addition to the specific bribes identified in FRN's pleading, further bribes were paid to Nigerian officials of which FRN is unaware, or about which it does not have full details, because the relevant information has been withheld by P&ID including through the use of codewords such as *"Marketing*", *"Dublin expenses"* and *"PR"* and the deliberate omission from P&ID's internal records of information which would identify the recipient(s). The records identified in paragraph 55B of the Re-Re-Re-Amended Statement of Case are examples of evidence which support that plea. Further examples include a *"Dublin Expenses"* withdrawal of NGN 4 million on 1 August 2008 during the period when Mr Quinn was in discussions with Dr Lukman about the GSPA; two withdrawals of NGN 100,000, each labelled as a *"Dublin Expense"* on 20 and 22 July 2009, being two days before and the day of the MOU being signed, respectively; a withdrawal of NGN 5 million labelled *"Hitchcock – Dublin Expenses"* on 3 December 2009; withdrawals of NGN 50,000 and NGN 200,000 under the label *"Dublin expenses"* on 7 and 8 December 2009, at the time when the GSPA was being negotiated; and withdrawals of NGN 350,000 and NGN 500,000 labelled *"Dublin Expenses – Mic – P&ID"* and *"Dublin Expenses Kuchazi"* on 14 January 2010, just after the GSPA was executed. Further examples are the *"PR"* payments listed in P&ID's spreadsheet entitled *"P&ID EXPENDITURE 2009 2010 V4"*. FRN relies on each of these examples, as well as the use of codewords within the internal documents of ICIL group companies recording instances of payments and the use of cash sums, in support of its case that the specific and/or further bribes were paid by or on behalf of P&ID in connection with the GSPA, which payments were concealed by codewords and by the lack of identifiable information about their recipient(s), about which FRN does not have full information.

3) P&ID is put to proof (i) that the cash withdrawal of US$130,000 on 17 December 2009 referred to in its spreadsheet at {H3/146} is a record of a bank transfer of US$100,000 from Marshpearl to ICIL's account as alleged, and (ii)

as to the ultimate use and destination of that cash. It is noted in this respect that the US$100,000 deposited in ICIL's account on 18 December 2009 was immediately passed out of the account, on 21 December 2009, through what appears to be an FX transaction. P&ID has not given disclosure or an explanation of where the funds went thereafter.

4) It is noted that, other than in respect of the US$130,000 withdrawal on 17 December 2009 and the US$700,000 of withdrawals before and during the gas roadshow, as to which only partial explanations have been offered, P&ID has offered no positive explanation of the transactions identified at paragraph 55B of the Re-Re-Re-Amended Statement of Case.

5) As to paragraph 51B4, the references in paragraphs 55B(2) of the Re-Re-Re-Amended Statement of Case should be to Naira, not US Dollars. This is a typographical error, as P&ID knows.

MR MICHAEL QUINN'S PERJURED EVIDENCE

Reliance on Mr Michael Quinn's evidence by the Tribunal

24. As to paragraph 55, it is denied that there is any basis for the inference P&ID seeks to draw. It is averred that FRN was prevented from properly defending itself in the arbitration because of P&ID's corruption of individuals responsible for representing FRN, obtaining evidence or giving instructions to FRN's legal team and/or individuals otherwise directly and/or indirectly involved in FRN's defence. FRN is presently able to state that these individuals included Mr Shasore, Ms Adelore~~,~~, Ms Belgore and Mr Oguine ~~and Mr Lukman~~. FRN reserves the right to provide further particulars and to plead further on this issue upon additional information being uncovered as to P&ID's fraud. It is therefore denied that FRN's case depends on proving collusion by Mr Shasore. FRN repeats paragraph 3 4)-6) above.

25. As to paragraph 56.10, it is denied, if alleged, that the Tribunal did not place any reliance on the perjured aspects of Mr Michael Quinn's statement in its Liability Award. The Tribunal accepted and adopted Mr Michael Quinn's evidence in its entirety on the basis that no relevant part of it had been challenged by Mr Shasore. Paragraph 70 of FRN's Re-Re-Re-Amended Statement of Case is repeated.

26. As to paragraph 56.11, it is admitted and averred that one of the questions before the Tribunal at the quantum hearing was whether P&ID would have been able to perform the GSPA. The Tribunal relied on its wholesale acceptance of Mr Michael Quinn's evidence in the Liability Award, and Mr Shasore's failure to challenge that evidence, to conclude that P&ID would have been ready and willing to perform. Paragraph 77 of FRN's Re-Re-Re-Amended Statement of Case is repeated.

"100 volumes" of preparatory engineering work and expenditure of US$40 million by P&ID

27. As to paragraphs 57.2 and 57.3:

    1) These subparagraphs of the Re-Re-Re-Amended Defence (and subparagraph 57.4.2) contain ~~implied~~ admissions that (i) P&ID did no preparatory engineering work at all for the GSPA project in Calabar, and purports only to have done preparatory work for a different project with different specifications and different end products near Lagos; and (ii) P&ID did not spend US$40 million, or indeed any substantial amount on the GSPA project. These ~~implied~~ admissions have been confirmed by P&ID's amendments to paragraphs 57.2.3, 57.2.4A and 57.4.2 of the Re-Re-Re-Amended Defence and its RFI Response dated 30 June 2022. It follows that paragraph 47 of Mr Michael Quinn's statement was, on P&ID's own pleaded case, false and/or deliberately misleading.

    2) The allegation that Tita-Kuru *"complained"* that the design work it paid for in respect of the Lagos project was to be used by P&ID for the purpose of the GSPA is inadequately particularised. FRN reserves the right to seek further information and/or disclosure about the nature of this *"complaint"* in due course. It is noted that Tita-Kuru has brought an arbitration claim against P&ID in London on the basis that, *inter alia*, P&ID unlawfully misappropriated the designs for Tita-Kuru's project and presented them to the MPR as P&ID's own in order to secure the GSPA.

    3) It is denied that *"a significant proportion"* or indeed any material proportion of the purported design work for the Lagos plant was capable of being used for the purpose of the GSPA, not least because: the purported Lagos project would only have operated a single train, whereas the facility envisaged by the GSPA would

operate two; there was no reason to believe that the specification of wet gas supplied to the two plants would be the same, with significant consequences for the engineering designs; and any licences purchased by Tita-Kuru in respect of the Lagos project were highly unlikely to have been transferrable to a different project such as the GSPA. FRN ~~reserves the right to seek permission for~~ will adduce expert evidence on this issue in due course. It is in any event noted that, by its amendment to paragraph 57.2.3, P&ID has abandoned its case that a significant proportion, or any, of the designs belonging to Tita-Kuru were capable of being used for the GSPA. This is contrary to the sworn evidence and submissions made by P&ID previously in this and other litigation, as well as its original sworn Defence. In particular:

i. In its original Defence, accompanied by a Statement of Truth, dated 6 November 2020, P&ID pleaded that a *"significant proportion"* of the work for Tita-Kuru's project was capable of being used for the purposes of the GSPA and that 90% of the engineering designs for the proposed plant had accordingly been completed (being the Tita-Kuru designs). P&ID has now withdrawn those pleas without explanation. It is to be inferred they have been withdrawn because they were false, and were intended to give the false impression that P&ID had completed substantial engineering work on the GSPA, as Mr Michael Quinn told the Tribunal in his witness statement, when in fact it had done no substantial work on the GSPA.

ii. In his first witness statement dated 27 April 2020, served in these proceedings, Mr Cahill said that the designs for the Tita-Kuru project *"expanded into a larger phase of work"* (i.e. the GSPA); and that, as the Tribunal found, it was P&ID, not Tita-Kuru, which had sunk US$40 million into preparatory work for the GSPA (paragraphs 50-51). Mr Cahill's evidence is, on P&ID's own revised case, false in the sense that P&ID did not intend to use any significant proportion of the Tita-Kuru designs for the GSPA project, and had not spent any substantial sum, let alone US$40 million, in preparation for the GSPA.

iii. In his first witness statement dated 25 April 2020, served in these proceedings, Mr Karel Vlok said that he had worked on a project known as Project Alpha which had *"evolved into the GSPA project"*, and that this *"involved taking the work which had already been done for Project Alpha and making adjustments to the new scope envisaged by the GSPA"*. Mr Vlok also said that, in his estimation, *"pre-contractual work was underway for about a year and a half before the GSPA was executed"*. This evidence was false. The final sentence of subparagraph (ii) above is repeated.

4) Contrary to subparagraph 57.2.4, FRN's allegation that P&ID stole the design work undertaken for Tita-Kuru is properly particularised. FRN's case, which P&ID does not deny, is that the purported engineering work for the Lagos plant ~~(as to which no admissions are made pending disclosure)~~ was funded by Tita-Kuru, that Tita-Kuru was the owner of the designs, and that P&ID misappropriated the designs to present as its own work in a bid for the GSPA without the consent of Tita-Kuru.

4A) As to paragraph 57.2.4A, it is noted that P&ID's amended case, which is contrary to the position taken by it in its original Defence accompanied by a Statement of Truth, and sworn evidence and submissions previously served by P&ID (see subparagraph (3) above), is that P&ID did not intend to use Tita-Kuru's designs for the purposes of the GSPA, but rather intended to produce a new set of designs. No such designs have been disclosed or identified by P&ID. It is to be inferred, and P&ID's expert has confirmed, that none exist. For this reason alone, Mr Michael Quinn's evidence to the Tribunal at paragraph 47 of his statement that P&ID had by 2008 made *"good progress and reached a very advanced stage of engineering work necessary to implement [the] project on the ground"* and that *"I would estimate that the total costs sunk into the preparatory work during that period were in excess of US$40 million"* was deliberately false.

