

14<sup>th</sup> Intercollegiate Negotiation Competition

PROBLEM

~~November~~October 529, 2015 version

1. Negoland is a republic with a population of about 50 million occupying some 400,000 square kilometers of land. The primary, secondary and tertiary sectors account for three percent, 50 percent and 47 percent of its GDP respectively, which totals about US\$2 trillion. The tertiary sector is largely composed of companies engaged in commerce and service. Negoland's manufacturing sector is world renowned for superior technology and Made-in-Negoland is a synonym for high quality. Negoland is a so-called developed nation, but further growth in domestic demand is not expected due to its shrinking, ageing population. For this reason, large and medium-sized corporations in Negoland have been actively exploring overseas markets, and the government is assisting this move by providing information and advice necessary for doing business overseas and providing referrals to local specialists through government-funded organizations, all free of charge. In addition, the government is supplying better insurance programs to allow businesses to partially cover country risks associated with exports and overseas investments and credit risks of overseas counterparties.
2. The currency of Negoland is the Nego Lira. Like the US Dollar and the Euro, it is a so-called hard currency in abundant circulation and is easily traded for other currencies. Negoland's financial market is open widely to overseas financial institutions, which have established a strong presence in Negoland. Financial institutions of Negoland traditionally skirt excessive risks, and Negoland's Financial Supervisory Agency has administered active oversight on financial institutions to ensure that they do not take excessive risks. This explains why financial institutions in Negoland were not seriously damaged by the financial crisis triggered by the bankruptcy of Lehman Brothers in 2008.
3. Negoland is extremely concerned with environmental issues, as evidenced by the government's environmental regulations and policies which are among the strictest in the world. New urban developments in Negoland must implement environmental and energy-saving measures of high international standards in order to win the government's approval.

Since the introduction of stringent environmental regulations and energy-saving policies about twenty years ago, leading real estate developers in Negoland have boosted their planning and technological capabilities to meet the strict requirements. Another concern of Negoland is earthquakes, and its real estate developers have also refined technologies to limit seismic risks, an issue especially critical to urban areas. As a result, the leading real estate developers in Negoland have been recognized as global leaders in the sphere of urban development and planning that calls for environmental soundness and seismic resistance.

4. Of the real estate developers in Negoland, Red Corp. and Yellow Corp. are considered developers with an especially high level of technological and planning abilities, as attested by successful completion of overseas projects. Red was founded in 1959 by Masami Red, who now serves as Chairman. It started out by building office buildings in Nego Town, the capital of Negoland, and by leasing office space in them. Its business has expanded to include the construction of commercial buildings and private residences, planning and development of urban development projects, and property management and operation of office and commercial buildings, among others. Since 2000, Masami's son, Tom Red has served as CEO of Red, whose current business is outlined in Exhibit 1. Red is the most reputable developer in Negoland, appealing to clients with environmentally sound and people-friendly designs in addition to its highly sophisticated technological capabilities. Another distinct characteristic of Red is its in-house design team, which allows Red to handle all phases of construction needs from the beginning to end, from design to construction and property management. Red is also known for being fastidious about the projects it accepts and for not accepting any projects that are not compatible with its policies. In the past, it rejected a lucrative offer on account of the project causing environmental disruption. Red has been focusing strongly on overseas markets in recent years, due to the limited growth opportunities available in Negoland. The business and financials of Yellow Corp. are essentially similar to Red's, but Yellow is known for contemporary, forward-looking design. It is generally believed that in terms of technological and planning abilities, Red is slightly ahead of Yellow.
5. Arbitria is a constitutional democracy with a population of 60 million and a land size of about 640,000 square kilometers. Its GDP is about US\$2 trillion, and its primary,

secondary and tertiary sectors are responsible for about five percent, 30 percent and 65 percent of GDP respectively. Arbitria belongs to the league of so-called developed nations. In the past, Arbitria was an empire with a number of colonies. Many of them became independent during the post-war decolonization era. Today, Arbitria is on good terms with its former colonies, and Arbitria's private sector has conducted business with these countries and invested actively in them. Among its former colonies, Meditria is a country noted for rapid economic development in recent years, catching the attention of the world. Meditria is outlined in Exhibit 2.

6. Arbitria's industrial sector is traditionally full of companies that subscribe to the philosophy of respecting freedom and challenges. Their propensity for challenge especially in pioneering business areas has resulted in a number of extremely successful corporations in a variety of fields. Currently, Arbitria is active at the forefront of computers, IT, chemicals, atomic energy, and pharmaceutical technologies, and internationally renowned companies have emerged in these fields. On the other side of the coin, however, is a high corporate bankruptcy rate, caused by failed ventures, in addition to companies attempting to maximize profits by violating laws or resorting to questionable acts at the expense of compliance concerns. Voices calling for stricter corporate governance have led to legislation requiring listed corporations to appoint more than one external director, and codes that set forth corporate governance requirements that must be met by listed corporations.
  
7. Arbitria's currency is the Abu-Dollar. The Abu-Dollar is a so-called hard currency. The financial market of Arbitria holds a prominent position internationally, and many of the world's leading financial institutions have set up offices in Arbitria. Arbitria's financial institutions are also active both within and outside Arbitria. They are active players in derivatives, securitization and other financial areas that utilize sophisticated financial techniques. They are also risk takers in the loan and investment markets, and in the past, especially during the Lehman crisis, many suffered heavy losses and even bankruptcy as a result of taking excessive risks in pursuit of maximum profits. The Arbitria Treasury Department, which oversees the nation's financial institutions, stepped up its financial oversight, albeit temporarily, while its National Legislature laid down laws regulating excessive risk-taking by financial institutions.

8. Among the financial institutions of Arbitria, Blue Inc. is known to have a conspicuous international presence. Blue's primary business is commercial and investment banking. In addition to offices scattered worldwide including offices in Meditria, it has subsidiaries that specialize in derivatives, M&A, and leasing among other fields. Blue was hurt by the Lehman crisis, but under the astute leadership of Saki Nomura, its CEO, Blue quickly got rid of bad debts and successfully rebuilt its business structure ahead of other financial institutions. Today, its business has recovered to the pre-Lehman crisis level. Blue is outlined in Exhibit 3.
  
9. Red and Blue began their business relationship in 1995. The very first transaction was in connection with the purchase by Red of commercial real estate in Arbitria for investment. Red asked Blue to lend funds to it to partially cover the cost of the investment. A series of transactions subsequently followed, including loans by Blue to Red for investment deals in Arbitria, referrals made by Blue for real estate investment deals in Arbitria, and purchases by Red of financial products for productive use of idle cash, among others. All investment deals in Arbitria between the two have been conducted by and between the head office of Blue and Red Arb Corp., which is Red Corp's business base in Arbitria and its wholly owned subsidiary established under the laws of Arbitria. The main business of Red Arb includes marketing to Arbitrian companies and investment in Arbitria. Transactions for purchases of financial products for the management of idle cash were made between the Financial Department of Red (Head Office) and the Negoland Branch of Blue.
  
10. In May 2014, Blue decided to award Red a contract for the rebuilding of its new head office building in Abu-Abu, the capital of Arbitria. Red was chosen because of its globally recognized outstanding technological and design capabilities. Red and Blue signed an agreement concerning the architectural design of the new head office building in June 2014, and a basic design for the building was finalized in November 2014. When construction work was about to begin, it was decided that the work would be carried out by a joint venture to be established between Red and Black, Inc., an Arbitrian contractor. This decision was reached during a conference between Red and Blue in November 2014, in which the following exchange took place. The meeting was held at Blue's head office and was attended by Hawk, the head of Red's Construction Division, and Swan, CEO of

Red Arb Corp., while Blue was represented by Diamond, Senior Vice President in charge of general administration and corporate planning, and Emerald, Senior Manager of General Administration.

Hawk: We have completed the basic plan for your head office building. We take great pride in our responsibility to build a head office for you that lives up to your expectations.

Diamond: I'm looking forward to it. By the way, I have a proposal. The old structure will be demolished shortly to make way for the new one. We are planning to ask Black Corp. to join you in the construction of the new head office building.

Hawk: Excuse me, but I don't think I am following what you're saying.

Diamond: The work will be done in Arbitria, and we believe it necessary to enlist the help of a reliable Arbitrian contractor with strong ties with local subcontractors. It would be best if the work would be carried out by a joint venture between you and Black.

Hawk: We are aware of the need to team up with an Arbitrian contractor one way or another to facilitate the work, and we have asked Red Arb Corp., our subsidiary here, for the selection of a local contractor.

Swan: After careful study, we came to the conclusion that Gold Corp. would be the ideal candidate, with an excellent technological foundation and sound financials. In fact, I was about to consult you on this.

Emerald: It is true that Gold Corp. is an excellent contractor, but we have a long history of doing business with Black and we believe it is a reliable contractor. It is our hope that you agree to set up a joint venture with Black, on partial account of our long-standing relationship with Black.

Hawk: Swan, you did a study on Black Corp., didn't you?

Swan: Black is a leading general contractor in Arbitria and has been in business for many years. In terms of technology, it is on par with Gold and I have nothing to say against Black regarding its technological capabilities, but Black is rumored to have some financial problems due to failed real estate investment deals, which is why I eliminated Black from the candidate pool.

Hawk: It doesn't sound too good to me. Is Black really OK?

Diamond: Black is all right. As far as I know, Black isn't in heavy financial trouble. Black is one of our valued clients and, as a key banking partner, we have supported Black for many years. We will lend our hand to it, if Black runs into any minor financial troubles. In other words, you shouldn't worry at all as far as Black's financials are concerned.

Hawk: All right. I understand that you want us to engage Black because you strongly desire it, correct?

Diamond: Yes. You can say that.

Swan: But I still believe Gold would be the right choice. A joint venture partner is a crucial element for success of the project. I don't want the project for your precious head office building to run into any trouble.

Diamond: I agree with the importance of a partner, but I don't think you should worry. Black is our important client and we will continue our support to Black, so you can safely assume that Black will never be in trouble.

Hawk: Well, if you insist that much, I can't help but agree to your proposal.

11. In November 2014, Red and Black signed an agreement concerning the construction work of the head office building of Blue (see Exhibit 4), and another agreement was signed by Red, Black, and Blue (Exhibit 5). The agreement shown in Exhibit 5 was drafted by Blue. Red and Black jointly came up with a construction cost estimate of 300 million Abu-Dollars based on the design work done by Red, and it was presented to Blue. Blue approved the estimate.
12. Prior to the signing of the agreements shown in Exhibits 4 and 5, the following exchanges took place between Red and Blue with regard to Article 4 of the agreement between the three parties (Exhibit 5):

Swan: Black was selected as our joint venture partner at the specific request of Blue. So, I don't think it is reasonable for us to bear joint and several obligations for Black's liabilities to your organization.

Emerald: The partner selection may have been influenced by our request, but now that a joint venture is about to be formed and that you and Black are

ready to perform the work jointly, it is only natural for one partner of the joint venture to assume obligations jointly and severally with respect to the construction-related obligations of its partner.

Swan: I understand that such provisions are generally included in joint venture agreements but I have some reservations.

Emerald: As Diamond explained to you the other day, you have nothing to worry about with regards to Black.

Swan: If so, then I don't think the provisions like the ones in Article 4 of the agreement are needed in the first place.

Emerald: Our Legal Department insisted on these provisions. Without your blessing, we cannot move forward with the project.

