Court File No. CV-16-553800

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N :

THE CATALYST CAPITAL GROUP INC.

Plaintiff

- and -

VIMPELCOM LTD., GLOBALIVE CAPITAL INC., UBS SECURITIES CANADA INC., TENNENBAUM CAPITAL PARTNERS LLC, 64NM HOLDINGS GP LLC, 64NM HOLDINGS LP, LG CAPITAL INVESTORS LLC, SERRUYA PRIVATE EQUITY INC., NOVUS WIRELESS COMMUNICATIONS INC., WEST FACE CAPITAL INC. and MID-BOWLINE GROUP CORP.

Defendants

AMENDED MOTION RECORD
(MOTION TO STRIKE)
(RETURNABLE ON A DATE TO BE DETERMINED)

October 19, 2016

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INDEX

Court File No. CV-16-553800

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Plaintiff

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Defendants

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TAB 1

Court File No. CV-16-553800

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N :

THE CATALYST CAPITAL GROUP INC.

Plaintiff

- and -

VIMPELCOM LTD., GLOBALIVE CAPITAL INC., UBS SECURITIES CANADA INC., TENNENBAUM CAPITAL PARTNERS LLC, 64NM HOLDINGS GP LLC, 64NM HOLDINGS LP, LG CAPITAL INVESTORS LLC, SERRUYA PRIVATE EQUITY INC., NOVUS WIRELESS COMMUNICATIONS INC., WEST FACE CAPITAL INC. and MID-BOWLINE GROUP CORP.

Defendants

FRESH AS AMENDED NOTICE OF MOTION

The defendant UBS Securities Canada Inc. ("**UBS**") will make a motion to a judge on a date to be determined at 10:00 a.m. or as soon after that time as the motion can be heard, at 393 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR:

(a) A declaration that the Statement of Claim in the within proceeding, issued on May 31, 2016 (the "**Statement of Claim**"), discloses no reasonable cause of action against UBS;

(b) An Order pursuant to Rule 21.01(b) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 (the "***Rules***") striking, without leave to amend, the Statement of Claim as against UBS on the ground that it discloses no reasonable cause of action;

(c) In addition or in the alternative to (c) above, an Order dismissing or permanently staying the action against UBS on the grounds that it is an

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abuse of process of the Court and/or that it is barred by the doctrine of cause of action estoppel and constitutes a collateral attack;

(d) Costs of this motion on a substantial indemnity basis; and

(e) Such further and other Order as this Honourable Court deems just.

THE GROUNDS FOR THE MOTION ARE:

No Reasonable Cause of Action

(a) As a matter of law, it is plain and obvious that the Statement of Claim does not disclose a reasonable cause of action against UBS;

(b) The Statement of Claim claims damages against VimpelCom Ltd. ("**VimpelCom**") and UBS, on a joint and several basis, in the amount of $750,000,000 for breach of contract;

(c) Although the Statement of Claim does not plead specifically what contract UBS is alleged to have breached, the only two contracts referenced in the Statement of Claim are a Confidentiality Agreement dated March 23, 2014 among the plaintiff, VimpelCom and Global Telecom Holding S.A.E. (the "**Confidentiality Agreement**"), and an Exclusivity Agreement dated July 23, 2014 between the plaintiff and VimpelCom (the "**Exclusivity Agreement**");

(d) UBS is not a party to either the Confidentiality Agreement or the Exclusivity Agreement;

(e) It is accordingly plain and obvious that UBS cannot be liable for breach of contract in respect of agreements to which it was not a party;

(f) There are no other causes of action alleged against UBS in the Statement of Claim;

(g) In the alternative, to the extent it is found that any cause of action is alleged against UBS in the Statement of Claim in addition to the claim for breach of contract, which is not admitted, it is a bald and improperly pleaded allegation that is untenable at law;

(h) There are no amendments to the Statement of Claim that can be made that would produce a viable cause of action against UBS;

The Action is an Abuse of Process

(i) The issues which form the basis for this action have already been determined by Justice Newbould in *Catalyst Capital Group Inc. v. Moyse*, 2016 ONSC 5271 (*"Moyse"*);

(j) This action attempts to circumvent the findings in *Moyse* by adding new defendants but is an attempt to re-litigate issues already determined and therefore constitutes a collateral attack on *Moyse*;

(k) Without limitation, in *Moyse* Justice Newbould determined that:

(i) West Face independently knew that "VimpelCom wanted a clean exit without regulatory issues getting in the way" based on its own deal discussions and not because of confidential information it received about the Catalyst bid during the exclusivity period (*Moyse*, para. 109);

(ii) There was "no chance that Catalyst would have successfully concluded a deal with VimpelCom" (*Moyse*, para. 131); and