4B) P&ID's quantum experts in the arbitration relied upon the existence of the designs produced on behalf of Tita-Kuru in preparing their expert reports which, in turn, were substantially adopted by the Tribunal in calculating the

amount of damages awarded to P&ID in the Final Award: paragraph 31.2D) below.

4C) ~~To the extent that it is relevant (which is denied), it is denied that P&ID would have been capable of constructing the gas stripping plant by using *"off the shelf"* modular construction techniques without carrying out substantial design work (which it never did), and that only a small amount of design work would have been required. FRN will address these points further in expert evidence.~~ P&ID's belated admissions that (i) the GSPA facilities could not have been constructed using *"off the shelf"* construction techniques, and (ii) a substantial amount of further design work would have been required before the facilities could have been constructed, are noted. The reason for this change of case has not been explained.

5) The *"video of the 3D model"* disclosed by P&ID appears to relate to the Lagos project funded by Tita-Kuru, not the facilities envisaged by the GSPA. In any event, it is noted that P&ID has not disclosed the 3D model itself. Without sight of the model, FRN makes no admissions as to whether the video reflects a credible design for a gas-stripping plant. FRN reserves the right to seek disclosure of the model in due course.

5A) Contrary to paragraph 57.2.5, it is denied that paragraph 47 of Mr Michael Quinn's statement was referring to a project other than the GSPA. That is not what Mr Michael Quinn's statement says, nor what the Tribunal or P&ID's own quantum experts understood it to mean (whose understanding P&ID did not seek to correct), nor the case that Mr Andrew submitted on behalf of P&ID to the Tribunal as true. It is noted in this respect that Mr Andrew referred to the letter from P&ID to the NNPC dated 14 May 2010, which stated that all finance was in place and that 90% of the engineering designs had been completed, and which had been recited in paragraph 110 of Mr Michael Quinn's statement, as *"a useful letter on the subject of what progress had been made as of May 2010 in the building of the GPFs [Gas Processing Facilities] … It is just a letter which summarises the progress made so far"*.

5B) Contrary to paragraph 57.4, on a proper interpretation paragraph 110 of Mr Quinn's statement was endorsing and representing the contents of the correspondence sent to the NNPC on 14 May 2010 as having accurately stated progress that had allegedly been made by P&ID as at May 2010 in relation to the GSPA Project, whereas such progress had not in fact been made. This proper interpretation of paragraph 110 of Mr Quinn's statement is consistent with the case put forward by Mr Andrew on behalf of P&ID in this regard at the liability hearing, as referred to in paragraph 5A above.

"All of the project finance was in place"

28. As to paragraph 57.4.1:

1) P&ID's plea that it had *"spoken to a number of possible financiers who were interested in financing the project"* contradicts Mr Michael Quinn's evidence to the Tribunal that *"all of the project finance was in place"*. This aspect of Mr Michael Quinn's evidence was therefore indisputably perjured, whether or not the alleged discussions with financiers took place.

2) In any event, P&ID is put to strict proof that it had spoken to a number of possible financiers, and that they were interested in financing the project. It is noted that although P&ID has identified certain financiers to whom it alleges it spoke, it has admitted that it is unable to say which company (if any) expressed interest in financing the GSPA project and is unable to provide the details of any alleged conversation.

3) It is denied that it would have been *"obvious"* to FRN that project finance (whether from a third party or otherwise) had not been secured. On the contrary:

    i. In its letter to President Yar'Adua dated 7 August 2008 P&ID represented *"we are willing to fund, from our own resources, the entire US$700,000,000 for the gas processing facilities on land"*.

    ii. In its subsequent letter to the MPR of 24 February 2009, P&ID claimed that the project was being funded by a company named SAPETRO (although the letter failed to provide any details of the alleged finance arrangement, as to which no admissions are made). In consequence,

P&ID informed the MPR that *"we are in a position to proceed immediately"*.

4) The relevance of the allegation that it would have been *"obvious"* to FRN that no project finance was in place is in any event denied. This aspect of Mr Michael Quinn's evidence was deliberately false and intended to give the Tribunal the misleading impression that P&ID was willing and able to perform the contract, when in fact it was not.

5) As to the likelihood that P&ID would in fact have been able to obtain finance, paragraphs 7.2) -7.3) above are repeated.

29. As to paragraph 57.4.2, paragraph 27 above is repeated. 90% completion of engineering designs is a recognised industry benchmark which is capable of being tested by a well-recognised model, applied to a (substantial) collection of auditable engineering documents for the project in question. By its deletion at paragraph 57.4.2, P&ID is to be taken as having admitted that 90% of the engineering designs for the proposed plant had not been completed, contrary to Mr Michael Quinn's sworn evidence at paragraph 110 of his witness statement that it had. It is averred that no such designs had been completed: paragraph 27.4A) above. There is accordingly no proper basis for P&ID's pleaded denial at paragraph 57.4 that paragraph 110 of Mr Michael Quinn's statement was false or misleading. P&ID has confirmed as such in its RFI Response of 30 June 2022. ~~Based on the documents that P&ID has disclosed to date, its purported engineering designs (which in any event related to the Lagos, not the Calabar, project) came nowhere near meeting that benchmark. FRN will seek to adduce expert evidence on this issue in due course.~~

"A 50 hectare site had been allocated to P&ID"

30. The final two sentences of paragraph 57.4.3 are denied. By the statement at paragraph 110 of his witness statement, Mr Michael Quinn implied that P&ID had acquired the site from the Cross Rivers State Government. He gave this evidence intending to persuade the Tribunal that P&ID was a legitimate engineering firm that was ready and able to perform the GSPA (when it was not). In fact, P&ID had not paid the required fee for the land and the provisional allocation by the local government had therefore lapsed prior to P&ID purporting to accept FRN's alleged breach of the GSPA.

Materiality of Mr Michael Quinn's perjured evidence

31. As to paragraph 58:

1) P&ID's statement that Mr Michael Quinn's evidence was *"not false or misleading"* is not understood in circumstances where, by P&ID's own admission, no preparatory work had been carried out for the Calabar project, P&ID had not expended US$40 million on the project, and no project finance was in place, agreed or even at any advanced stage of discussion (even on P&ID's case).

2) ~~It is denied that Mr Michael Quinn's perjured evidence was of~~ The abandonment of P&ID's case that Mr Michael Quinn's perjured evidence was of *"little or no relevance"* to the question of P&ID's willingness and ability to perform the GSPA is noted. P&ID's revised case that Mr Michael Quinn's evidence *"cannot have been misleading in relation to the overall question of P&ID's willingness and ability to perform the GSPA"* is denied. The reason why Mr Michael Quinn lied about these aspects of his evidence was to persuade the Tribunal that P&ID was a legitimate company that intended to and was able to perform the contract.

2A) Further or alternatively, as part of presenting P&ID as a legitimate company that intended to and was able to perform the contract, it was necessary for Mr Michael Quinn to lie in these aspects of his evidence in order to conceal that P&ID had made the same or similar misrepresentations in communications to FRN prior to the entry of the GSPA. In particular, P&ID had made the following representations to those acting on behalf of FRN:

i. That P&ID had fully completed the plant design, including engineering work, necessary to construct the proposed 250,000 MTA Propane De-Hydrogenation Plant (Polymer Grade Propylene) in Calabar ("**the Plant**") and had permission to use the same, including having already secured the licences to use the technology incorporated in such designs for the Plant (a misrepresentation made, *inter alia*, by P&ID's October 2008 presentation to the Minister of State Energy (Gas) and/or by

P&ID's presentation to the MPR annexed to P&ID's letter dated 24 February 2009 to the MPR and/or by P&ID's letter to the MPR dated 18 March 2009); and/or

ii. That P&ID had itself expended approximately US$40 million in respect of licences, engineering designs, feasibility studies and engineering studies specifically on the Plant (a misrepresentation made (inter alia) by P&ID's letters to the MPR dated 18 March 2009 and/or 11 June 2009); and/or

iii. That the entire funding necessary for the GSPA to be performed by P&ID was already in place (a misrepresentation made (inter alia) by P&ID's letter to the MPR dated 24 February 2009 and/or by P&ID procuring the provision to the MPR of the ICIL letter of comfort dated 8 December 2009).

2B) In fact each of the representations were known by P&ID (including Mr Michael Quinn and Mr Cahill) to have been false at the time they were made, and continued to be false, in that:

i. P&ID had not fully completed (or indeed done any substantial work on) the plant design, including engineering work, necessary to construct the Plant; and/or

ii. The presentations that had been made to the Minister for Energy (Gas) and to the MPR had used designs and intellectual property commissioned by and belonging to Tita-Kuru for a polypropylene plant in a different region of Nigeria, Badagry ("**Project Alpha**") (as expressly acknowledged in Mr Hitchcock's email to Mr Cahill dated 4 August 2009 and in ICIL's internal memorandum dated 21 August 2009), which designs – and the technology incorporated within such designs – P&ID had not obtained authorisation to use for the purposes of its proposal in relation to the GSPA and/or which P&ID now admits were not capable of being used for the GSPA; and/or

iii. The purported US$40 million referred to had been spent (to the

extent that it had been) by a separate company, Tita-Kuru, and in relation to a separate project; and/or

iv. General Danjuma, the owner of Tita-Kuru, had not committed to provide the financing needed for P&ID's performance of the GSPA and ICIL Ireland itself did not have the resources in place needed to finance P&ID's performance of the GSPA.