Swan: Then, we agree to sign this agreement which includes this addition, based on the understanding that we can trust your organization as far as Black is concerned.

Emerald: Thank you.

13. Red, Black and Blue decided, after consultation with each other, that Red would be responsible for individual architectural design as well as the management of the construction work, while Black would be responsible for the demolition of the old building, subcontractor engagement and management, and purchase of construction materials. The contract price of 300 million Abu-Dollars was agreed to be paid in installments and 50 million Abu-Dollars had been paid to Red and Black by January 2015. In January 2015, the demolition work began. However, Black declared bankruptcy at the end of January. It was caused by failed real-estate investments. As a result of the bankruptcy, the Exhibit 4 Agreement was terminated, while both Red and Blue agreed not to terminate the Exhibit 5 Agreement and to replace Black with another joint venture partner. However, the demolition work stalled halfway due to the bankruptcy of Black, which was in charge of the management of subcontractors, forcing Red to restructure the entire construction project. Red's investigation revealed that Black had failed to sign agreements with subcontractors for the work to be performed from March 2015 onwards and failed to sign agreements concerning purchases of construction materials – both of which were under the responsibility of Black and hence should have been secured by Black by the end of 2014 (Black had explained to Red that it had signed the agreements with subcontractors for the

work from March 2015 and the agreements concerning purchases of construction materials). Red attempted to secure subcontractors on its own in a rush, but prices to hire subcontractors had gone up considerably due to the Arbitrian government's announcement in December 2014 of massive future public works projects (these projects were suddenly decided by the government and no one expected them). To aggravate the situation, the Abu-Dollar had weakened against the US dollar as a result of an interest rate cut by the Arbitrian Central Bank in January 2015 (no one expected this interest rate cut). Imported construction materials must be paid for in US dollars. Based on the prevailing exchange rate, the price of the imported materials had risen by 30 percent since November-December of 2014. It was discovered, after all these factors were reflected in the new calculation that the construction cost had increased to 400 million Abu-Dollars as opposed to the initially projected ~~270300~~ million Abu-Dollars (Red and Black expected a total profit of 30 million Abu-Dollars when the contract was entered in November 2014). It was further revealed that Black had misappropriated 500,000 Abu-Dollars reserved for the payments to the subcontractors for part of the demolition work already performed and that no payment to the subcontractors had been made (On January 28, Black had explained to Red that it had made this payment of 500,000 Abu-Dollars to subcontractors on the same date).

14. In addition to the above issues, Red was faced with the task of finding a new joint venture partner to replace Black. Red approached several potential candidates, but all of them informed Red that the project could not be completed at the initially projected cost of ~~270300~~ million Abu-Dollars and due to the risks associated with the low budget, the project would entail so much risk that they would stay away from it, unless the cost estimate was raised to 400 million Abu-Dollars.
15. Upon confirming the inevitable increase of the construction cost to 400 million Abu-Dollars, Red contacted Blue for consultation to discuss steps to be taken in the wake of Black's demise, and on February 20, 2015, a conference was held between Red and Blue. As at the November 2014 meeting, the conference was attended by Hawk and Swan representing Red and Diamond and Emerald representing Blue. The meeting proceeded as follows:



Hawk: All work was suspended by the bankruptcy of Black. According to our investigation, Black failed to sign agreements with subcontractors for future work or with suppliers for construction materials which should have been secured by Black by the end of 2014 and pocketed 500,000 Abu-Dollars earmarked for payments to subcontractors for demolition work to cover its investment loss.

Diamond: Awful, indeed. We are also deeply concerned.

Hawk: We discovered after our research that we will have to raise the cost of construction to 400 million Abu-Dollars in total in order to secure subcontractors and construction materials at the current prices and still manage to construct the building as planned. We contacted several contractors who would be potential candidates to replace Black as our joint venture partner, but they all told us that the building couldn't be completed for 300 million Abu-Dollars and they would not be interested in taking part in the project unless the cost would be raised to 400 million Abu-Dollars.

Diamond: But we signed a contract that stipulates 300 million Abu-Dollars as the price, did we not? You shouldn't expect us to willingly consent to the price hike to 400 million Abu-Dollars.

Swan: Let me remind you that Black became our joint venture partner because you insisted very hard in the first place. You told us that you will be responsible as far as Black was concerned, didn't you?

Emerald: But at that point in time, we never dreamed Black would go belly-up.

Swan: Black could have avoided bankruptcy if Blue had bailed it out by loans or other support.

Emerald: As a financial institution, we cannot give loans to companies that are on their way to bankruptcy. Lending to companies like that would constitute a breach of trust.

Hawk: In any event, this is a case of hardship, and we cannot continue with construction unless you agree to the increase.

Diamond: We cannot accept it.

Swan: We are also in urgent need of paying 500,000 Abu-Dollars in back payments to the subcontractors. This is the fund Black pocketed, and we want you to pay this amount to the subcontractors.

Diamond: We can't do that. This is the amount you ought to pay out of the construction price we pay.

Hawk: We believe this amount should be shouldered by you on account of the fact that you gave us your word with respect to Black. But I can't let the subcontractors wait any longer. We will pay the subcontractors but we'll bill the amount to you later.

Red paid 500,000 Abu-Dollars to the subcontractors.

16. After the above exchanges, Red and Blue remained at odds on these issues for a length of time and failed to reach agreement within a reasonable time. In order to break the deadlock, Red brought the matters to arbitration, seeking the reimbursement by Blue of 500,000 Abu-Dollars for the amount Red paid to the subcontractors, the upward revision of the contract price for the construction of the new head office building to 400 million Abu-Dollars on the grounds of hardship. Alternatively, Red seeks for the declaration by Arbitral tribunal that Red owes no obligation to Blue on this matter because of the avoidance of the agreement for mistake and/or fraud. In response, Blue argued that payment of the overdue amount was under the responsibility of Red and that Red remained under obligation to proceed with the performance of the agreement for the price of 300 million Abu-Dollars. Blue also demanded that Red's argument on avoidance for mistake and fraud was impermissible.
17. It was later revealed in the disclosure process with respect to the evidence for the arbitration proceedings that internal e-mails submitted by Blue as part of the evidence indicated that Blue's Loan Department became aware of Black's deteriorating financial condition caused by failed real estate investments around October 2014 and requested its General Administration Department to recommend Black as the joint venture partner in an effort to boost Black's financial health, and the General Administration Department acted on the request by seeking Red to accept Black as its partner. Diamond and Emerald admitted that they were informed by the director in charge of loan business that Black suffered "losses from failed real estate investment deals, although the amount was not

serious” and were told to “give the head office project to Black, as this will help Blue assist Black,” but Diamond and Emerald failed to personally confirm the financial state of Black in detail and they insisted that neither of them was aware that Black had issues with respect to its financial health. From October 2014 to the end of January 2015, the amount loaned by Blue to Black was unchanged.

The above case is referred to as the “Head Office Case.”

18. In September 2014 (before the situation triggered by Black’s bankruptcy surfaced), Red and Blue signed a multi-currency facility agreement, which would allow Red to flexibly borrow funds in multiple currencies, up to the equivalent of five million Abu-Dollars , if and when Red needs working capital at its overseas locations. This agreement is presented in Exhibit 6. Pursuant to this agreement, Red drew down one million Abu-Dollars in November 2014. (Repayment therefor was due May 2015, and the amount was repaid on time).
19. In March 2015, Red found itself in need of 500,000 Zeta-Dollars to deposit, before March 31, 2015, as guarantee money for a new public works project in Zeta, which it had won. Zeta is a developing nation with a population of 30 million. The public works in question involved the rebuilding of Zeta’s national-level government buildings, and the size of the deal was about five million Zeta-Dollars in total. Bob Orange, Senior Vice President of Red had been working very hard over a long period of time to appeal to the Zeta government, and Red successfully fought stiff competition and won the bid on March 10, 2015. Red was involved in a variety of projects in and around March 2015; hence, it informed Blue in early March of its plan to draw down 300,000 Abu-Dollars from the above-mentioned facility in the event of successful bidding, and Blue took note of it. The exchanges between the two companies concerning this issue are given in Exhibit 7.
20. When Red formally requested, in the prescribed format (shown in Exhibit 8) on March 25, 2015, the drawdown of 300,000 Abu-Dollars from the facility and the transfer of the said amount to Red’s bank account at Zeta Bank in Zeta, Blue denied the request. Red requested Blue’s explanation in writing, and Blue’s reply is shown in Exhibit 9. A series of further exchanges in writing took place between Red and Blue as presented in Exhibits 10 through 12. It should be noted that both parties acknowledged as fact, and there is no

dispute, that a newspaper report as described in the letters in Exhibit 9 was published, that the existence of law and legal precedents in Arbitria and Negoland was consistent with the descriptions in the letters in Exhibits 9 and 10 and that Red's securing of funds from other sources was impossible, as described in Exhibit 10. Documents as shown from Exhibit 7 to Exhibit 12 were communicated via facsimile. No newspaper, TV or website in the world other than the Arbitrian newspaper mentioned in Exhibit 9 has reported the incidents as described in Exhibit 9. No evidence has been produced before the arbitral tribunal supporting that high-level governmental official of Zeta made financial support to an international terrorist organization or Mr. Orange paid any bribe. Zeta has laws that prohibit the bribery of government officials.

21. Red failed to deposit the guarantee for the construction project stated above as a result of Blue's refusal to lend, and Red became disqualified. Red asserts that according to its own estimate, the deal would easily have generated at least 1.7 million Zeta-Dollars in profit (this amount is not in dispute), and claims that Blue should pay to Red the sum of 1,7 million Zeta-Dollars. In response, Blue argues that it is not legally responsible for its refusal to lend. Exchange rate movements of the Nego Lira, the Zeta Dollar and the Abu-Dollar are given in Exhibit 13, and it is expected that the trend of weak Nego Lira and Zeta Dollar against Abu-Dollar will continue for a while. The above case is referred to as the "Loan Case."
22. Another dispute arose between Red and Blue over a business deal that took place some time ago. In 2011, Blue was retained as a financial advisor of Red in connection with an investment deal in Meditria involving a Meditrian real estate investment firm, Purple Corp.
23. Blue had been contacted by Purple earlier, in April 2011, because Purple wanted Blue to find a buyer for Purple Properties, a wholly owned subsidiary of Purple in Meditria. Purple was a leading real estate firm in Arbitria and had been Blue's client since 1985. As of April 2011, outstanding loans to Purple by Blue stood at five million Abu-Dollars. No direct transaction has been made between Blue and Purple Properties.
24. Purple explained that it wanted to concentrate more on the domestic market of Arbitria, which was in a state of recovery in the aftermath of the Lehman crisis, by downsizing their

once aggressive investment activities overseas, which began in 2000, and by selling overseas subsidiaries. Blue was aware that Red wanted to expand overseas business and remembered that Red specifically mentioned Meditria as a country it wanted to extend its reach into; therefore, Blue approached Red with the potential acquisition deal of Purple Properties. Then, Blue explained that Purple Properties was a wholly owned subsidiary of Purple to which Blue had made loans. Red had had an eye on Meditria but with too many other projects in hand, until then it had never had adequate time or human resources to take any action. The deal brought in by Blue caught the attention of Red, which decided to seriously consider the deal.