(iii) "Catalyst had no intention of closing a deal with VimpelCom if it could not obtain the concessions it was looking for from the Government" (*Moyse*, para. 124) and "from the start Government officials had made clear that no such concessions would be given" (*Moyse*, para. 11(d));

(l) In late 2015, Mid-Bowline Group Corp., also a defendant in this action, commenced an application in the Ontario Superior Court of Justice for approval of a plan of arrangement (the "**Plan of Arrangement**") to effect the sale of WIND Mobile Corporation (the plaintiff's attempted acquisition of which was the subject matter of the *Moyse* action and which is also the subject of the present action);

(m) On February 3, 2016, the parties, including the plaintiff, consented to an order giving effect to the Plan of Arrangement. The Plan of Arrangement included a release of "all actions, causes of action, claims or proceedings...based on or in any way relating to any Purchased Shares..." (the "**Release**");

(n) The plaintiff is bound by the Release, its claim against UBS is captured by the Release and UBS is entitled to benefit from the Release in its role as advisor to VimpelCom;

(o) Accordingly, the plaintiff's claim is estopped and should be struck;

(p) Rules 1.04, 21.01(b), 37 and 57 of the *Rules of Civil Procedure*, RRO 1990, Reg 194;

(q) Sections 106 and 131 of the *Courts of Justice Act*, RSO 1990, c C.43; and

(r) Such further and other grounds as counsel may advise and this Honourable Court permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

(a) The Affidavit of Vanessa Voakes, sworn September 6, 2016; and

(b) Such further and other material as counsel may advise and this Honourable Court permit.

October 19, 2016

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THE CATALYST CAPITAL GROUP INC.
Plaintiff

and

VIMPELCOM LTD. et al.
Defendants

Court File No. CV-16-553800

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

FRESH AS AMENDED
NOTICE OF MOTION

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UBS Securities Canada Inc.

TAB 2

Court File No. CV-16-553800

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ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N :

THE CATALYST CAPITAL GROUP INC.

Plaintiff

- and -

VIMPELCOM LTD., GLOBALIVE CAPITAL INC., UBS SECURITIES CANADA INC., TENNENBAUM CAPITAL PARTNERS LLC, 64NM HOLDINGS GP LLC, 64NM HOLDINGS LP, LG CAPITAL INVESTORS LLC, SERRUYA PRIVATE EQUITY INC., NOVUS WIRELESS COMMUNICATIONS INC., WEST FACE CAPITAL INC. and MID-BOWLINE GROUP CORP.

Defendants

AFFIDAVIT OF VANESSA VOAKES
(sworn September 6, 2016)

I, Vanessa Voakes, of the City of Toronto, AFFIRM:

1. I am an associate lawyer at Stikeman Elliott LLP, counsel for the Defendant, UBS Securities Canada Inc. ("UBS") in this matter bearing Court File No.: CV-16-553800 (the "Action"). As such, I have personal knowledge of the information contained in this Affidavit. Where I have set out any information obtained from others I have stated the source of that information and I believe it to be true.

2. A copy of the Statement of Claim in the Action is attached to this Affidavit as **Exhibit "A"**.

3. The Statement of Claim references two contracts – a Confidentiality Agreement dated March 23, 2014 among the plaintiff, VimpelCom Ltd. and Global Telecom Holding S.A.E. (the "Confidentiality Agreement") and an Exclusivity Agreement dated July 23, 2014, amended August 18, 2014, between the plaintiff and VimpelCom Ltd. (the

"Exclusivity Agreement"). The Confidentiality Agreement and the Exclusivity Agreement are attached to this Affidavit as **Exhibits "B"** and **"C"**, respectively.

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AFFIRMED BEFORE ME at the City of Toronto on September 6, 2016.

Commissioner for Taking Affidavits

Alexandra M. Urbanski

Vanessa Voakes

THE CATALYST CAPITAL GROUP INC.
Plaintiff

and

VIMPELCOM LTD. et al.
Defendants

Court File No. CV-16-553800

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

AFFIDAVIT OF VANESSA VOAKES
(SWORN SEPTEMBER 6, 2016)

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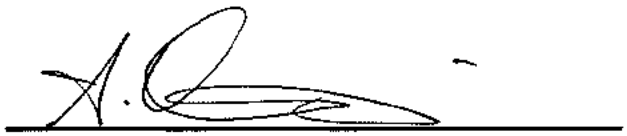
EXHIBIT " A "

referred to in the Affidavit of

VANESSA VOAKES

Sworn September 6, 2016



Alexandra M. Urbanski

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Court File No. CV-16-553800

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Defendants

STATEMENT OF CLAIM

TO THE DEFENDANT(S):