2C) Further and/or alternatively, Mr Michael Quinn intended to, and successfully did, conceal that the GSPA and/or arbitration agreement had been procured by bribery. Paragraphs 63, 63A, 79I-L and 80 of the Re-Re-Re-Amended Statement of Case are repeated.

2D) Moreover, Mr Michael Quinn's perjured evidence was relied upon by P&ID's quantum experts, BRG, in producing their expert reports for the arbitration, as it was the starting point, based on that perjured evidence, that P&ID intended to and was willing and able to perform the GSPA. In particular, BRG relied upon Mr Michael Quinn's evidence that P&ID had completed most of the engineering designs for the GSPA plant (when in fact it had not). By way of example only, in its second report dated 19 August 2016 BRG stated, in response to certain criticisms made by FRN's expert, that "*... at the time that P&ID entered into the GSPA (at which point the decision to invest must be considered final) a significant amount of project definition and estimation had taken place. As stated above, I was able to use this work to support my own43pinionn*" (paragraph 2.2.2). The remainder of paragraph 2.2 describes the work allegedly carried out by P&ID and presented to the MPR in its proposal for the GSPA. Paragraph 2.2.8 states that *"It is clear to us from our review of the P&ID CAD model and the P&ID proposal made to Government ... that P&ID were well advanced in their preparation to build the Gas Processing Facilities"*. In its Final Award the Tribunal accepted BRG's expert reports in their entirety (subject to a revision of the applicable discount rate), noting that *"Mr Wolf's [of BRG] principal source of estimating CAPEX was the detailed engineering work which had been done by P&ID as described by Mr Quinn"* (paragraph 59). Had P&ID's quantum experts known that P&ID had done no, or no substantial, preparatory work for the

GSPA, they would not have given the opinion that they did in terms of their quantum calculations and/or the degree of confidence that they expressed in those calculations. Mr Michael Quinn's perjured evidence was therefore directly causative of the quantum of damages awarded by the Tribunal.

3) It is denied that P&ID was, in fact, able and willing to perform the GSPA, that it intended to do so and that it would have done so but for FRN's alleged repudiation. Paragraph 13 above is repeated. In light of P&ID's plea to this effect, FRN will ~~seek to~~ adduce expert evidence in due course on whether P&ID would in fact have been able to construct and operate the facilities envisaged by the GSPA.

32. As to paragraph 59:

1) Paragraph 31 above is repeated.

2) Further, as a matter of Nigerian and/or English law (as applicable), the issue of P&ID's ability and willingness to perform was relevant at both the liability and quantum stages of the arbitration. Re-Re-Re-Amended Statement of Case paragraphs 62-63A, 68-70 and 77 are repeated, as is paragraph 31 above. Further and alternatively:

(i) As a matter of public policy and/or the proper construction of s.73 of the 1996 Act, it is not open to a party who has brought a claim based on perjured evidence to contend that the innocent party could or should reasonably have uncovered the perjury: paragraph 3(5) above; and/or

(ii) Mr Michael Quinn's evidence, including that the GSPA had been fully financed and that 90% of the engineering designs had been completed, was accepted by the Tribunal at the liability hearing, not having been challenged in any material respect by FRN's legal team in accordance with Procedural Order No. 9, and/or in the context of P&ID's arguments at the liability hearing Mr Andrew had (consistent with the perjured evidence) positively advanced and relied upon a case that, as of May 2010, the GSPA had been fully financed, 90% of the engineering designs had been completed, and a 50-hectare site had

been allocated, such that it was not open to FRN to seek to re-open that evidence or case at the quantum stage of the arbitration and/or the Tribunal had already determined at the liability stage both that FRN had repudiated the GSPA and that P&ID was entitled to damages; and/or

(iii) In any event, there was no reasonable basis upon which FRN's legal team at the quantum stage could have been expected to re-open and/or question the honesty of Mr Michael Quinn's evidence at the quantum stage: Re-Re-Re-Amended Statement of Case paragraph 64(3); and/or

(iv) P&ID's case from the outset and throughout the arbitration was that it had secured full financing for the GSPA project, had completed 90% of the engineering designs, had amassed hundreds of volumes of technical documents, and was ready to perform subject to FRN complying with its obligation to supply wet gas. P&ID's case in these proceedings is that it had not obtained any finance, had not completed any substantial design or engineering work, and was therefore not in a position to perform the contract as at the date of the arbitration. The Tribunal's assessment of the claim, and P&ID's credibility, would have been materially different at all stages of the arbitration had it known the true picture, as opposed to the false picture given in Mr Michael Quinn's perjured evidence and repeated in Mr Andrew's submissions to the Tribunal, and/or had it known that P&ID had sought to advance a false case in these regards; and/or

(v) Mr Michael Quinn's perjured evidence about P&ID's readiness and ability to perform the GSPA was part of his concealment of the fact that the contract had been obtained through bribery and corruption. Had the existence of the bribery and corruption not been effectively concealed, it would have provided a defence to FRN's alleged liability, as admitted by P&ID at paragraph 24.4 of the Re-Re-Re-Amended Defence; and/or

(vi) Even if FRN was in repudiatory breach of contract, Mr Michael Quinn's perjured evidence and P&ID's false case in this regard prevented FRN from showing that P&ID was unable and/or unwilling to perform its own obligations under the GSPA at the time of the repudiation, for reasons independent of the alleged breach by FRN, which would have provided a defence to liability under Nigerian law, which is materially the same as English law in this respect. Presented with that defence, the Tribunal would have (or was likely to have) dismissed P&ID's claim at the liability stage for a declaration that it was entitled to damages (to be assessed at the quantum stage) for FRN's breach of contract.

(vii) Had the Tribunal known that Mr Michael Quinn's evidence was perjured and that P&ID was advancing a false case in these regards underlying and justifying its claim for damages in the billions of dollars, it would have (or was likely to have) struck-out or dismissed P&ID's claim as an abuse of process at or before the liability stage of the arbitration, alternatively would have done so had it been aware, or also aware, that P&ID and/or persons associated with it and acting on its behalf had tainted the arbitral process through (i) obtaining FRN Privileged Documents and/or (ii) the payment of bribes to individuals responsible for representing FRN in the arbitration and/or responsible for obtaining evidence for or giving instructions to FRN's legal team and/or to individuals directly and/or indirectly involved in FRN's defence.

3) It is denied that FRN elected not to challenge the false parts of Mr Michael Quinn's evidence. Paragraphs 64-75 of FRN's Re-Re-Re-Amended Statement of Case is repeated.

4) By the quantum stage of the arbitration, the Tribunal had already accepted Mr Michael Quinn's perjured evidence in its entirety. At the time of the quantum hearing FRN's advocate, Chief Ayorinde, had no grounds to re-open the Tribunal's acceptance of Mr Michael Quinn's evidence, and in any event could

not reasonably have been aware of any such grounds. Paragraphs 76-79 of FRN's Re-Re-Re-Amended Statement of Case are repeated.

33. As to paragraph 60, it is denied that FRN had actual or constructive notice of the falsity of Mr Michael Quinn's evidence. It is in any event denied that, if FRN did have such notice, it is precluded from setting aside the Awards under s.68(2)(g) of the 1996 Act. It is denied that FRN took a deliberate decision not to investigate and/or raise any matters that would have provided a defence to the claim and/or acted unreasonably. It is in any event denied that FRN's challenge is an abuse of process.

COLLUSION WITH MR SHASORE AND OTHERS INVOLVED IN FRN'S DEFENCE

33A. Paragraph 61.5.1, concerning the sharing of FRN Privileged Documents with P&ID, is denied:

1) As at the date of serving the Re-Re-Amended Reply, P&ID has withheld disclosure in respect of the issue of the provenance of the FRN Privileged Documents and in its RFI Response dated 17 May 2022 has refused to provide information in respect of the same, including as to the identity of all the individuals involved in procuring them and/or providing them to P&ID. Insofar as P&ID fails to provide proper disclosure and/or information in respect of this issue, it is to be inferred that this is a result of the deliberate destruction and/or withholding of documents and/or information by P&ID and those who act or previously acted on its behalf, and P&ID's defence should be struck out as an abuse of process.

2) It is denied that the FRN Privileged Documents were provided to P&ID *"voluntarily"*. There is no conceivable reason why FRN officials or employees would have sent confidential and privileged documents to P&ID without being requested and/or induced to do so. Such an allegation is absurd on its own terms. Further and in any event, such voluntary provision would have been in breach of such FRN officials' and employees' duties to FRN as set out in the Re-Re-Re-Amended Statement of Claim, as would have been evident to P&ID and those acting on its behalf.

3) The only available, and in any event the correct, inference is that the FRN Privileged Documents were provided to P&ID as a result of bribery and/or

collusion and/or corruption between P&ID and persons acting for it or on its behalf, on the one hand, and FRN officials (including officials responsible for the conduct of the arbitration) and/or its external legal counsel on the other.