25. Red wanted Blue, which had extensive relationships with Meditria, to act as its advisor and finance arranger with respect to the M&A deal. Blue was aware that there would be a complex conflict of interest issue, if Blue were to represent both Red and Purple as advisor, but this could be circumvented, in its opinion, by having Blue act as Red's advisor on one hand and having Blue Investments, an Arbitrian corporation and Blue's wholly owned subsidiary specialized in sophisticated financial services including M&As and investment banking, serve as Purple's advisor on the other hand and by establishing a fire wall to block information flows between Blue and Blue Investments.
26. Blue proposed the arrangement outlined above to Purple and asked if the arrangement would be acceptable. After Purple agreed to Blue's proposal, Ruby, Senior Manager of Investment Services at Blue, visited Swallow, Senior Manager of Corporate Planning at Red, at his office in the head office in Negoland on April 15, 2011 to gain Red's approval with respect to the advisory arrangements described above.

Ruby: We would like to act as your financial advisor and help you finance the deal. But we would like you to understand that Blue Investments, which is our wholly owned subsidiary, will serve Purple Corp. as its advisor. We will set up a firewall between us and Blue Investments, and our investment advisory department will be in charge of your account and it is committed to dispensing advice to you with only your best interests in mind.

Swallow: You're saying that you will give us the best advice solely for our interests, right?

Ruby: Yes. You can trust us.

After the above exchange, an advisory agreement was signed by Red and Blue (see Exhibit 14 for the agreement).

27. Negotiations between Red and Purple progressed and culminated in an agreement signed by the two parties on April 10, 2012, which stated that Red would buy the entire stake in Purple Properties for five million Abu-Dollars. The payment of five million Abu-Dollars was made and the shares were transferred on May 1, 2012. Blue loaned two million Abu-Dollars to Red which was used for the payment for the shares (this two million Abu-Dollar loan has already been repaid). However, after Red took over the operation of Purple Properties, it was discovered that the information furnished by Purple Properties during the due diligence process was falsified and that Purple Properties had intentionally concealed and manipulated the documents related to the likelihood of running massive losses that could be caused by a real estate investment in Meditria, which floundered in June 2011. Its fabrication was so shrewdly done that neither Red nor the specialists Red hired were able to detect it in the due diligence process in August and September 2011.
28. When Red's representatives visited Purple Corp. to demand an explanation for this on June 10, 2012, Purple apologized to Red by saying that Purple, being the parent company of Purple Properties, sustained large losses from derivatives and overseas investments and desperately wanted to sell Purple Properties to keep things running for the moment. The exchange between Red and Purple went as follows:

Red: Did Blue know about the losses incurred by Purple Corp. and Purple Properties?

Purple: No. We never mentioned our difficulty. But Blue may have intuitively figured out that something was going wrong with us.

Red: What did you do with the five million Abu-Dollars we gave to you?

Purple: We used the fund to repay two million Abu-Dollars in loans which we owed to Blue. The loans were due on May 4, 2012 and Blue refused to

grant an extension; we had little choice. We used the remaining three million Abu-Dollars as working capital.

On August 10, 2012, Purple filed a petition for bankruptcy to the Arbitration National Court, and bankruptcy proceedings for Purple began on August 20, 2012. The sale of Purple Properties and the payment of five million Abu-Dollars by Purple were not subject to the right of avoidance by the liquidator of the bankruptcy proceedings for Purple.

29. On September 15, 2012, Red liquidated Purple Properties in accordance with the advice given by specialists in Meditria. As of the date of liquidation, Purple Properties' liabilities exceeded its assets by one million Medi-Dollars. As a result, the value of the shares of Purple Properties held by Red became zero.

Swallow of Red, upon informing Blue of the above outcome, visited Ruby of Blue on September 25, 2012 to pin responsibility on Blue.

Swallow: As I told you already, we ran a loss of five million Abu-Dollars from the Purple Properties deal, the whole amount of our investment. Were you aware of the losses and embellishment with respect to Purple Corp. and Purple Properties?

Ruby: No, we didn't know. And their demise caught us by surprise too.

Swallow: We learned from Purple that it repaid the loan to you with the two million Abu-Dollars by using the money we had paid to Purple for the purchase of Purple Properties. How in the world could you pass off a piece of garbage like Purple Properties to us and recoup the debt from them at our expense!

Ruby: We never intended that it would be like that. But I was told by our Loan Department that it refused to grant an extension of the loan purely on the basis that Purple's operating results showed little improvement after the Lehman crisis. Purple Corp. requested an extension after we referred you to Purple Properties, and besides, we never imagined that they would resort to embellishment. We are sorry for what happened to you. As a form of apology, we are offering you a construction contract for our new training facilities.

Swallow: Well, in that case, it can't be helped.

In December 2012, Blue formally requested the construction of its training facilities, and Red gained 500,000 Abu-Dollars in profit from the project.

30. Red more or less abandoned the thought of pursuing liability claims against Blue in connection with the investment in Purple Properties, on account of the training facilities deal. Later, however, the Head Office case and the Loan Case broke out and these matters were likely to be submitted to arbitration for settlement, and it occurred to Red that it would be better to also legally settle the investment case once and for all. Its renewed investigations revealed that Blue Investments was informed by an employee of Purple Properties around March 2012 of a “loss Purple Properties suffered by some failed real estate investment” and that “the loss could amount to several millions US dollars.” But this information was never given by Blue Investments to the Investment Advisory Department of Blue. It was also discovered that Blue’s Loan Department obtained information from an industry insider in Meditria around February 2012 to the effect that Purple Properties seemed to have incurred a loss in real estate investment. As with the previous piece of information, this piece of information never got to the Investment Advisory Department, thanks to Blue’s internal rules on information management prohibiting cross-sharing of information between the Loan Department and any departments that advise on M&A (such internal rules were standard in financial institutions in Arbitria). Red became aware of the above on July 10, 2015 as a result of the investigation. Other than as mentioned in Paragraph 26, Blue had not given any oral or written explanation about Blue’s internal rules on information sharing in Blue and with Blue Investment,
  
31. On September 27, 2015, upon obtaining the above information, Red visited the head office of Blue to seek five million Abu-Dollars in damages from Blue, claiming failures by Blue to meet contractual obligations under the Advisory Agreement on two counts: Failure to share, with Red, information about Purple Properties, which information was in the possession of its Loan Department and Blue Investments, despite the fact it should have done so; and, placing priority on Blue’s own interest over the benefit of Red thus injuring Red, as evidenced by the application of the two million Abu-Dollars, which was a part of five million Abu-Dollars Red gave Purple, as repayment of Blue’s loan to Purple, resulting in the successful debt recovery by Blue. Blue presented counterarguments that even if information in the possession of Blue’s Loan Department or Blue Investments had not



been communicated to Red, such failure to provide information held by Blue's Loan Department or Blue Investments would have been caused by the firewalls within Blue and between Blue Inc. and Blue Investments. Therefore, it would not constitute a failure to meet contractual obligations, given the fact that Blue did dispense best advice to Red to the best of its ability and based on the information in the possession of the Investment Advisory Department and that the collection of debt as the debt becomes due does not pose any problem. Blue additionally asserted that, even if Red had valid grounds to claim its right in connection with this case, such claims would be void due to the statute of limitations. There is no dispute between Red and Blue that Red would not have purchased the share of Purple Properties if in April 2012 Red had known the fact that Purple Properties suffered investment loss of several millions US dollars.

32. Red was not aware of the specifics of the rules governing the firewalls regarding information within Blue and between Blue and Blue Investments, except for what was explained by Ruby during the conference between Swallow and Ruby on April 15, 2011 (as described in Paragraph 26). Information on the supervision administered by the governments of Negoland and Arbitria on financial matters is presented in Exhibit 15. This case is referred to as the "Investment Case."
33. On October 9, 2015, Red submitted the Head Office Case, the Loan Case and the Investment Case to arbitration, and Blue agreed to settle the three cases through arbitration. The arbitral panel notified the two parties that the issues shown in Exhibit 16 would be dealt with at the oral proceeding on November 21, 2015 and that a brief should be filed before the designated deadline. The parties have agreed on the UNIDROIT Principles of International Contracts 2010 as the applicable substantive law for the purpose of the arbitration in question. However, neither party has agreed to preclude the possibility of applying or considering the rules of the nations mentioned in the problem.

<Round B>

34. In 2010, the nation of Meditria came up with the goal of joining the League of Developed Countries by 2040, as mapped out in its Challenge 2040 declaration. To accelerate economic growth, the government has rolled out a number of measures to stimulate its economy in the last five years, including lower tariffs, deregulation to lift restrictions on entries into the domestic power, water, transportation and communication sectors, development and enhancement of domestic transportation networks and easier tourist visa requirements. As a result of these measures, its GDP growth has remained at the eight-percent level. For Meditria to keep its growth at the current level and to complete its transition into a developed nation by 2040, the Meditrian government, which concluded that an exponential increase in foreign investment would be vital to reach this goal, decided to build, as part of the Challenge 2040 initiative, a city that will be hailed as the most livable and most conducive to business operations in the world. After careful reviews, it selected a plan calling for the redevelopment of Medi Port Town, the port area adjacent to Medi City, its capital. The plan also entails the creation of a business and living environment attractive to both locals and foreign nationals, including a space and events that facilitate international exchanges of Meditrian and non-Meditrian businesses and people. In addition, the new town will be a smart city equipped with transportation infrastructure that enables urban mobility with minimum congestion and congestion-induced economic loss, as well as full disaster prevention functionality. The town will be less than 20 minutes away from the airport and from the capital by a new direct railroad, as opposed to the current travel time of one hour. It envisions that 30,000 people will live and 150,000 people will work in the town, which will occupy 1.5 million square meters of land.
35. The Meditrian government also wants its cities to be named in the Top 20 Most Advanced Cities in the World as part of Challenge 2040. Released annually by a U.S. research firm, the list ranks 300 urban cities using five criteria: economies, cultural exchanges, living conditions, the environment and transportation. Large cities like London, New York and Tokyo were included in the 2014 list, but no city in Meditria has ever made it to the list. The Meditrian government would like to see its capital city of Medi City and the Medi Port Town Special Zone included in the top 20 before 2040.

36. In August 2015, Blue was contacted by the Meditrian government about the redevelopment project of Medi Port Town. The Meditrian government has positioned the Medi Port Town Zone as something of a momentum generator to accelerate the growth of the entire economy, and is willing to proceed with deregulation and tax reform to achieve this goal. The Meditrian government understands it lacks the know-how required for the development of a cutting-edge city and therefore has to rely on the private sector for the development and subsequent operation of the special zone. Since companies in Meditria are not fully experienced for this type of challenge, the government decided to actively seek the help of companies in developed nations.
37. Blue was selected by the Meditrian government as advisor for the project. Blue has been in business in Meditria with more than one office location, and has experience executing loans for the Meditrian government and advising the Meditrian government on fund management. Blue's directors have strong ties with certain high-ranking officials in the Meditrian government, and Blue is informally playing the role of financial advisor there. Though Blue is a financial institution, it has provided consulting services in several large scale projects to develop and operate real estates in Arbitria and some other countries and has sufficient skills and experiences to handle this project. The government is hoping that Blue will provide the following services, among others: on behalf of the Meditrian government, to serve as liaison for negotiation with parties overseas; to select a developer in charge of real estate development and management; to formulate a more detailed plan for the special economic zone jointly with the developer so selected; to arrange for the funding needed for the real estate development; and, to administer overall financial management for the entire project to ensure that the government, among others, will not incur losses. The Meditrian government plans to delegate the duty of external negotiations to Blue and leave details about the real estate development and operations to Blue's discretion. Blue decided to take up the challenge because it will allow it to contribute significantly to the economic growth of Meditria and because the request was made by the Meditrian government, with which it enjoys extensive relationships.
38. In September 2015, Blue, after discussions with the Meditrian government on the matter, embarked on the selection of a developer for the project. Initially, Blue searched for candidates from among the developers in Meditria but none had experience in the

development of a mega-scale, mixed-use area. It had no other choice but to extend its search to experienced developers overseas to translate the urban development concepts envisaged by the government into reality. Since the Meditrian government previously communicated to Blue that the engagement of an overseas developer would not be an issue, Blue decided to select a developer from the pool of overseas developers to commence real estate development. The developer singled out by Blue was Red. Red was selected because of its relationship with Blue and because of its extensive experience in real estate development projects, including projects involving mega-size, mixed-use areas. Red thought this would be a golden opportunity to set its foot on a real-estate project calling for office and residential buildings, shopping malls, hotels, a logistics center and other infrastructure all in one place, especially in a country full of growth potential like Meditria. The two parties agreed to work together and discuss with each the development and operation of the special economic zone.

39. Their meeting on the development and operation of the special economic zone is scheduled for November 22, 2015. Prior to the meeting, Blue presented Red with a general blueprint of the special economic zone as decided by the Meditrian government, which is indicated below. On the day of the meeting, the two parties will negotiate with each other on the basis of the blueprint. The general layout of the special economic zone is shown in Exhibit 17. Blue was not involved in the formulation of this blueprint. Matters other than specifically mentioned in this Problem have not been fixed and Meditrian government has expressed its intention that it will accept reasonable proposals to be negotiated and agreed by Blue and a developer and provide the best possible support.

- (1) The special economic zone will be built on the site of the currently idle warehouse district, etc. in the port area; the warehouse district will be demolished to make way for the development.
- (2) The special economic zone will include a residential district, a business district, shopping and other commercial facilities and hotels, in addition to a space and events that facilitate international exchanges of Meditrian and non-Meditrian businesses and people.
- (3) The special economic zone should serve multiple purposes, in addition to business purposes served by the office buildings. The following should be subject to your consideration: commercial buildings, condominiums, hotels,

serviced apartments, a multiplex, and amusement and entertainment facilities, schools, hospitals, and a convention center.

- (4) As to the tenants of the office buildings, foreign-capital financial institutions and IT firms must be solicited, as they are expected to drive the development of business infrastructure in Meditria (corporations in other business areas may be considered, as long as they will contribute to Meditria's economic growth).
- (5) The residential area will have high-rise condominiums for families and serviced apartments for single households, both of which should feature securities and amenities of the latest standard, in addition to children's play areas, a library and daycare facilities for children.
- (6) With respect to the tenants of the residential district, first priority will go to the foreign expats who work in the business district within the special economic zone and their families, but it will be open to Meditrian citizens as well.
- (7) The plan calls for a direct railway connecting this area and the airport, and this area and the capital I (mode of transportation, e.g. subway, monorail, non-elevated railway, is undecided).
- (8) To support the economic activities and consumption within the zone, a logistics center (floor space of 50,000 square meters will be built near the port.
- (9) Commercial facilities should include a large shopping mall and an outlet mall, to which a broad spectrum of business operators from Meditria and abroad, including retailers, food and beverage concerns, clothing stores, vendors selling home and life enhancement items, home appliance centers, leisure facilities, high-end brands and a multiplex, among others, should be solicited. To lure tourists, tax-exempt shops will be set up as well. The commercial facilities should also serve as a place for day-to-day shopping and leisure activities for the people living in or around the special economic zone.
- (10) As an incentive to foreign corporations to do business, a special corporate tax rate (10 percent as opposed to 30 percent otherwise) in addition to a preferential business office tax rate and income tax rate for workers from abroad will be available.
- (11) The function of the port will be saved; it will function as part of a sea route for

the distribution of goods. No duties will be levied on the goods unloaded at the port provided that such goods will be used in the special economic zone. The port will be revamped with new terminals for large cargo vessels and luxury cruise ships.

- (12) For comfortable living conditions for foreign nationals, medical services by foreign physicians and international schools for the expat community should be considered.
- (13) More than one hotel should be built to accommodate local and foreign tourists and business travelers;
- (14) Solar panels will be installed on the rooftops of the buildings to be constructed in the special economic zone, and each building will have a photovoltaic battery storage unit to ensure that solar power will meet part of the energy needs of the special economic zone.
- (15) The site of the special economic zone, owned by the government of Meditria, will be leased to the developer rent-free.
- (16) The developer will invest its own funds to develop the zone, own the buildings and facilities in the zone and obtain a return from the related operating revenue.
- (17) The development work shall start by June 2016. The development shall be completed by December 2020 and the grand opening of the zone shall take place in January 2021.

40. The discussion on November 22 will center on the issues described below. During negotiation, any additional topics may be discussed, as long as they are mutually beneficial to the future business growth of the two parties. No insurance is available to be used in this project.

#### (1) Use of the common space

One of the core concepts laid down by the Meditrian government for this project calls for a space and events that facilitate international exchanges and communication between Meditrian and non-Meditrian businesses and people. Blue proposed a plan to make a large-scale natural park featuring a monument that showcases Meditria's culture and a convention center. Red believes that the facilities proposed by Blue will not generate

sufficient returns to justify the investment required for them and thinks that an amusement park and a casino will fit the bill. The expected returns by facilities are shown in Exhibit 18. The size and content of a natural park, a monument, a convention center, an amusement park and a casino are left to negotiation between Red and Blue, but these facilities may not be built in other areas than the common space.

## (2) Funding and risk sharing

The projected cost for the real estate development of the special economic zone is US\$10 billion, and Blue is planning to provide Red with the necessary funding for the development by arranging for project finance with forming a large syndicate. Prior to signing a loan agreement, the parties need to agree (i) who should bear any incremental cost in the event of a construction cost hike beyond the US\$10 billion level due to reasons beyond control of Red and (ii) who should bear the interest payable in the event of construction delays. It should be noted that the cost of construction materials is rising in Meditria due to numerous public works replacing obsolete infrastructure, together with the enhancement of transportation networks, and the effect of a serious labor shortage. Although the risk of construction cost increase has been reflected in the US\$10 billion figure presented above, the possibility of a further increase beyond the projected level before 2020 cannot be ruled out. Blue believes the amounts related to (i) and (ii) above should be borne by Red, while Red thinks both (i) and (ii) are the responsibility of the Meditrian government, since the development of the special economic zone will be carried out at the request of the Meditrian government.

## (3) Commitments related to real estate development and management

The Meditrian government wants the developer to complete the development early and to manage the premises for many years to come to ensure the success of "Challenge 2040." To be more specific, the government wants Red to complete the real estate development by 2020 and thereafter manage the properties through 2040. And the government does not want Red to assign any of the properties or its right to manage the properties for the duration of its management. Red agrees the completion of the development by 2020, but insists that it wants to commit itself to property management for only five years after the completion. Red wants to recoup its investment by establishing and listing a REIT on a

Meditrian stock exchange once the operation of the properties is put on the right trajectory and by gradually selling off the properties to the REIT. For this reason, Red holds that the non-assignability clause with respect to the properties is unacceptable. Unlike U.S. REITs, REITs in Meditria are funds set up to invest in real properties and the title to the properties is transferred to the REITs. Under Meditrian law on REIT, it is not prohibited for original owners of the properties to be entrusted the administration and/or management of the properties.

#### (4) Attracting commercial tenants

Tenant selection for the commercial facilities is another topic to be discussed. The blueprint prepared by the Meditrian government calls for the solicitation of tenants dealing with a whole spectrum of goods and services including retailers, food and beverage concerns, clothing stores, vendors selling home and life enhancement items, home appliance centers, leisure facilities, high-end brands and a multiplex, among others. But no specifics as to the mix (domestic versus overseas tenants, by type of goods and services) were indicated. Even an elaborate building will end up in failure, unless it houses the “right” tenants. Red wants to focus primarily on non-Meditrian tenants to differentiate the buildings with other shopping malls. Blue on the other hand wants to aim at a mixed tenant base of Meditrian and non-Meditrian merchants based on its plan to solicit Meditrian tenants in such a way that at least 50 percent of the tenants will be Meditrian. No shopping centers in Meditria have yet to house famous overseas brands as tenants. Local products in Meditria which are popular in tourists are such as marine products, traditional crafts, pearls and corals.

#### (5) Publicity to lure tourists

Once the project for the development gets moving, the parties will need to roll out activities aimed at attracting commercial tenants and luring tourists in an orderly manner. While both Red and the Meditrian government have some plans to solicit tenants for commercial spaces, nothing has been planned for action to attract domestic and foreign tourists. Negotiation and decision-making on the four issues presented above are more important than the tourism issue in this round of negotiation; nevertheless, promotional activities to lure Meditrian and non-Meditrian tourists to the zone should be considered if possible.



This is a critical area to consider in light of the fact that the special economic zone is expected to function as a tourist magnet as well.

41. During Round B, the three cases that you discussed during Round A need not be considered. In addition, for the purpose of Round B, all references to currencies should be made on the basis of the US dollars, based on the assumption that the Abu-Dollar, the Nego-Lira and the Medi-Dollar are equal to the US Dollar at all times. Expected attendants at the negotiation are the Executive Vice-President, Head of Urban Planning Division, Head of International Business Department and Head of the Legal Department from Red and the President, Head of Development Business Department, Head of Loan Business Department and Head of the Legal Department from Blue. The negotiation will be held at a meeting room of the Meditrian Government.

## An Outline of Red Corp.

Corporate Name : Red Corp.

Location of Head Office : Nego-Town, Negoland

Shares: Listed on the stock exchange of Negoland

Accounting: Fiscal Year ends in December. Accounting is subject to the Negoland Accounting Standard.

Profit and Loss Statement

(million Nego Liras )	2010	2011	2012	2013	2014
Residential Properties	3,700	3,600	3,800	3,900	3,900
Office	5,200	4,500	5,100	5,500	5,600
Management/Development	2,700	2,700	2,900	3,100	2,600
Others	1,000	1,400	1,500	1,600	1,800
<b>Sales</b>	<b>12,600</b>	<b>12,200</b>	<b>13,300</b>	<b>14,100</b>	<b>13,900</b>
Residential Properties	2,900	2,800	3,000	3,000	3,000
Office	5,000	4,300	4,900	5,200	5,200
Management/Development	2,400	2,500	2,600	2,700	2,200
Others	800	1,000	1,100	1,300	1,500
<b>Operating Cost</b>	<b>11,100</b>	<b>10,600</b>	<b>11,600</b>	<b>12,200</b>	<b>11,900</b>
Residential Properties	800	800	800	900	900
Office	200	200	200	300	400
Management/Development	300	200	300	400	400
Others	200	400	400	300	300
<b>Operating Income</b>	<b>1,500</b>	<b>1,600</b>	<b>1,700</b>	<b>1,900</b>	<b>2,000</b>
<b>Current Profit</b>	<b>900</b>	<b>950</b>	<b>1,030</b>	<b>1,200</b>	<b>1,360</b>
<b>Net Profit</b>	<b>520</b>	<b>600</b>	<b>500</b>	<b>640</b>	<b>830</b>

An overview of Meditria

Population: 90 million

Land size: 400,000 square kilometers. Its eastern side faces the sea.