4) P&ID's case that the FRN Privileged Documents were provided *"voluntarily"* is moreover contradicted by the contemporaneous documents. By way of example only:

    i. In an email dated 24 August 2009, Mr Wole Shonibare sent to Mr Neil Murray a number of confidential documents relating to the Joint Operating Committee of an AGDP project. The cover email stated *"As instructed by Mr. Adebayo please find attached docs for your attention"*. The email was then forwarded on the same day to Mr Hitchcock and, subsequently, to Mr Cahill or another person acting on P&ID's behalf at the email address *icil@eircom.net*, on 27 August 2009. Mr Adebayo was a family friend of Mr Michael Quinn who represented and/or acted on behalf of P&ID and who was (and remains) entitled to recover a substantial portion of the proceeds of the Awards, should they be enforced: paragraph 33C below.

    ii. By an email dated 17 November 2014, Saheed Akanji (whose identity is not currently known to FRN) sent to Mr Adebayo confidential and privileged letters relating to the arbitration. The cover email from Mr Akanji states *"Pls find attached"*. It is to be inferred from the absence of any other introduction or explanation of the documents in the email that they were provided to Mr Adebayo pursuant to an earlier request by him and/or other P&ID-associated individuals, and that Mr Adebayo was expecting to receive them.

5) It is to be assumed and/or inferred that the FRN Privileged Documents were obtained by P&ID because it perceived that they would or might be of tactical advantage to it in the conduct of the arbitration. In this respect, the subject-matter of the FRN Privileged Documents included, amongst other things, advice on the merits of P&ID's claim, FRN's selection of its counsel, FRN's selection of expert witnesses, FRN's approach to technical and quantum expert evidence, its strategy as regards settlement, internal requests for information

to assist FRN's counsel to draft its pleadings, advice relating to an application to set aside the Liability Award in England (including advice provided by FRN's English solicitor Mr Kamal Shah, a partner at Stephenson Harwood LLP), and early drafts of witness statements. It is moreover to be inferred from the contents of the cover emails attaching the FRN Privileged Documents that the FRN Privileged Documents had been requested for the purpose of providing P&ID with a tactical advantage in the arbitration. By way of example only:

i. In an email dated 2 August 2013, Mr Cahill sent to Messrs Seamus Andrew and Trevor Burke QC a confidential and privileged list of questions prepared by FRN's legal counsel to enable it to prepare a defence. The body of the email states *"The attached indicates the likely lines of defence. We can discuss when there is a little more leisure time"*.

ii. In an email dated 7 August 2013 Mr Cahill sent to Messrs Andrew and Burke QC a confidential and privileged memo confirming that Mr Shasore had been instructed as FRN's counsel and seeking information for the preparation of FRN's Defence. The cover email states *"Please find attached briefing document which appears very encouraging"*.

iii. In an email dated 2 September 2013 Mr Cahill sent to Messrs Andrew and Burke QC ten documents, some of which were privileged and/or confidential to FRN relating to the arbitration. The body of the email states: *"Please find attached newly discovered documents which we believe are very helpful"*. It is to be inferred that Mr Cahill considered the documents to be *"very helpful"* for the purposes of furthering P&ID's position in the arbitration.

iv. In an email dated 21 December 2015, Mr Cahill sent to Messrs Andrew and Burke QC an FRN Privileged Document, stating *"... attached 'brief' sent to President by an earlier Minister in connection with P&ID some time ago together with some notes which may help our first draft"*.

6) For the avoidance of doubt it is FRN's case that, regardless of whether the FRN Privileged Documents in fact gave P&ID an unfair advantage in the arbitration (which they did), the sharing of the FRN Privileged Documents was the result of the bribery and/or corruption of FRN officials involved in the conduct of the arbitration and/or its external legal counsel. The Awards are liable to be set aside on that basis alone and/or on the grounds that P&ID's obtaining and possession of the FRN Privileged Documents, and/or failure to disclose the same to FRN or the Tribunal, mean that the Awards were obtained by fraud and/or procured in a way contrary to public policy for the purposes of s.68(2)(g).

33B. As to paragraph 61.5.2, it is denied that P&ID was unaware that the sharing of the FRN Privileged Documents was unlawful and/or improper. Without limitation:

1) It would have been obvious to any reasonable person from the face of the FRN Privileged Documents that they were confidential and/or privileged, and that they were not intended to be shared with persons outside FRN or those representing it.

2) Emails between Messrs Andrew, Burke QC, Cahill and Smyth demonstrate that P&ID and those representing it knew that the FRN Privileged Documents had been procured improperly. By way of example:

i. On 6 January 2014, Mr Andrew sent an email to Mr Cahill, copied to Mr Burke QC, explaining that he was preparing the exhibit to Mr Michael Quinn's witness statement and that he had *"identified 12 documents which we would not obviously have had – either letters to which we were not copied on the face of the letter, or minutes of meetings which were not "P&ID" minutes … Could you possibly look through these 12 documents to see whether we are comfortable saying that these were provided to us 'officially' by MOPR … Where there is any doubt we may wish to keep them out of Mick's witness statement".*

ii. The following day Mr Smyth sent to Mr Andrew a Word document containing a schedule of the 12 documents, many of which were marked *"Unofficial – do not use".*

iii. Mr Andrew replied to Mr Smyth on the same day thanking him for the memo and stating that *"As I understand your memo, out of the 12 documents which I sent to you yesterday, the four attached to this email are the ones which we have 'officially'. Therefore I shall refer to these in Mick's witness statement, and I shall suggest some wording to explain how these documents come to be in possession"*. It is to be inferred that Mr Michael Quinn was also aware of and condoned this approach.

iv. It is accordingly to be inferred that P&ID (through Mr Andrew, and/or Mr Smyth and/or Mr Cahill and/or Mr Burke QC and/or Mr Michael Quinn) knew that, at least, the remaining eight documents had been obtained improperly and/or unlawfully, which is why Mr Andrew and/or Mr Michael Quinn were concerned to and did exclude any mention of them from Mr Michael Quinn's witness statement. Further, Mr Andrew and/or Mr Michael Quinn, acting on behalf of P&ID, thereby deliberately concealed from the Tribunal and FRN that P&ID had obtained FRN Privileged Documents and the fact of the bribery, corruption and/or collusion which had led to P&ID acquiring them. Paragraphs 63, 63A, 79I-L and 80 of the Re-Re-Re-Amended Statement of Case are repeated.

3) Some of the communications to which FRN Privileged Documents were attached acknowledged the need to conceal P&ID's obtaining of FRN Privileged Documents and/or contained instructions to the recipient(s) of the communication to destroy the FRN Privileged Document after reading. By way of example only:

i. By an email dated 11 October 2010, Mr Michael Quinn sent two FRN Privileged Documents to the email address *icil@eircom.net* used predominantly by Mr Cahill (**"the ICIL email account"**), both of which are entitled *"FAX_DELETE_ME"*.

ii. By an email dated 19 September 2012, Mr Murray sent to the ICIL email account an FRN Privileged Document with the instruction: *"Please forward to Mick. Also, confirm it reads ok so that I can*

remove from here".

iii. By an email dated 2 August 2013, Mr Murray sent to the ICIL email account an FRN Privileged Document with the subject *"defence notes"*. The body of the email states *"Please pass to Mick and Brendan immediately. Please also confirm received opened ok as I want to delete here".*

iv. By an email dated 7 August 2013, Mr Murray sent to the ICIL email account an FRN Privileged Document stating *"Please pass attached to Mick. Also, let me know you have received and opened ok, so that I can delete".*

v. By an email dated 26 August 2013, Mr Murray sent to the ICIL email account an FRN Privileged Document with an accompanying instruction: *"Please confirm clean receipt so that I can delete".*

vi. By an email dated 11 September 2013, Mr Murray sent to the ICIL an FRN Privileged Document with the subject *"Urgent email for Mick"*. The body of the email reads *"please confirm clean receipt so that I can delete".*

vii. By an email dated 26 February 2014, Mr Murray sent to Mr Smyth and Mr Cahill an FRN Privileged Document with the instruction: *"Please confirm clean receipt so that I can erase this end".*

33C. Some of the FRN Privileged Documents were provided to P&ID through Mr Adetunji Adebayo (directly or via his assistant Mr Wole Shonibare) acting on P&ID's behalf. As to this:

1) Mr Adebayo was a long-standing friend of Mr Michael Quinn, and acted as P&ID's agent from (at least July 2014), including by representing P&ID at settlement meetings with FRN.

2) According to documents disclosed by P&ID, Mr Adebayo entered into a series of contracts with various parties, including P&ID, dated 2 July 2014, 8 August 2016, 5 September 2016, 24 March 2017 and 2 October 2017, under which he became entitled to receive a substantial proportion of any funds

recovered under the Awards. Most recently, by a contract dated 2 October 2017 (which purportedly supersedes the earlier contracts) it was agreed that Mr Adebayo is entitled to receive 10% of any distribution received by Mr Andrew's firm, Lismore, which in turn owns a 75% stake in P&ID. It follows that, if the Awards were to be enforced in full, Mr Adebayo would be entitled to a payment of approximately US$750 million.

3) In some cases Mr Adebayo or his assistant Mr Shonibare acted as an intermediary for forwarding to P&ID FRN Privileged Documents supplied to him by other individuals as demonstrated, for example, by Mr Adebayo's email to Mr Cahill dated 23 July 2014; his email to Mr Cahill and Mr Andrew on 29 November 2014; and his email to Mr Cahill on 27 April 2015.