Form of government: Republic

GDP: US\$500 billion

Climate: Humid subtropical climate

Capital: Medi City

Industry: Primary, secondary and tertiary sectors account for about 40%, 30% and 30% of GDP respectively. In recent years, tourism has shown strong growth. In addition, manufacturing and commerce sectors are growing sharply, especially in the eastern part of the country facing the sea.

Currency: Medi Dollar

## Outline of Blue Inc.

Corporate Name : Blue Inc.

Location of Head Office : Abu-Abu, Arbitria

Shares : Listed on the stock exchange of Arbitria

Accounting: Fiscal Year ends in December. Accounting is subject to the International Financial Reporting Standards. :

Consolidated statement of profit or loss and other comprehensive income

(million US dollars)	2010	2011	2012	2013	2014
Interest on Loans	10,000	9,000	9,100	9,100	9,300
Interest and Dividend on Securities	2,100	2,900	2,700	2,700	2,900
Trust Revenue	400	400	400	400	400
Service Revenue	4,700	4,700	5,100	5,700	6,100
Revenue from Specified Transactions	2,000	1,300	1,800	1,600	2,200
Others	3,400	4,300	5,200	4,900	5,600
Revenues	22,600	22,600	24,300	24,400	26,500
Income from continuing operations before tax	4,900	5,400	6,300	8,200	8,400
Net Income	3,400	4,000	3,800	5,700	5,100
Comprehensive Income	2,200	5,200	10,600	6,900	16,200

## CONSTRUCTION JOINT VENTURE AGREEMENT

THIS AGREEMENT is made on November 10, 2014, by and between Red Corp., a Negoland corporation ("Red") and Black, Inc., an Arbitria corporation ("Black"). Red and Black (collectively, the "Parties") by this agreement mutually agree to engage in, undertake and carry on, as joint venturers, the construction projects as stipulated in this Agreement:

THEREFORE, it is agreed as follows:

### 1. FORMATION OF JOINT VENTURE

The Parties hereby constitute themselves as joint venture (the "Joint Venture") for the purpose of performing and completing the construction contract with Blue Inc. of its head office building (the "Construction Contract"), as attached hereto as schedule A (Note: It is Exhibit 5) and for no other purpose.

### 2. NAME OF JOINT VENTURE

The Construction Contract shall be entered into the names of the Joint Venture.

### 3. DURATION AND TERMINATION

This agreement shall remain in full force and effect until all the purposes for which this venture has been undertaken have been accomplished and completed.

### 4. INTEREST OF THE JOINT VENTURERS

The interest of the Parties in and to the Construction Contract, and in and to any and all property and equipment acquired in connection with the performance thereof and in and to any and all moneys which may be derived from the performance thereof and the obligations and liabilities of each of the Parties hereto as among themselves in connection with the Construction Contract shall be equal. Each Party does hereby indemnify the other against any

loss or liability exceeding the proportions hereinabove stated by reason of any liability incurred or loss sustained in and about the Construction Contract.

#### 5. CONTRIBUTION OF WORKING CAPITAL

All necessary working capital when and as required for the performance and prosecution of the Construction Contract shall be furnished by the Parties proportionately in accordance with their respective interests as set forth in this Article 4. Subject to the consent of the Parties, additional capital needed by the joint venture to meet its operating needs from time to time during the term of the joint venture shall be obtained from loans to the joint venture or, if such loans are not available, from additional capital contributions from the Parties, which shall be made on a 50-50 basis.

#### 6. AUTHORIZED REPRESENTATIVES

To facilitate the handling of all matters and questions in connection with the performance of the Construction Contract, each of the Parties appoints a representative to act for it in all such matters, with full and complete authority to act on its behalf in relation to any matters or things in connection with, arising out of, or related to the Joint Venture and in relation to any matters or things involving the performance of the Construction Contract.

#### 7. MANAGEMENT OF JOINT VENTURE

The representatives of the Parties shall meet from time to time as required to act on necessary matter pertaining to the Construction Contract. All decisions, commitments, agreements, undertakings, understandings, or other matters pertaining to the performance of the Construction Contract shall be mutually agreed upon by such representatives. No representative shall be liable to the Parties by reason of his acts as such, except in the case of its gross negligence or actual fraudulent or dishonest conduct. In the event the representatives cannot agree on a matter of Joint Venture policy, the matter shall be submitted to informal, but binding, arbitration to a mutually acceptable third party.

. . .

#### 17. LIMITATION OF JOINT VENTURE

It is specifically understood and agreed between the parties that this Agreement extends only to the performance of the Construction Contract, together with any changes or additions to this

agreement or extra work under it, and in no event shall this agreement extend to or cover any different work.

. . .

20. TRUST FUNDS

All moneys contributed by the Parties to this Joint Venture and all moneys received as payments under the Construction Contract or otherwise received shall be treated and regarded as, and are hereby declared to be, trust funds for the performance of the Construction Contract and for no other purpose until the Construction Contract shall have been fully completed and accepted by Blue Inc. and until all obligations of the Parties hereto shall have been paid, otherwise discharged, or provided for adequate reserves.

. . .

21. Termination

A Party shall be deemed to be in default hereunder, and all rights granted herein shall automatically terminate without notice to the Party, if the Party shall become insolvent or if a petition in bankruptcy is filed by the Party or such a petition is filed against and not opposed by the Party or, if the Party is adjudicated as bankrupt or insolvent.

. . .

30. GOVERNING LAW

All questions relative to the execution, validity, interpretation, and performance of this Agreement shall be governed by the laws of the UNIDROIT Principles of International Commercial Contracts 2010.

31. DISPUTE RESOLUTION

If a dispute arises that cannot be resolved through direct discussions, such disputes shall be resolved through binding arbitration carried out in Tokyo and in accordance with UNCITRAL Arbitration Rules.

. . .

44. ENTIRE AGREEMENT

This agreement contains the sole and only agreement of the parties hereto relating to the Joint Venture. Any prior agreement, promises, negotiations or representations not expressly set forth in this Agreement are of no force and effect.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the day and year set forth above.

Red Corp.

Black, Inc.

BY:

BY:

[Signed]

[Signed]



## CONSTRUCTION AGREEMENT

THIS AGREEMENT made on November 10, 2014, among Red Corp. and Black, Inc. (collectively hereinafter referred to as the “Contractors”) and Blue Inc. (the “Employer”) .

WHEREAS the Employer is desirous of reconstructing its head office building in Abu-Abu, Arbitria (hereinafter referred to as the “Property”) and the Contractors have offered to construct the Property on a ‘turnkey basis’ and also to prepare the architectural drawings, structural drawings, service drawings and all other detailed plans and drawings as may be necessary for the proper construction and completion of the Property and also obtain necessary permissions from the relevant authorities (collectively hereinafter referred to as the “Works”) as hereinafter specified upon and subject to the terms and conditions set forth herein and the conditions set forth in Schedule 1 of this Agreement;

AND WHEREAS the Employer has agreed to appoint the Contractors for the Works.

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. The amount for the Works (the “Contract Amount”) to be paid by the Employer to the Contractors shall be 300,000,000. Abu-Dollars.
2. In consideration of the Contract Amount to be paid at the times and in the manner set forth in Schedule 2 of this Agreement, the Contractors shall on and subject to the said conditions, execute and complete the Works more particularly described in Schedule 1 and strictly in accordance with the specifications in Schedule 3.
3. The Employer shall pay the Contractors the said Contract Amount or such other sum as shall become payable at the times and in the manner specified in Schedule 2.
4. The obligation of Contractors under this Agreement shall be joint and several.
5. The Contractors, while carrying out the Works, shall comply with the provisions of all laws, rules and by-laws for the time being in force affecting the Works and will give all necessary notices to and obtain the requisite sanction of the concerned national and/or local authorities in respect of the Works and will comply with the building and other regulations of such authorities and will keep the Employer indemnified against all fines, penalties and losses incurred by reason of the breach of the contractors of any such laws, by-laws and regulations.

. . .

12. Any disputes related to this Agreement shall be finally settled by arbitration in Tokyo, in accordance with UNCITRAL Arbitration Rules and this Agreement shall be governed by and construed in accordance with UNIDROIT Principles of International Commercial Contracts 2010.

BY: Red Corp. [Signed]

BY: Black, Inc. [Signed]

BY: Blue Inc. [Signed]

Schedules (omitted)

Multi-currency Facility Agreement

Red Corp. (hereinafter referred to as the “Borrower”) and Blue Inc. (hereinafter referred to as the “Lender”) as of September 1, 2014, enter into the following agreement (hereinafter referred to as this “Agreement”).

1. DEFINITIONS

In this Agreement, the following terms shall have the meanings provided for below, unless it is apparent that such terms mean otherwise in the context hereof.

- 1.1 “Applicable Interest Rate” means the interest rate equal to the Base Rate plus the Spread.
- 1.2 “Interest Period” means the period to be provided for in the Drawdown Request as the benchmark for setting the Base Rate.
- 1.3 “Base Rate” means the interest rate for the relevant Interest Period as determined in accordance with the Schedule 1 of this Agreement.
- 1.4 “Business Day” means any day other than those that are bank holidays in Negoland and Arbitria.
- 1.5 “Commitment Amount” means 5,000,000 Abu-Dollars.
- 1.6 “Commitment Fee” means the fees that the Borrower shall pay to the Lender in accordance with this Agreement.
- 1.7 “Desired Drawdown Date” means the Business Day during the Commitment Term that the Borrower designates in the Drawdown Request as the date on which the Borrower desires to drawdown a Loan.
- 1.8 “Drawdown Date” means the date of the drawdown of a Loan.
- 1.9 “Drawdown Request” means a request in the form of Schedule 2 of this Agreement that the Borrower shall submit to the Lender in accordance with Clause 5.1 when the Borrower desires to make a drawdown pursuant to this Agreement.
- 1.10 “Due Date” means, with respect to the principal and interest in relation to the Loans, the Maturity Date provided for in Clause 5.2.
- 1.11 “Exemption Event” means (i) an outbreak of a natural disaster, war or terrorist attack, (ii) an interruption or difficulty in the electrical, communications or various settlement systems, and (iii) any event that occurs within the Arbitria or Negoland Interbank Market that disables loans in Abu-Dollars or Nego-Liras respectively.
- 1.12 “Exemption Period” means the period commencing on the day (inclusive) the Borrower receives the notice in Clause 9.1 and ending on the day (inclusive) it receives the notice in Clause 9.2.
- 1.13 “Individual Loan” means a loan made by the Lender respectively pursuant to the Drawdown Request.

- 1.14 "Individual Loan Amount" means an amount of Individual Loan.
- 1.15 "Lending Obligation" means the Lender's obligation provided for in Clause 2.1.
- 1.16 "Loan Currency" means Abu-Dollars or Nego-Liras that the Borrower designates in the Drawdown Request as the currency on which the Borrower desires to drawdown a Loan.
- 1.17 "Loan Term" means the period commencing on the Drawdown Date (inclusive) and ending on the Maturity Date (inclusive).
- 1.18 "Loan(s)" means individually or collectively the aggregate of the Individual Loans made pursuant to the same Drawdown Request.
- 1.19 "Maturity Date" means the Due Date of the principal in relation to the Individual Loan.
- 1.20 "Spread" (spread) means 1% per annum.
- . . .

## 2. FACILITY

- 2.1 Subject to the terms of this Agreement, the Lender makes available to the Borrower a multicurrency term loan facility in an aggregate amount equal to 5,000,000 Abu-Dollar.
- 2.2 During the Commitment Term, the Lender shall, in accordance with this Agreement and upon the request by the Borrower for a drawdown of the Loan pursuant to Clause 5, lend the Individual Loan Amount to the Borrower in the Loan Currency on the Desired Drawdown Date specified in such request if the requirements provided for in each item of Clause 4 are satisfied.

## 3. PURPOSE

The Borrower shall apply all amounts borrowed by it under this Agreement toward its business activities and shall not apply any amount toward unlawful purposes.

## 4. CONDITIONS PRECEDENT

During the Commitment Term, the Lender shall make an Individual Loan upon the condition that the conditions provided for in each of the following items are satisfied at the time of the drawdown of the Individual Loan.

- (i) The Drawdown Request satisfies the requirements provided for in Clauses 5.1.
- (ii) The Lending Obligations of the Lender has not been exempted or terminated pursuant to the provisions of this Agreement.
- (iii) All of the representation and warranties of the Borrower are true and correct.
- (iv) The Borrower has not breached any provision of this Agreement, and there is no threat that such breach may occur on or after the Desired Drawdown Date.
- (v) The Borrower has submitted all of the following documents to the Lender, and the Lender is satisfied with the details thereof:
  - (a) a certified copy of the articles of incorporation and by-laws(effective as of the execution date of this Agreement);
  - (b) a certified copy of the minutes of the meeting of the board of directors of the Borrower that approved the execution of this Agreement; . . .

5. DRAWDOWN REQUEST

5.1 If the Borrower desires to drawdown a Loan pursuant to this Agreement, the Borrower shall indicate to the Lender its intention to request a drawdown by submitting the Drawdown Request by facsimile by 9:00 AM of the 3 Business Day prior to the Desired Drawdown Date.

5.2 . . .

9. EXEMPTION OF LENDER

9.1 If an Exemption Event occurs with respect to the Lender, the Lender shall immediately notify the Borrower of such event in writing.

9.2 The Lender shall be exempted from their Lending Obligations during the Exemption Period.

. . .

20. BORROWER'S REPRESENTATIONS AND WARRANTIES

The Borrower hereby represents and warrants to the Lender that each of the following matters is true and correct as of the execution date of this Agreement and at the time of each drawdown of each Individual Loan (or, if the time is specifically identified in each of the following items, as of such time):

(i) The Borrower is a stock company duly incorporated and validly existing under the laws of Negoland.

(ii) The execution and performance of this Agreement by the Borrower and any transactions associated herewith are within the corporate purposes of the Borrower and the Borrower has duly completed all procedures necessary therefor under the relevant laws, and the Articles of Incorporation, by-laws and other internal company rules of the Borrower.

(iii) The execution or performance of this Agreement by the Borrower or any transactions associated herewith does not result in (A) any violation of laws which bind the Borrower, (B) any breach of its Articles of Incorporation, by-laws and other internal company rules of the Borrower, and (C) any breach of a third-party contract to which the Borrower is a party or which binds the Borrower or the assets of the Borrower.

(iv) The person who signed or attached his/her name and seal to this Agreement on behalf of the Borrower is authorized to sign or attach his/her name and signature to this Agreement as the representative of the Borrower by all procedures necessary pursuant to the laws, Articles of Incorporation, by-laws or other internal company rules of the Borrower.

(v) This Agreement constitutes legal, valid and binding obligations of the Borrower, enforceable against it in accordance with the terms of this Agreement.

(vi) All reports prepared by the Borrower are accurately and duly prepared in accordance with the accounting standards which are generally accepted as fair and appropriate one in Negoland, and if such reports are required to be audited under the laws, they have been audited as required.

(vii) After the last day of the fiscal year ended on December 2013, no material change, which will cause a deterioration of the business, assets, or financial condition of the Borrower described in the reports prepared by the Borrower for such fiscal year and which may materially affect the performance of the obligations of the Borrower under this Agreement, has occurred.

(viii) No lawsuit, arbitration, administrative procedure, or any other dispute has commenced or is likely to commence with respect to the Borrower, which will or may materially cause adverse effects on the performance of its obligations under this Agreement.

(ix) No matter provided for in the items of Clauses 22.1 and 22.2 has occurred or is likely to occur.

## 21. BORROWER'S COVENANTS

21.1 The Borrower covenants to perform, at its expense, the matters described in each of the following items on and after the execution date of this Agreement, and until the Commitment Term is terminated and the Borrower completes the performance of all of its obligations under this Agreement to the Lender.

(i) If any matter provided for in each item of Clause 22.1 or 22.2 has occurred, or is likely to occur, the Borrower shall immediately notify the Lender.

(ii) Upon a request made by the Lender, the Borrower shall immediately notify to the Lender of the conditions of the assets, management, or businesses of the Borrower, and shall provide the necessary assistance to facilitate the investigations thereof.

(iii) If any material change has occurred, or is likely to occur with the passage of time, to the conditions of the assets, management, or businesses of the Borrower, or if any lawsuit, arbitration, administrative procedure, or any other dispute, which will materially affect, or is likely to materially affect, the performance of the obligations of the Borrower under this Agreement, has commenced, or is likely to commence, the Borrower shall immediately notify the Lender.

(iv) If any of the items described in Clause 20 is found untrue, the Borrower shall immediately notify thereof to the Lender.

21.2 The Borrower shall not offer any security to secure its obligations or any third party's obligations (other than those under this Agreement) on and after the execution date of this Agreement and until the Commitment Term is terminated and the Borrower completes the performance of all of its obligations under this Agreement to the Lender, unless the Lender gives prior written consent thereof. Provided, however, that this provision shall not apply in the cases described below and if the Borrower gives prior written notice to the Lender of such offering of security.

(i) The cases where the Borrower offers, regarding loans taken for the purpose of acquiring assets (including loans in relation to refinancing thereof), such assets as security.

(ii) The cases where the Borrower newly acquires assets on which security interests have already been established (including the case where the Borrower acquires assets on which security interests have already been established as a result of merger, company split or assignment of business).

21.3 The Borrower shall, on and after the execution date of this Agreement, and until the Commitment Term is terminated and the Borrower completes the performance of all of its obligations under this Agreement to the Lender, affirmatively covenant to be in compliance with matters described in the items below.

(i) The Borrower will not change its main business.

(ii) The Borrower will not, unless otherwise specified in the laws, subordinate the payment of any of its debts under this Agreement to the payment of any unsecured debts (including any secured debts that will not be fully collected after the foreclosure sale of the security), or at least will treat them equally.

. . .

## 22. ACCELERATION

22.1 If any of the events described in the items below has occurred with respect to the Borrower, all of the Borrower's debts to the Lender under this Agreement shall automatically become due and payable without any notice or demand by the Lender, and the Borrower shall immediately pay the principal of the Loan and the interest and any other payment obligation that the Borrower owes pursuant to this Agreement, whereby the Lender' Lending Obligations shall cease to be effective:

(i) any payment by the Borrower has been suspended, or a petition of commencement of bankruptcy procedures, commencement of rehabilitation procedures, commencement of reorganization procedures, or commencement of any other similar legal procedures has been filed against the Borrower;

(ii) the resolution for dissolution is adopted or the Borrower receives order of dissolution (excluding the dissolution upon merger); or

(iii) the Borrower abolishes its business.

22.2 If any of the events described in the items below has occurred with respect to the Borrower, all of the Borrower's debts to the Lender under this Agreement shall become due and payable upon notice to the Borrower from the Lender, and the Borrower shall immediately pay the principal of the Loan and the interest and any other payment obligation that the Borrower owes pursuant to this Agreement, whereby the Lender' Lending Obligations shall cease to be effective:

(i) the Borrower has defaulted in performing when due its payment obligations, whether under this Agreement or not, payable to the Lender in whole or in part;

(ii) any matters described in the items of Clause 20 has been found to be untrue;

- (iii) except for the cases described in the preceding two items, the Borrower breached any of its obligations under this Agreement; provided, however, that if such breach is able to be resolved, only if such breach has not been remedied for 5 or more Business Days from the date of such breach;
- (iv) any of the outstanding corporate bonds issued by the Borrower have become due and payable before the original due date;
- (v) all or part of the Borrower's debts other than those under this Agreement has become due and payable or any of the Borrower's guaranty obligations for the benefit of a third party has become due and payable, and the Borrower is unable to perform such obligations;
- (vi) the Borrower has suspended its business, determined to suspend or abolish its business, or received dispositions such as suspension of business or others from the competent government authority; or
- (vii) notwithstanding any matters described in the foregoing items, the business or financial condition of the Borrower has deteriorated, or is deemed to have deteriorated, and the necessity arises to preserve its receivables.

22.3 If the notice dispatched pursuant to Clause 22.2 has been delayed or has not been delivered to the Borrower due to fault of the Borrower, all of the Borrower's debts under this Agreement shall become due and payable by the time such request or notice should have been delivered, and the Borrower shall immediately pay the principal of the Loan and the interest and any other payment obligations that the Borrower owes pursuant to this Agreement, whereby the Lender' Lending Obligations shall cease to be effective.

. . .

### 33. GENERAL PROVISIONS

#### 33.1 Amendment

This Agreement may not be amended except as agreed in writing by the Borrower and the Lender.

#### 33.2 Notices

(i) Any notice under this Agreement shall be made in writing expressly stating that it is made for the purpose of this Agreement, and given by any of the methods described in (a) to (c) below to the address of the receiving party.

- (a) Personal delivery
- (b) Registered mail or courier service
- (c) Transmission by facsimile

(ii) The notice pursuant to the preceding item shall be deemed to have been delivered at the time, in the case of transmission by facsimile, when receipt of facsimile is confirmed, and in the case of any other methods, when actually received.

#### 33.3 Governing Law and Arbitration

This Agreement shall be governed by the UNIDROIT Principles of International Commercial Contracts 2010. Any disputes arising from this Agreement shall be settled by arbitration in Tokyo under the UNCITRAL Arbitration Rules.



IN WITNESS WHEREOF, the representatives or their agent of the Borrower and the Lender have caused this Agreement to be signed and sealed in two copies, and each shall have one copy each.

Borrower:  
BY: [Signed]

Lender:  
BY: [Signed]

-----  
Schedule 1

(Omitted)

-----  
Schedule 2  
Form of Drawdown Notice

From: [Borrower] To: [Lender]  
Dated:

Dear Sirs

Multi-Currency Facility Agreement dated September 1, 2014 (the "Agreement")

1. We refer to the Agreement. This is a Drawdown Notice. Terms defined in the Agreement have the same meaning in this Drawdown Notice unless given a different meaning in this Notice.
2. We wish to borrow a Loan on the following terms:  
Proposed Drawdown Date: [ ] (or, if that is not a Business Day, the next Business Day)  
Currency of Loan: [ ]  
Amount: [ ]  
Interest Period:[ ]
3. We confirm that each condition specified in Clause 4 is satisfied on the date of this Drawdown Notice.

4. This Loan is to be made in [whole]/[part] for the purpose of [ ]

5. This Drawdown Notice is irrevocable.

By: Borrower

Date: March 1, 2015

To: Blue Inc.