4) In such cases, it is to be inferred that the FRN Privileged Documents were sent to Mr Adebayo or his assistant Mr Shonibare on the implicit understanding between Mr Adebayo and the sender that the Document(s) had been requested by Mr Adebayo (or by another individual associated with P&ID) and/or that Mr Adebayo was expecting to receive the Document(s) as a result of previous direct and/or indirect communications between him and the sender. By way of example, on 8 May 2015 Saheed Akanji (whose identity is not currently known to FRN) sent to Mr Adebayo a privileged letter relating to the arbitration. The cover email read *"Attached sir."* It is to be inferred that, in the absence of any further introduction or explanation of the document, it was sent to Mr Adebayo on the basis of a shared understanding that it had been requested by him and/or that he was expecting to receive it.

5) In some cases Mr Adebayo obtained FRN Privileged Documents himself by taking a photograph of them on his mobile phone and/or having other unidentified individuals providing photographs to him, and then sending them to other P&ID-associated individuals via WhatsApp. See, for example, Mr Adebayo's WhatsApp messages sent to Mr Cahill on 10 February 2016, attaching a series of photographed privileged letters from Twenty Marina Solicitors (Mr Shasore's law firm).

6) It is to be inferred, based upon Mr Adebayo's involvement in the sharing of FRN Privileged Documents, and the scale of his interest in the Awards, that

he was given the stake in return for, *inter alia*, his role in the wrongful obtaining of FRN Privileged Documents in order to give P&ID a tactical advantage in the arbitration, and/or for paying bribes to or otherwise corrupting FRN officials and/or FRN's external counsel in return for which they agreed to work against the interests of FRN in the arbitration and settlement discussions during the arbitral process with P&ID and/or improperly shared FRN Privileged Documents with P&ID and persons associated with it.

33D. In addition to the FRN Privileged Documents, P&ID has disclosed to date a substantial number of other confidential and privileged documents in its possession belonging to FRN (but not directly related to the GSPA or the arbitration between FRN and P&ID). These documents reflect a track record on the part of P&ID and the companies and individuals associated with it of obtaining such documents unlawfully for their own tactical advantage. By way of example only:

1) On 12 November 2012, Olu Adewunmi, whom FRN understands to have been a director and/or agent of IPCO, sent to Mr Cahill privileged legal advice belonging to FRN in relation to the IPCO arbitration (in which P&ID, and/or companies and individuals associated with it, and Mr Andrew had an interest: paragraph 11.1) of the Re-Re-Re-Amended Statement of Case). The cover email stated *"THIS IS FOR YOU ONLY"*.

2) On 17 December 2012, Mr Nolan sent to Mr Smyth a number of documents relating to the IPCO arbitration, including emails between Mr Shah of Stephenson Harwood LLP who was representing FRN in the arbitration, and Mr Shah's instructing clients at the NNPC. The emails related to an application with which FRN had recently been served by IPCO's lawyers.

3) On 11 October 2016, an email was sent from the account *nwmasltd@gmail.com*, which is presumed to be the email account of North Wales Military Aviation Services (Nigeria) Limited, a company connected with and/or controlled by Messrs Cahill, Michael Quinn and Nolan, to Mr Andrew attaching an obviously privileged legal opinion prepared by the NNPC's lawyers in connection with the ongoing litigation between IPCO and the NNPC.

4) On 19 October 2016, Mr Smyth sent to Messrs Andrew and Burke QC a confidential and privileged letter from the Attorney General, Mr Malami, to the President of FRN relating to a potential settlement of the IPCO litigation.

5) On 6 February 2017, Mr Cahill sent to Messrs Andrew and Burke QC a confidential and privileged letter from the Attorney General, Mr Malami to the President of FRN containing legal advice about the IPCO arbitration and ongoing settlement discussions between the parties.

6) On 8 February 2017, Mr Cahill sent to Mr Andrew a *"draft"* of a confidential and privileged letter from the office of the Attorney General to the NNPC's legal adviser in respect of ongoing settlement discussions in the IPCO arbitration. The same draft letter was then sent by Mr Smyth to Mr Burke QC the following day.

7) On 2 March 2017, Mr Cahill sent an email to Mr Nolan and Mr Hitchcock attaching a confidential and/or privileged memo relating to a dispute between a department of the Nigerian government and Babcock Electrical Projects Limited (**"Babcock"**), a company connected with and/or controlled by Messrs Michael Quinn and Cahill, about the payment due for services provided by Babcock in connection with a rural electrification project. Mr Cahill's cover email stated *"I attach also a confidential internal memo (which you may wish to destroy on reading) …"*.

33E. For the avoidance of doubt, FRN has referred to the abovementioned documents in paragraph 33D solely for the purpose of demonstrating that P&ID and associated individuals had a *modus operandi* of improperly obtaining confidential and/or privileged documents from government officials. No wider waiver is intended in relation to any other legally privileged documents or category of documents, and FRN reserves all of its rights in respect of such documents.

33F. As to the final two sentences of paragraph 63:

1) It is denied that FRN chose not to dispute P&ID's ability and willingness to perform the GSPA because it was unwilling to commit the necessary resources.

2) It is denied that FRN could have re-opened, or alternatively could reasonably have been expected to re-open, the issue of P&ID's ability and willingness to

perform the GSPA at the quantum stage of the arbitration. Paragraphs 77 and 79 of the Re-Re-Re-Amended Statement of Case are repeated. Further or alternatively, at all material times during the arbitration, P&ID maintained, and failed to correct, the perjured evidence of Mr Michael Quinn and/or concealed and/or procured the concealment of the existence of the bribery and criminality in connection with the procurement of the GSPA and/or arbitration agreement therein and/or the fact that P&ID had not intended and/or was not willing or able to perform the GSPA.

34. As to paragraphs 67 and 68, FRN maintains that Mr Shasore colluded with P&ID to undermine FRN's defence of the claim in the arbitration as part of its corruption of individuals responsible for representing FRN in the arbitration, individuals responsible for obtaining evidence or giving instructions to FRN's legal team and/or individuals otherwise directly and/or indirectly involved in FRN's defence, including Mr Shasore, Ms Adelore, Ms Belgore and Mr Oguine ~~and Mr Lukman~~. FRN continues to investigate these matters and reserves the right to provide further particulars. It is denied that the matters set out at paragraph 67 undermine or are inconsistent with FRN's case in this respect. Further and in any event:

1) It is averred that, if Mr Shasore did not collude with P&ID (which is denied), neither he nor any reasonable and honest advocate could reasonably have been expected to uncover the bribery and criminality surrounding the award of the GSPA and/or the fact that Mr Michael Quinn's evidence was perjured and/or that P&ID had obtained and/or were obtaining FRN Privileged Documents; and/or that P&ID had corrupted individuals responsible for representing FRN in the arbitration and/or individuals responsible for obtaining evidence or giving instructions to FRN's legal team and/or individuals directly and/or indirectly involved in FRN's defence.

2) To the extent that (as is to be inferred) P&ID colluded with and/or corrupted other individuals responsible for representing FRN in the arbitration and/or individuals responsible for obtaining evidence or giving instructions to Mr Shasore and/or individuals directly and/or indirectly involved in FRN's defence, the Awards fall to be set aside on that basis alone (regardless of whether Mr Shasore was also corrupted).

3) Further or alternatively, to the extent that Mr Shasore's failure to seek any disclosure from P&ID and/or failure to challenge Mr Michael Quinn's evidence in the arbitration was not due to his having been corrupted (which is denied) and/or was not due to the continued concealment of P&ID's wrongdoing and Mr Michael Quinn's perjured evidence (which is denied), but was because Mr Shasore was not provided with adequate instructions in order to prosecute FRN's defence, it is to be inferred that the reason for the lack of instructions is that those responsible for providing them had been corrupted by P&ID. FRN relies, in particular, upon the widespread leaking of the FRN Privileged Documents, many of which had been circulated only to FRN's legal team responsible for conduct of the arbitration and/or the evidence that Ms Adelore specifically was involved in leaking FRN Privileged Documents (as to which see paragraph 34A.3) below) and/or the totality of the evidence of wrongdoing by P&ID particularised in the Re-Re-Re-Amended Statement of Case and this Re-Re-Amended Reply, in support of this inference.

34Aaa. Paragraphs 67A, 67B and 68.6 plead facts and allegations which are irrelevant to the issues in these proceedings and it is unnecessary to address them. The fact that Mr Shasore was instructed in an entirely unrelated arbitration on 23 April 2018 (which pre-dates any discovery of evidence that he had been involved in corruption), and that the firm of which he is a member, Africa Law Practice, was instructed in a second, also entirely unrelated arbitration at a later date, is irrelevant to the question of whether the allegations of bribery and corruption made against Mr Shasore in these proceedings are proven on the evidence before the Court. FRN's response to those paragraphs in the Re-Re-Re-Amended Defence is without prejudice to the foregoing. As to paragraph 67A2 it is denied (if alleged) that FRN did not give disclosure of the existence of the Sunrise Arbitration until November 2022.

34Aa. As to paragraph 67B, the alleged inference is denied.

34A. As to paragraph 68.3A:

1) The only conceivable reason why FRN officials would have shared FRN Privileged Documents with P&ID and individuals acting on its behalf is that they were induced to do so by bribes and/or the promise of future bribes. Paragraph 33A.2) above is repeated. Further, in light of the preparedness of

individuals responsible for representing FRN in the arbitration and/or individuals responsible for obtaining evidence or giving instructions to FRN's legal team and/or individuals directly and/or indirectly involved in FRN's defence, to corruptly share FRN Privileged Documents with P&ID, it is to be inferred that such individuals would also have been prepared to, and in fact did, act knowingly against the interests of FRN more generally in connection with the conduct of the arbitration in return for bribes and/or promised bribes from or on behalf of P&ID. The full extent of this wrongdoing is known to P&ID, but remains concealed from FRN.

2) Contrary to P&ID's case, the contents of the FRN Privileged Documents do give rise to an inference that P&ID colluded with Mr Shasore. In particular:

    i. A substantial number of the FRN Privileged Documents were authored by Mr Shasore and/or his firm, Twenty Marina Solicitors, and some of the FRN Privileged Documents appear to be drafts of letters which were subsequently sent by or on behalf of Mr Shasore.

    ii. It is clear from the FRN Privileged Documents that Ms Adelore was involved in leaking privileged and confidential material relating to the arbitration to P&ID: subparagraph (3) below. In circumstances where, *inter alia*, (i) Mr Shasore paid Ms Adelore a bribe of US$100,000; (ii) Mr Shasore and Ms Adelore worked closely together on the arbitration; and (iii) Mr Shasore and Ms Adelore (and Mr Oguine, who was also paid a US$100,000 bribe by Mr Shasore) were in charge of FRN's purported attempts to 'settle' the claim, often attending settlement meetings on their own without supervision by other FRN government officials, it is to be inferred that Mr Shasore, like Ms Adelore, was complicit in the collusion with P&ID.

3) The contents of the FRN Privileged Documents give rise to an inference that P&ID colluded with Ms Adelore. In particular (and without limitation) P&ID has disclosed an email dated 17 December 2015 in which Ms Adelore forwarded to Mr Adebayo an earlier email from Mr Shasore concerning FRN's response to P&ID's quantum expert report, and an attached proposal from KPMG in respect of the same. Ms Adelore's email, including the earlier

email chain with Mr Shasore, was then forwarded to Messrs Andrew and Cahill. It follows that (at least) Messrs Andrew and Cahill knew that privileged and confidential documents were being shared with P&ID by FRN's Ms Adelore, a member of FRN's legal team.

4) The contents of the FRN Privileged Documents also give rise to an inference that P&ID colluded with Ms Grace Taiga. For example, on 14 October 2010 Mr Cahill sent to Messrs Murray and Nolan an email attaching a confidential letter concerning the GSPA stating *"Please contact Mohammad Kuchazi as soon as you receive this. He is to bring it to Grace who is expecting it"*.

35. As to paragraph 68.4.2, it is denied that P&ID has no knowledge of the activity on Mr Nolan's bank account. Mr Nolan received into his personal bank accounts substantial payments, totalling more than US$1 million between 2007 and the present day, from companies related to P&ID. Many of these payments were subsequently withdrawn from Mr Nolan's personal account in cash. It is to be inferred that these payments were made to enable Mr Nolan to make cash payments on behalf of P&ID-related companies.

35A. As to the final sentence of paragraph 68.5, Mr Augustine Alegeh SAN appears to have prepared his advice within only 24 hours of being instructed to do so. It was consequently not based on an in-depth review of the evidence or background facts. No inferences can be drawn from a legal opinion produced in such a short period of time. Further, and in any event, the existence of the bribery and criminality in connection with the procurement of the GSPA and/or the arbitration agreement; the fact that P&ID had not intended and/or was not willing or able to perform the GSPA; and/or the fact that P&ID had been obtaining FRN Privileged Documents; and/or the fact that P&ID had corrupted individuals responsible for representing FRN in the arbitration and/or individuals responsible for obtaining evidence or giving instructions to FRN's legal team and/or individuals directly and/or indirectly involved in FRN's defence, were all matters concealed by P&ID at all material times during the arbitration from any individuals responsible for representing FRN in the arbitration and/or individuals responsible for obtaining evidence or giving instructions to FRN's legal team who were not party to such corruption.

35B. As to paragraph 68.7:

1) Contrary to the third sentence, Mr Shasore's fees were described in pieces of internal FRN correspondence dated 6 May and 24 September 2014 as *"huge"*, *"excessive"* and *"considerably higher than the amount paid for similar matters involving the [NNPC]"*.

2) ~~Contrary to the final sentence of paragraph 68.7~~As P&ID now admits, the balance of Mr Shasore's fees were in fact paid to him by FRN in two tranches of (approximately, using contemporaneous exchange rates) US$1,095,568 and US$114,393 on 2 January 2019.

36. As to paragraph 68.8, it is denied that the materials cited in the subparagraphs contradict FRN's case that the arbitration was kept 'in-house' at the MPR:

1) The citation from the 9 January 2015 letter at paragraph 68.1.1 has been taken out of context. The letter set out FRN's reasons for delay in progressing settlement discussions with P&ID. It did not concern the conduct of the arbitration.

2) It is admitted that Mr Oguine, of the NNPC, was involved in the arbitration as a witness. However, he received a bribe from Mr Shasore as particularised at paragraph 72 of FRN's Re-Re-Re-Amended Statement of Case.

3) It is admitted that the then-Attorney General, Mr Adoke, was involved in appointing Mr Shasore as FRN's counsel and was therefore involved, at least in the early stages of the arbitration. Paragraphs 71(5) and (6) of FRN's Re-Re-Re-Amended Statement of Case are repeated.

4) The documents identified at subparagraphs 63.8.3 and 63.8.4 post-date the appointment of the current Attorney General, Mr Malami, following which the conduct of the arbitration was transferred from the MPR to the Ministry of Justice.

36A. As to paragraph 69, it is denied that Ajumogobia & Okeke were *"involved"* in the arbitration. Mr Shasore deliberately concealed his involvement in the case from the firm. Paragraph 71.9) of the Re-Re-Re-Amended Statement of Case is repeated.

36B. The inference in the final sentence of paragraph 70 is denied. The correct inference to be drawn from the correspondence is that Mr Shasore wished to keep the conduct of the arbitration within a close-knit group of individuals, and away from Mr Malami.

36Ba. As to paragraphs 70A, 70B, 70D and 70G regarding the relationship between P&ID and Mr Adebayo, in particular the assertion at paragraph 70A that *"Mr Adebayo did not act as P&ID's agent but merely a contractual counterparty"*:

1) It is to be inferred that Mr Adebayo and P&ID have deliberately failed to provide proper disclosure, and/or concealed or destroyed documents, relating to Mr Adebayo's role and actions, including as reflected by Mr Ken Smyth's email to Mr Cahill dated 14 September 2019 in which he stated, "*I assume Tunji has deleted all emails between us from his phone."* In these circumstances, paragraph 33A(1) and 37F(2) are repeated, and/or the inference should be drawn that at all material times Mr Adebayo acted as P&ID's agent, and that the said emails disclosed evidence of wrongdoing by Mr Adebayo committed on behalf of P&ID including as alleged in the Re-Re-Re-Amended Statement of Case and this Re-Re-Amended Reply; alternatively P&ID's defence should be struck out as an abuse of process.

2) FRN's case is that Mr Adebayo was at all material times acting as an agent of P&ID, by reason of the agreements referred to at paragraph 71(2A)(ii) and (viii) of the Re-Re-Re-Amended Statement of Case, as a matter of Nigerian, alternatively English, law (Nigerian law in any event being materially the same as English law in this respect). FRN relies in this respect on the fact that the said agreements appointed Mr Adebayo to perform certain tasks on behalf of P&ID (in particular, to facilitate settlement negotiations with FRN) and provided him with a stake in the outcome of such negotiations and/or the enforcement of the Awards.

3) Further and in any event, each of Mr Adebayo's actions as particularised in the Re-Re-Re-Amended Statement of Case were, pursuant to the agreement and/or common understanding of the parties, done on behalf of P&ID and/or was attributable to it as a matter of Nigerian law under which a relationship of agency may be inferred from the specific facts and circumstances of the parties' actions and interactions, including the fact that Mr Adebayo had been

instructed to perform and/or was in fact performing certain tasks on behalf of P&ID and in order to further P&ID's interests. Nigerian law is materially the same as English law in this respect. There is no other conceivable reason why Mr Adebayo would have taken the said tasks, which related to the procurement of the GSPA by P&ID, benefitting P&ID in its conduct of the arbitration and settlement of P&ID's claim against FRN. Mr Adebayo was not acting on his own behalf or on a frolic of his own.

4) Contrary to paragraphs 70D and 70G.1, the fact that the written agreements between Mr Adebayo and P&ID did not use the words *"P&ID's representative"* is irrelevant. The substance of the agreements and/or the substance of the agreement pleaded at paragraph 71(2A)(viii) was that Mr Adebayo was authorised to act on behalf of P&ID. His actions in the course of so doing were attributable to P&ID.

5) As to paragraph 70G.1, the purported agreement dated 8 August 2016 that Mr Adebayo would not act or hold himself out as P&ID's agent was, as a matter of Nigerian law (which is materially the same as English law in this respect), a sham in the sense that it did not reflect either party's genuine intention, as demonstrated by the fact that Mr Adebayo continued to carry out tasks on behalf of P&ID such as representing P&ID in settlement discussions (as reflected for example in his WhatsApp messages to Mr Cahill of 28 June and 31 July 2017), making payments to individuals directly or indirectly involved in FRN's defence, and/or obtaining and transmitting FRN Privileged Documents and information to P&ID (for example by his WhatsApp messages to Mr Cahill dated 21 February 2017 and 23 April 2018). Alternatively, even if the effect of the agreement was that Mr Adebayo no longer had the status of P&ID's agent, his *ad hoc* actions in connection with the GSPA and arbitral process, payment of bribes, and obtaining and transmission of FRN Privileged Documents and information, were carried out on behalf of, and attributable to, P&ID: subparagraphs (2) and (3) above.