From: Red Corp.

We are currently in the final stage of negotiations in connection with the bid we placed for a new public works project in Zeta, and, if we successfully win the contract, we will need to pay a guarantee amounting to 500,000 Zeta-Dollars before March 31, 2015.

We will not find out about bidding results until March 10, 2015, but we intend to draw down an amount in Abu-Dollars equivalent to 500,000 Zeta-Dollars pursuant to the Multi-Currency Facility Agreement dated September 1, 2014, to enable the deposit of the above guarantee, if we are awarded the contract. The Abu-Dollars so drawn down will be converted into Zeta-Dollars by signing a swap agreement with a financial institution in Zeta, and we have already been informally told by a financial institution in Zeta that such swap arrangements are indeed possible. However, it would be better if your organization would lend us the said fund in Zeta-Dollars. Would such arrangement be possible?

We expect our profit from this project would amount to 1.7 million Zeta-Dollars.

---

Date: March 2, 2015

To: Red Corp.

From: Blue Inc.

Thank you for contacting us. I hope for your success in winning the bid.

Unfortunately, we are unable to give you a Zeta-Dollar denominated loan on the grounds that the Zeta Dollar is not a globally traded currency and that we have no office in Zeta. I believe

the best option for you would be to have a financial institution in Zeta convert the fund into Zeta-Dollars.

I took note of your plan to draw down a fund equal to 500,000 Zeta-Dollars. Please advise us formally by submitting a drawdown request to us in accordance with the agreement, if and when you draw down the fund.

(END)

From: Red Corp.  
To: Blue Inc.  
Dated: March 25, 2015

Dear Sirs

Multi-Currency Facility Agreement dated September 1, 2014 (the "Agreement")

1. We refer to the Agreement. This is a Drawdown Notice. Terms defined in the Agreement have the same meaning in this Drawdown Notice unless given a different meaning in this Notice.
2. We wish to borrow a Loan on the following terms:  
Proposed Drawdown Date: March 31  
Currency of Loan: Abu-Dollars  
Amount: 300,000  
Interest Period: 3 months
3. We confirm that each condition specified in Clause 4 is satisfied on the date of this Drawdown Notice.
4. This Loan is to be made in whole for the guarantee payment to the Government of Zeta in relation to the construction project.
5. This Drawdown Notice is irrevocable.

By: Red Corp.  
[Signed]

Date: March 26, 2015

To: Red Corp.

From: Blue Inc.

Regarding the loan you requested to us in your Drawdown Notice dated March 25, we regret to inform you that we are unable to execute the loan for the following reasons:

1. Possibility of the loaned fund to be diverted, in part, to a terrorist organization

On March 25, one of the four major daily newspapers of Arbitria published a report that a high-level governmental official of Zeta having ties with an international terrorist organization diverted funds to the terrorist organization by receiving bribes and by padding bills for public construction works, and that the rebuilding project for the government office buildings in the pipeline is highly likely to be a source of such diversion according to an internal whistleblower. The high-level governmental official in question was not named in the report.

Under the laws of Arbitria, it is illegal for financial institutions to support terrorist organizations or to grant any loan while knowing that the loaned fund will be diverted to such organizations. The laws in question are applicable not only to loans executed within Arbitria but also to any other loans that are executed by utilizing the settlement system of Arbitria, -- in other words, all loans denominated in Abu-Dollars are subject to the laws, regardless of the client's nationality. In some legal precedents in Arbitria, the court has ruled that loans made with the knowledge that a newspaper report similar to yours has been published constitutes a violation of Arbitrian laws. Violators are subject to a large fine and concerned parties may be subject to criminal punishment.

The government of Zeta officially denied the allegation. However, a loan to you, in the circumstances described above, would constitute a violation of the laws of Arbitria; hence we are unable to grant it to you.

2. Possibility that bribes were exchanged

Arbitria's laws further hold it illegal to provide any bribes to parties related to foreign governments. Violators will be subject to a large fine and concerned parties may be

subject to criminal punishment. The newspaper report also stated that Mr. Orange, Senior Vice President of Red Corp., gave a bribe in order to obtain information about the government's target price. The government of Zeta has been prompted by the newspaper report to conduct investigations, and we have to say that the certainty of the rebuilding project to proceed as planned is now open to question.

Given the above circumstances, we are of the opinion that we are not under obligation to grant a loan to you pursuant to the provisions of the Multi-Currency Facility Agreement.

Other financial institutions may have an opinion different from ours. I suggest that you examine the possibility of securing the fund from another organization.

END

Date: March 27, 2015

To: Blue Inc.

From: Red Corp.

We cannot agree with the allegations you made in your letter dated March 26. First, we never used bribes in connection with the bidding in question. Orange called it (the report) “totally false” by saying that he never “provided bribes” and “a company in good standing like Red would never think of resorting to bribes.” All others involved in the project also told us that no bribes were ever provided by them. We administer strict compliance training and have put in place a comprehensive compliance management structure; therefore we strongly believe that none of our officers or employees would ever provide bribes. In addition, we have never heard of high-level governmental officials of Zeta diverting funds to support terrorist organizations. We believe the report was completely false.

According to your explanation, a loan given to us would constitute a violation under the laws of Arbitria. The loan in question is to be granted to us, a Negoland corporation, in connection with our transaction in Zeta; hence, we believe that the application of the laws of Arbitria to our case would constitute an excessive extraterritorial application, and your attempt to evade your obligation under the loan agreement on the grounds of such excessive extraterritorial application is unacceptable. Negoland has similar legislation prohibiting the provision of funds to terrorist organizations and bribes to foreign civil servants, but it does not stipulate that loans may not be granted in the wake of an erroneous newspaper report like the one you saw, nor does our nation’s legislation call for excessive extraterritorial applications like yours. Also, we should note that the governing law of the loan agreement is UNIDROIT Principles of International Commercial Contracts.

If the laws of your nation are applicable to our case because the loan is to be denominated in Abu-Dollars, we will accept a loan denominated in Nego Lira instead. This will entail a change in the arrangement we already made with a financial institution in Zeta, and you will be responsible for compensating for any loss arising from this change. Please advise us if a new Drawdown Notice needs to be prepared and submitted to you. Due to time limitations, it is too late for us to start a loan request process all over again with another financial institution.



The loan in question is critical to our securing the contract for a public works project. Without the loan, we will not be able to make the prescribed guarantee payment. The project for which the loan is requested is expected to generate 1.7 million Zeta-Dollars in profit according to our conservative estimate. In the event that we lose this contract due to your failure to grant a loan to us, we will be forced to seek damages from you.

END

Date: March 27, 2015

To: Red Corp.

From: Blue Inc.

In response to your letter dated today, we consulted with our Legal Department once again, but our opinion on the matter remains unchanged. Please accept our regret.

In addition, the Drawdown Notice filed for the loan denominated in Abu-Dollars may not be switched to a loan in Nego Lira, and, even if you decide to submit another Drawdown Notice for a loan denominated in Nego Lira, only two business days remain until your proposed drawdown date, and hence, we will not be able to execute the loan in time for your proposed drawdown date of March 31.

END

Date: March 27, 2015

To: Blue Inc.

From: Red Corp.

I am writing to you in response to your most recent letter. We presented our opinion on this in the letter we sent to you earlier today, and if your organization refuses to grant the loan to us, we will be forced to seek damages. We could have taken action if you had informed us about the option of a loan denominated in Nego Lira on March 25. Loans denominated in Nego Lira are not subject to the Arbitrian laws against terrorism and your action of crushing that possibility is unjustifiable.

END

## Exchange Rates of Relevant Currencies

1 Abu Dollar	2014						2015					
	Jan	Mar	May	Jul	Sep	Nov	Jan	Mar	May	Jul	Sep	Nov
Nego Lira	1	1	1	1	1	1	0.9	0.9	0.8	0.9	1.0	1.1
Zeta Dollar	2	2	1.8	1.8	1.8	1.8	1.7	1.7	1.7	1.8	1.8	1.8
Medi Dollar	1	1	1	1	1	1	1	1	1	1	1	1

## Blue Inc.

Abu-Abu, Arbitria

April 15, 2011

Mr. Swallow

General Manager, Planning Division

Red Corp.

RE: ADVISORY AGREEMENT

Dear Mr. Swallow:

We are pleased to confirm the arrangements under which Blue Inc. ("Blue") is engaged by Red Corp. ("Red") to act as its financial advisor in connection with the potential acquisition of Purple Properties, Inc., a Meditria corporation (the "Acquisition Target"). An "Acquisition Transaction" shall be defined as the direct or indirect acquisition of the whole stock or assets of an Acquisition Target and acquisition of control of the Board of Directors of an Acquisition Target. The terms of this relationship are as follows:

### 1. ADVISORY SERVICES

During the term of its engagement hereunder, Blue will consult with Red and provide Red with strategic and financial advice and assistance in connection with the proposed Acquisition Transaction, such services to commence on the date hereof and end on the first anniversary of the date hereof, unless earlier terminated as provided herein (the "Advisory

Period"). The Advisory Period may be renewed for additional periods of one year with the mutual consent of Red and Blue.

In connection with the proposed Acquisition Transaction, Blue will, and will continue to, provide Red with strategic and financial advice and assistance as reasonably requested, including: (i) assisting in formulating a strategy; (ii) performing valuation analyses; (iii) assisting in structuring, planning, and negotiating the Acquisition Transaction; and (iv) providing strategic and tactical advice throughout the execution of the merger/acquisition process. As compensation for these services, Blue shall be paid such fees as described below.

## 2. COMPENSATION

As compensation for the services provided hereunder, Red agrees to pay Blue 30,000 Abu Dollars as a success fee for the completed Acquisition Transaction. Red shall, upon execution of this Agreement, pay an amount of 15,000 Abu Dollars as a prepayment which shall be credited against any success fees payable pursuant to this Agreement.

## 3. OTHER MATTERS

(1) In connection with Blue's activities on Red's behalf pursuant to this Agreement, Red will cooperate with Blue and will furnish Blue with all information and data concerning Red which Blue deems appropriate and will provide Blue with reasonable access to the Red's officers, directors, employees, independent accountants and legal counsel. Red represents and warrants to Blue that any information heretofore and hereafter furnished to Blue will be true and correct in all material respects and does not and will not omit any material fact required to make such information provided to Blue not misleading. Red further represents and warrants that any projections or other information provided by it to Blue will have been prepared in good faith and will be based upon assumptions which, in light of the circumstances under which they are made, are reasonable.

(2) Red recognizes and confirms that in advising Red and in completing its engagement hereunder, Blue will be using and relying on data, material and other information furnished to Blue by Red and other parties. Blue agrees that it will keep confidential and not disclose or permit its employees or representatives to disclose information received from Red (other than to Blue employees or representatives involved in the performance of services hereunder or otherwise on a need-to-know basis) except as contemplated in this Agreement, as may be specifically authorized by Red in connection with Blue's performance of services hereunder, or as such disclosure may be required by law.

(3) Red acknowledges that all advice given by Blue in connection with its engagement hereunder is intended solely for the benefit and use of the Board of Directors and senior management of Red.