6) In any event, the fact that the 8 August 2016 agreement between Mr Adebayo and P&ID disavowed any relationship of partnership or agency demonstrates that there was such a relationship prior to those agreements.

7) Mr Adebayo had acted as an agent for P&ID-related companies in the past in relation to contracts which were procured by bribes. In particular, he received a commission payment of $350,286.06 in respect of a contract awarded to Marshpearl on 9 May 2003 for the refurbishment of Scorpion tanks, which was preceded by substantial payments to Ambassador Danladi and Dr Kaigama: paragraphs 23A(3)(ii), 23A(4)(ii) and 23A(6)(iii) above. P&ID and its related companies thus had a *modus operandi* of using Mr Adebayo as an agent for corrupt transactions.

36Bb. As to paragraph 70L, it is noted that P&ID is unable to deny that Mr Adebayo made covert payments to Nigerian officials and/or those involved in FRN's legal defence, including to obtain FRN Privileged Documents, on behalf of P&ID. P&ID has only entered a non-admission in this respect. The allegation that *"most"* of the matters pleaded in subparagraphs 71(2A)(x)(a)-(h) are *"factually inaccurate"* is an improper plea and is liable to be struck out.

36Bc. As to paragraph 72.5:

1) There is no proper basis for P&ID's failure to admit the fact of the deposits by Ms Adelore, which are recorded on her bank statements as disclosed to P&ID.

2) It is noted that P&ID has not put forward any positive case as to the purpose or ultimate destination of the payments identified in subparagraphs 73(5)(1)-(4) of the Re-Re-Re-Amended Statement of Case, which payments correspond with cash deposits made by Ms Adelore into her personal bank account shortly thereafter.

36C. As to paragraph 72A, the Claimants' interpretation of the correspondence is denied.

1) That the US$150,000 payment from Mr Shasore to Mr Alegeh was an inducement not to involve himself in the case is to be inferred from the size of the payment and the fact that Mr Alegeh's only substantial involvement in the case had been the production of a written opinion over the course of a 24 hour window.

2) Mr Alegeh was paid a sum of NGN 5,000,000 (approximately £20,000) directly by the NNPC in consideration for the written opinion that he

provided.

3) The payment made by Mr Shasore to Mr Alegeh therefore cannot be explained by reference to the work done by Mr Alegeh on the case, and there is no other legitimate explanation for the payment.

4) Moreover, when on 11 September 2013 Mr Burke QC received an FRN Privileged Document suggesting that the NNPC wished to replace Mr Shasore with Mr Alegeh, Mr Burke QC immediately (within four minutes) forwarded the message to Mr Seamus Mr Andrew from his iPhone, with an instruction to *"call me"*. It is averred that Mr Burke QC wished to urgently discuss the proposed change of counsel with Mr Andrew because he knew that Mr Shasore had been corrupted and would not properly act in the best interests of FRN, and it was therefore in P&ID's interests for Mr Shasore to have conduct of the arbitration and/or settlement discussions.

5) The correct inference is accordingly that Mr Alegeh was paid US$150,000 by Mr Shasore in November 2014 in return for Mr Alegeh not seeking to involve himself in or interfere with Mr Shasore's conduct of the arbitration and/or conduct of the settlement discussions, and/or was intended by Mr Shasore to have this result.

QUANTUM PHASE OF THE ARBITRATION

37. As to paragraph 76, ~~P&ID's assertion that the parts of Mr Quinn's evidence referred to in the Liability Award~~ it is noted that P&ID has withdrawn its case that Mr Michael Quinn's evidence *"had not been relied on by P&ID in submissions"* ~~is denied~~. Such withdrawal is justified as P&ID's counsel at the arbitration, Mr Andrew, invited the Tribunal to accept and rely upon Mr Michael Quinn's evidence in its entirety in light of the fact that no relevant part of it had been challenged by Mr Shasore. As to the remainder of paragraph 76, paragraph 70 of the Re-Re-Re-Amended Statement of Case and paragraph 33F.2) above are repeated.

37A. As to paragraph 78A:

1) Paragraph 78.2 is denied. The total number of FRN Privileged Documents relating to the GSPA and/or arbitration proceedings disclosed to FRN by P&ID

as at the date of this Re-Re-Amended Reply is 99.

2) It is admitted that a number of the FRN Privileged Documents are duplicates. The reason why multiple copies of the same FRN Privileged Document were disclosed to FRN appears to be that, in some cases, P&ID was provided with the same FRN Privileged Document on multiple occasions and/or was provided with different extracts of the same document.

3) Further, it is also to be inferred that the sharing of FRN's privileged and/or confidential documents and information with P&ID was not limited to the documents disclosed to date, but included other FRN Privileged Documents (the copies of which in the hands of P&ID or its associated persons have since been destroyed or lost and/or have not otherwise been disclosed) and/or included privileged and/or confidential information pertaining to FRN's defence and approach to settlement of P&ID's claim being shared orally with P&ID and its associated persons and in relation to which no records exist (whether because such records never existed, or because such records have been lost, deliberately destroyed or withheld by those involved to conceal P&ID's wrongdoing): paragraph 79F and 79G of the Re-Re-Re-Amended Statement of Case are repeated.

4) P&ID's case that it did not consider that the FRN Privileged Documents were privileged or confidential when they were first provided to it is denied. It is obvious from the face of the FRN Privileged Documents that they are privileged and/or confidential in nature. Paragraph 33B above is repeated.

5) Moreover, a substantial number of the FRN Privileged Documents were sent to Mr Andrew and Mr Burke QC, who are (and were at the time) experienced lawyers. It would have been obvious to any reasonable lawyer that the FRN Privileged Documents were privileged and/or confidential and that they had been improperly obtained.

6) As to P&ID's knowledge that the FRN Privileged Documents were privileged and/or confidential, see paragraph 33B above.

7) The relevance of the fact that FRN has since waived privilege over some (but not all) of the FRN Privileged Documents for the purpose of advancing its case

in these proceedings is denied. The FRN Privileged Documents were privileged and/or confidential at the time they were received by P&ID, as P&ID knew.

37B. As to paragraph 78B, paragraph 33A above is repeated. It is noted that P&ID's case is that *"as far as P&ID understood"* the FRN Privileged Documents were provided to it voluntarily. FRN reserves the right to seek further information as to the basis of this understanding.

37C. As to paragraph 78E:

1) It is clear from the contemporaneous documents that P&ID, and individuals acting on its behalf and/or associated with it, destroyed and withheld documents in order to conceal the fact that the FRN Privileged Documents had been shared with it. Paragraph 33B.3) above is repeated.

2) The admission that Mr Murray's reason for instructing others to delete documents was his fear of a raid by the Nigerian authorities is noted. Insofar as Mr Murray's reason for instructing others to delete documents was his fear of a raid by the Nigerian authorities, it was because he was aware that the documents evidenced bribery, criminality and wrongdoing by P&ID and/or those associated with it and intended to prevent their disclosure in legal proceedings against P&ID. The final sentence of subparagraph (1) is not admitted.

3) As to P&ID's assertion that Mr Murray did not ask Mr Michael Quinn to delete any emails, it is noted that P&ID has not disclosed any emails from Mr Murray to any email account held by Mr Michael Quinn.

37D. As to paragraph 78F.2 regarding the involvement of Mr Shasore in the sharing of FRN Privileged Documents, paragraph 34A.2) above is repeated.

37E. As to paragraph 78H.1 regarding the knowledge of P&ID's legal representatives, in particular Messrs Andrew and Burke QC:

1) It would have been obvious to any reasonable lawyer that the FRN Privileged Documents contained privileged and/or confidential information that ought not have been provided to P&ID: paragraph 33B above.

2) *A fortiori* where (i) many FRN Privileged Documents were sent to P&ID and

its lawyers over a lengthy period of time; (ii) it was apparent from the face of emails sent to Mr Andrew that at least some of the FRN Privileged Documents had been leaked directly by FRN's legal team and/or in any event should not have been shared beyond FRN and FRN's representatives: see, for example, Mr Adebayo's email to Mr Andrew dated 16 December 2015 in which he forwarded an email from Ms Adelore revealing privileged communications of Mr Shasore; and (iii) some of the FRN Privileged Documents were expressly marked *"Private and Confidential"*.

3) It is accordingly to be inferred that FRN's legal representatives knew that the FRN Privileged Documents (i) were privileged and/or confidential; and (ii) had been provided to P&ID improperly and/or unlawfully.

4) Moreover, it is to be inferred based on Mr Burke QC's reaction to the email dated 11 September 2013, and the FRN Privileged Document attached thereto, suggesting that the NNPC wished to replace Mr Shasore with Mr Alegeh as FRN's counsel, that Mr Burke QC and Mr Andrew knew that Mr Shasore had been corrupted and/or that he would not act in the best interests of FRN, and that they took steps to ensure that the proposed change of counsel did not take place: paragraph 36C.4) above.

5) It is noted that, according to documents disclosed by P&ID, Mr Burke QC stands to receive 10% of the distributions received by Mr Andrew's firm, Lismore, under the Awards. It follows that, if the Awards were to be enforced in full, Mr Burke QC would be entitled to a sum in excess of US$750 million. Moreover, Mr Andrew's firm, Lismore, owns a 75% stake in P&ID. Both individuals therefore have, and had, a very substantial interest in the outcome of the arbitration and the present litigation.

6) For the avoidance of doubt, no admissions are made as to the capacity in which Mr Burke QC interacted with, or acted for, P&ID. P&ID has given inadequate disclosure and information on this issue. FRN reserves the right to seek further information and/or disclosure about this in due course. It is noted in this respect that (i) Mr Burke QC was paid a total of approximately US$3.5 million by Lismore; (ii) according to Mr Cherryman's second witness statement dated 2 March 2022, Mr Burke QC did not issue an invoice for that

(or any) sum; (iii) there was no written retainer between Mr Burke QC or any other relevant party, and his services were instead allegedly provided pursuant to an *"informal understanding"*; (iv) Mr Burke QC did not, as far as FRN can ascertain from Mr Cherryman's second statement, issue a client care letter to P&ID or any related party; (v) Mr Burke QC does not appear to have had 'direct access' rights at the time of the alleged informal understanding; and (vi) the payments made to Mr Burke were not made through his Chambers, Three Raymond Buildings.

7) As to the final sentence of paragraph 78H.1, it is averred that Messrs Burke QC and Andrew were under a professional and/or a legal duty under English law, as soon as they became aware that the FRN Privileged Documents contained privileged and/or confidential information belonging to FRN, and in any event as soon as it became apparent (or ought reasonably to have become apparent) that the FRN Privileged Documents had been obtained improperly and/or through collusion (i) not to read any further FRN Privileged Documents; (ii) to return the FRN Privileged Documents to FRN and/or to instruct P&ID to do so (and to stop acting for P&ID (to the extent that Mr Burke QC was acting for P&ID at all) if it refused); and (iii) to notify FRN and the Tribunal that they had received the FRN Privileged Documents, and that those Documents appeared to have been obtained improperly and/or through collusion. To the extent applicable, Messrs Burke QC and Andrew were subject to materially the same duty under Nigerian law: paragraph 37H.4) below.

8) Contrary to their professional and/or legal duties, Messrs Andrew and Burke QC made positive use of FRN Privileged Documents and, on occasion, distributed them to further persons:

    i. As to the positive use of FRN Privileged Documents by P&ID's representatives, paragraph 33B.2) is repeated by way of example. See also, by way of example, the email of Mr Burke QC to Mr Andrew dated 11 September 2013, sent just four minutes after receipt of an FRN Privileged Document suggesting that FRN might change its counsel representation from Mr Shasore to another advocate, Mr

Alegeh, instructing Mr Andrew to *"call me"*. It is to be inferred that Mr Burke QC asked Mr Andrew to call him in order to discuss how this recently discovered privileged information might affect P&ID's position in, and/or conduct of, the arbitration.

ii. As to the latter see, for example, the emails dated 2 February 2013, 27 February 2013 and 6 June 2013 from Mr Burke QC's 3 Raymond Buildings email account (*Trevor.Burke@3RBlaw.com*) in which he forwarded on to Mr Andrew various batches of FRN Privileged Documents which were, on their face, obviously confidential and/or privileged.

37F. As to paragraph 78H.2 regarding the consequences of P&ID obtaining the FRN Privileged Documents and/or FRN's privileged and/or confidential information:

1) It is denied that the obtaining and/or concealment of the FRN Privileged Documents by P&ID and/or other such privileged and/or confidential information belonging to FRN did not give it an unfair advantage in the arbitration and/or was not causative of the Awards. Paragraph 33A.5) above and/or paragraphs 63, 63A, 79I-L and 80 of the Re-Re-Re-Amended Statement of Case are repeated.

2) It is in any event to be assumed and/or inferred from the very fact that P&ID requested and/or induced FRN officials (and/or its external counsel) to share the FRN Privileged Documents and/or other such privileged and/or confidential information belonging to FRN with P&ID, that they did so for the purpose of P&ID obtaining a tactical advantage in the arbitration and that this was the result. Further or alternatively, insofar as P&ID fails to provide proper disclosure in respect of the use to which the FRN Privileged Documents were put, it is to be inferred that this is a result of the deliberate destruction and/or withholding of documents and/or information by P&ID and those who act or previously acted on its behalf, and P&ID's defence should be struck out as an abuse of process.

3) Further or alternatively, regardless of whether the sharing with P&ID and/or concealment by P&ID of the FRN Privileged Documents and/or other such

privileged and/or confidential information belonging to FRN can now be established by FRN to have given P&ID any particular advantage in the arbitration, the obtaining of such documents and information and/or the withholding and/or concealment of the same from FRN and the Tribunal, tainted the arbitral process and mean that the Awards are to be held to have been obtained by fraud and/or procured in a way contrary to public policy.

4) Further or alternatively, P&ID's obtaining of the FRN Privileged Documents is proof of and/or gives rise to an inference that P&ID or persons acting for or on its behalf colluded with FRN officials and/or its legal counsel in connection with the ongoing arbitration. The Awards are liable to be set aside on that basis alone pursuant to s68(2)(g).

37G. The admission at paragraph 78J that FRN did not know that the GSPA had been procured by bribery or that Mr Michael Quinn had given perjured evidence, is noted.

FRN'S SECTION 68 CHALLENGE

37H. As to P&ID's assertion at paragraphs 79.1 and 79.3 that P&ID had no duty to disclose the fact that the GSPA was procured by bribery, and/or its knowledge of any other criminality related to the GSPA or the conduct of the arbitration:

1) The only factual evidence upon which P&ID relied in the arbitration was the witness statement of Mr Michael Quinn. The statement contained false and misleading statements as to the work that P&ID had done on the GSPA project since 2006 so as to give the impression that the contract had been awarded legitimately and/or that P&ID would have been able and willing to perform it. In those circumstances P&ID was under a duty to correct Mr Michael Quinn's evidence to the Tribunal, including by informing the Tribunal and FRN that the contract had, in fact, been obtained as a result of bribery and corruption.

2) It was in any event misleading by omission for Mr Michael Quinn to serve witness evidence explaining how the GSPA came about without mentioning the fact that it had been procured through bribery, corruption, or any other form of criminality and/or that P&ID continued to procure the silence of those involved by means of further bribery and corruption. P&ID had a duty to correct this misleading omission, by disclosing the existence of the bribery,

corruption and criminality, for that additional reason.

3) Further or alternatively, P&ID failed to report and/or deliberately withheld from FRN and the Tribunal (1) the fact that P&ID was in receipt of FRN Privileged Documents and/or (2) that P&ID had corrupted individuals responsible for representing FRN in the arbitration and/or individuals responsible for obtaining evidence or giving instructions to FRN's legal team and/or individuals directly and/or indirectly involved in FRN's defence, thereby fundamentally undermining the integrity of the arbitral process.

4) To the extent that it is relevant in light of subparagraphs (1) to (3) above, as a matter of Nigerian law, which was the governing law of the arbitration, P&ID's legal representatives were under a duty pursuant to rule 15(4) of the Rules of Professional Conduct for Legal Practitioners to report to the affected person (being FRN) and the Tribunal the existence of any *"clearly established information"* that their client had perpetrated a fraud on FRN and/or the Tribunal (which they had by, *inter alia*, paying bribes in connection with the GSPA, giving knowingly false evidence to the Tribunal, and obtaining the FRN Privileged Documents through collusion and/or corruption). P&ID's legal representatives (and/or Mr Burke QC, to the extent that he was not acting in that capacity) had materially the same duty as a matter of English law: paragraph 37E.7) above.

5) P&ID and/or its employees or persons acting on its behalf in any event had a duty to report the corrupt payments it had made to FRN officials: paragraph 22.2E) of the Re-Re-Re-Amended Statement of Claim.

38. As to paragraph 81.1 regarding FRN's allegations of bribery, paragraph 3.2) above is repeated.

39. As to paragraph 81.2, it is denied that, if (as FRN contends) the Awards were obtained by fraud or procured in a way contrary to public policy, the appropriate remedy would be to remit them to the Tribunal. The only appropriate remedy in such circumstances would be to set aside the Awards.

FRN'S SECTION 67 CHALLENGE

40. As to paragraph 86.2, ~~it is denied that the terms of the government circular were permissive. Pursuant to the circular, government agencies were authorised only to incorporate the model clause, and not any other arbitration clause, into their international contracts~~ paragraphs 87-88 of the Re-Re-Re-Amended Statement of Case are repeated.

41. As to paragraph 87.2, it is denied that Clause 20 of the GSPA was authorised by the Group Managing Director of the NNPC, the Permanent Secretary or Professor Omorogbe. Final versions of the contract were not provided to any of these individuals until after it had been executed, at which point it was too late to make amendments to the draft.

~~**MARK HOWARD QC**~~
~~**PHILIP RICHES QC**~~
~~**TOM FORD**~~
~~**TOM PASCOE**~~

~~**MARK HOWARD KC**~~
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STATEMENT OF TRUTH

The Claimant believes that the facts stated in this Re-Re-Amended Reply are true. I am duly authorised by the Claimant to sign this Statement on its behalf.

The Claimant understands that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Signed:

Full name: The Honourable Abubakar Malami, SAN

Position held: Attorney General and Minister of Justice of the Federal Republic of Nigeria

Dated: 29 December 2020

Dated: 31 March 2022

Dated: 13 September 2022

Dated: 20 December 2022

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