(4) It is acknowledged that the relationship of Blue to Red is that of an independent contractor and that the obligations and responsibilities of Blue to Red are limited to those specifically set forth herein. All decisions made with respect to the subject matter herein described, whether or not consistent with advice rendered by ~~BlueRed~~, shall be those of the Board of Directors or management of ~~Redthe Company~~, as the case may be. Further, it is understood that Blue is not undertaking to provide any legal, accounting, or tax advice in connection to its engagement hereunder and the Red shall rely on its own experts therefore.

(5) Red shall reimburse, indemnify, defend and hold harmless Blue from any and all expenses, losses, damages, liabilities, demands, charges and claims of any nature whatsoever, arising out of or in connection with any acts or omissions of Blue made in good faith and in the performance of the duties of Blue under this Agreement, except to the extent resulting from Blue's acts or omissions constituting fraud, bad faith, willful misconduct, gross negligence or breach of fiduciary duty in the performance, or reckless disregard, of its duties under this Agreement.

(6) The services of Blue to Red are not to be deemed exclusive and Blue shall be free to render consulting, advisory or other services of any kind to others (including without limitation affiliates, investment companies and clients having objectives substantially identical to those of Red). It is understood and agreed that the members, directors, stockholders, partners, employees, officers and managers of Blue may engage in any other business activity or render services to any other person or entity or serve as partners, owners, officers, directors, consultants and advisers or managers of any other firm or company.

(7) Red acknowledges that potential and actual conflicts of interest may arise from the overall advisory, investment and other activities of Blue and its affiliates, managers, directors, officers, stockholders, members, agents, advisors, partners and employees (collectively, "Related Parties") and their respective clients.

(8) If Blue determines that it or any of its affiliates have a material conflict of interest between Red's interest and the interest of Blue or its customers, then Blue will perform its obligations with respect to any such conflict in accordance with the care, skill, prudence and diligence that a prudent person acting in a like capacity and familiar with such matters would use in the resolution of such conflict.

(9) This Agreement shall be governed by the laws of UNIDROIT Principles of International Commercial Contracts 2010. All controversies arising from or related to performance under this Agreement shall be settled by arbitration in Japan in accordance with UNCITRAL Arbitration Rules.

(10) Each of the parties hereto represents that it has all requisite power and authority to enter into this Agreement and that this Agreement has been duly and validly authorized by all necessary action on its part, has been duly executed and delivered by such party and constitutes a legal, valid and binding agreement of such party, enforceable in accordance with its terms.

If the terms of our relationship as set forth in this Agreement are satisfactory, kindly sign the enclosed copy of this Agreement and return them to Blue.

Very truly yours,

Blue Inc.

BY: [Signed]

Accepted and Agreed to:

Red Corp.

By: Swallow [Signed]

Date: April 25, 2011



○ Financial Act of Negoland

The Financial Act of Negoland prohibits “a financial institution from engaging in a transaction with its customer in the event of a conflict of interest between its customer and itself or between its customers, unless it has obtained the customer’s approval upon informing the customer of the conflict, or has taken steps to ensure that the customer’s interests will not be unreasonably damaged by such conflict of interest,” and it also prohibits “an act by a financial institution to have its borrowing customer issue corporate bonds and, upon having the bonds purchased by another customer of the financial institution, recoup the loaned amount from the proceeds of the issuance of the bonds, or any other similar act, unless it has informed the customer that the monies paid by that customer will be used to recoup the loaned amount,” but there are no laws or regulations prohibiting, per se, an action by a financial institution like Blue and its wholly owned subsidiary to act as advisors for the seller and the buyer, respectively, in an M&A deal.

The guidelines issued by Negoland’s Financial Authority contain no specific rules which you need to consider as further points of reference beyond the above-mentioned provisions of the Financial Acts.

Breach of the above provisions of law and rules may be a cause of the order for business improvement or suspension by the Financial Authority.

○ Financial Act of Arbitria

The Financial Act of Arbitria prohibits “financial institutions from engaging in such acts that the interests of customers are unreasonably damaged,” but there are no laws or regulations prohibiting, per se, an action by a financial institution like Blue and its wholly owned subsidiary to act as advisors for the seller and the buyer, respectively, in an M&A deal.

Arbitria’s Financial Authority has set forth a rule in its guidelines prohibiting “a financial institution from engaging in a transaction with its customer in the event of a conflict of interest

between its customer and itself or between its customers, unless it has obtained the customer's approval upon informing the customer of the conflict, or has taken steps to ensure that the customer's interests will not be unreasonably damaged by such conflict of interest," and, by way of example, the guidelines refer to "an act by a financial institution to have its borrowing customer issue corporate bonds and, upon having the bonds purchased by another customer of the financial institution, recoup the loaned amount from the proceeds of the issuance of the bonds, or any other similar act" as a "case involving a conflict of interest between a financial institution and its customer."

Breach of the above provisions of law and rules may be a cause of the order for business improvement or suspension by the Financial Authority.

1. Head Office Case

Claims by Red Corp.

- Blue shall pay 500,000 Abu-Dollars to Red.
- Red seeks an arbitral award calling for a revision, to 400 million Abu-Dollars, of the contract price of the agreement concerning the construction work of Blue's Head Office Building (Exhibit 5), which was entered into by Red and Blue on November 10, 2014.
- If the contract price is not increased to 400 million Abu-Dollars, as an alternative claim, Red seeks an arbitral award declaring that Red owes no obligation to Blue on this matter because of the avoidance of the agreement for mistake and/or fraud.

Claims by Blue Inc.

- The claims by Red shall be dismissed.

Points at issue

- (1) Which party should be responsible for the 500,000 Abu-Dollars in payments to subcontractors?
- (2) Should the contract price stipulated in the agreement pertaining to the construction work of Blue's Head Office Building (Exhibit 5), which was entered into by Red and Blue on November 10, 2014, be revised to 400 million Abu-Dollars?
- (3) In connection with the alternative claim, should the agreement be avoided for mistake and/or fraud?

2. Loan Case

Claims by Red Corp.

- Blue shall pay 1.7 million Zeta -Dollars to Red.

Claims by Blue Inc.

- The claim by Red shall be dismissed.

Point at issue

Does Blue's refusal to grant a loan constitute a non-performance of its obligations to Red under the Loan Agreement dated September 1, 2014 (Exhibit 6)?

3. Investment Case

Claims by Red

- Blue shall pay 5 million Abu Dollars to Red

Claims by Blue

- The claim by Red Corp. shall be dismissed.

Points at issue

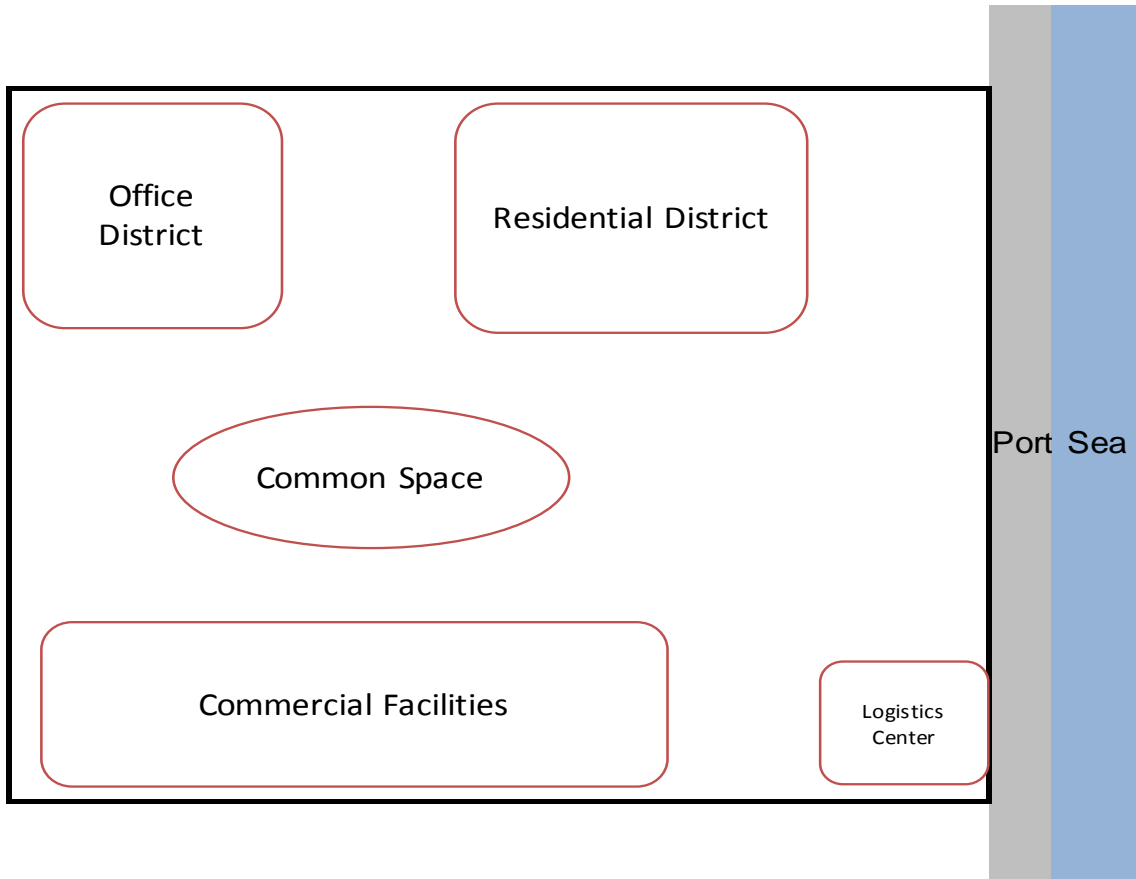
- (1) Does (a) Blue's failure to provide information about Purple Properties and (b) Blue's actual recovery of 2 million Abu-Dollars from Purple Inc. constitute Blue's non-performance of its obligations to Red under the advisory agreement entered into by Red and Blue in April 2011?
- (2) If it is assumed hypothetically that Red has certain rights to seek damages from Blue, have the relevant claims been extinguished by the statute of limitations?

\*In your written brief, you must present your arguments addressing all of the points at issue stated above by appropriately referring to anticipated claims and counterclaims to be made by your opponent.

\*On the date of oral proceedings, Red will make an opening statement first for the Head Office Case and the Investment Case, and Blue will make an opening statement first for the Loan Case.

An Overview of the Special Economic Zone in Medi Port Town

Layout Plan



It is not allowed to drastically change the basic layout as shown in the above plan.

Both Red and Blue agree that the numbers of site area, total cost and projected return in the following tables are appropriate as estimation at this stage, whether the current proposals of Red or Blue are adopted.

Site areas and projected costs for completion

(US\$ Millions)	Site Area(m2)	Total Cost
Residential District	400,000	3,000
Office District	250,000	2,000
Commercial Facilities	400,000	3,000
Common Space	200,000	1,000
Others	250,000	1,000
Total	1,500,000	10,000

\* "Others" includes 50,000 sq. meters of land facing the sea.

\* The costs indicated above are estimates at this stage only, and the breakdown may be subject to significant change due to the details of the plan and performance of works. In any case, it was decided that the total cost should be US\$10 billion and it is not allowed to change the projected total cost.

Anticipated returns from facilities to be built in common space

(US\$ Millions)		Projected Annual Return
Red's proposal	Amusement park	50
	Casino	20
Blue's proposal	Natural park	0
	Monument	0
	Convention center	10

\* The projected returns indicated above are estimates at this stage only, and may be subject to significant change due to the size and details of the facilities and the number of visitors/customers they can attract.