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The Claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the Plaintiff's lawyer or, where the Plaintiff does not have a lawyer, serve it on the Plaintiff, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this Statement of Claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the *Rules of Civil Procedure*. This will entitle you to ten more days within which to serve and file your Statement of Defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES,

LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and $1,000.00 for costs, within the time for serving and filing your Statement of Defence, you may move to have this proceeding dismissed by the Court. If you believe the amount claimed for costs is excessive, you may pay the Plaintiff's Claim and $400.00 for costs and have the costs assessed by the Court.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date May 31, 2016 Issued by _____ Local Registrar

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2 Bloor Street East, Suite 3000
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AND TO: **Mid-Bowline Group Corp.**
900, 630 – 3rd Avenue SW
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CLAIM

1. The Plaintiff claims:

(a) against the Defendant VimpelCom Ltd. and UBS Securities Canada Inc., on a joint and several basis, damages in the amount of $750,000,000 for breach of contract;

(b) against the Defendants Globalive Capital Inc., Tennenbaum Capital Partners LLC, 64NM Holdings GP LLC, 64 NM Holdings LP, LG Capital Investors LLC, Serruya Private Equity Inc., Novus Wireless Communications Inc., West Face Capital Inc. and Mid-Bowline Group Corp., on a joint and several basis:

(i) damages in the amount of $750,000,000 for misuse of confidential information, conspiracy, and inducing breach of contract; and

(ii) Punitive damages in the amount of $1,000,000;

(c) against all of the Defendants on a joint and several basis:

(i) Prejudgment and postjudgment interest in accordance with sections 128 and 129 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;

(ii) The costs of this action, plus the applicable taxes; and

(iii) Such further and other relief as to this Honourable Court may seem just.

The Plaintiff – The Catalyst Capital Group Inc. ("Catalyst")

2. Catalyst is a corporation with its head office located in Toronto, Ontario. Catalyst is widely recognized as the leading firm in the field of investments in distressed and undervalued Canadian situations for control or influence, known as "special situations investments for control".

The Defendants

3. VimpelCom Ltd. ("VimpelCom") is a company subsisting under the laws of the Netherlands in the field of telecommunications services. Its headquarters is located in Amsterdam, Netherlands.

4. Globalive Capital Inc. ("Globalive") is private equity corporation based in Toronto. Globalive was one of the founders of Wind Mobile Canada ("Wind").

5. UBS Securities Canada Inc. ("UBS") is an investment bank that provides advisory services to clients.

6. Tennenbaum Capital Partners LLC ("Tennenbaum") is an alternative investment management firm headquartered in Los Angeles, California.

7. 64NM Holdings GP, LLC ("64NM GP") is the general partner of 64NM Holdings, LP ("64NM LP"), a limited partnership organized under the laws of the State of Delaware in the United States of America. 64NM GP is headquartered in New York, New York. 64NM was formed by LG Capital Investors LLC ("LG") for the purpose of participating in the acquisition of Wind.

8. Serruya Private Equity Inc. ("Serruya") is a private equity investment fund headquartered in Markham, Ontario.

9. Novus Wireless Communications Inc. ("Novus") is a telecommunications provider based in Vancouver, British Columbia.

10. West Face Capital Inc. ("West Face") is a Toronto-based private equity corporation with assets under management of approximately $2.5 billion.

11. Mid-Bowline Group Corp. ("Mid-Bowline") is an entity incorporated by the members of the Consortium (defined below) for the purpose of purchasing Vimpelcom's interest in Wind.

Wind Mobile's Inception

12. Wind was founded in 2008. It acquired Advanced Wireless Services spectrum licences during an auction open to small entrants in Canada's telecommunications industry held by the Government of Canada.

13. Wind was initially jointly owned by Globalive and Orascom Telecom Holdings ("Orascom") through a holding company called Globalive Investment Holdings Corp. ("GIHC"). Globalive indirectly held 67% of Wind's voting shares and 34% of its total equity. Orascom indirectly held 100% of Wind's non-voting shares, 32% of its voting shares and 65% of its total equity. The remaining 1% of Wind's voting shares and total equity was held by a former Orascom employee.

14. In 2011, VimpelCom acquired the majority shareholder of Orascom, and, as a result, acquired Orascom's interest in GIHC and Wind.

15. In June 2012, VimpelCom and Globalive entered into negotiations to determine whether one could buy the other's interest in Wind. As the negotiations progressed, VimpelCom became increasingly interested in acquiring Globalive's interest in Wind and the parties ultimately entered into a share purchase agreement whereby VimpelCom agreed to purchase Globalive's equity in Wind. Ultimately, VimpelCom could not secure the required regulatory approval from Industry Canada ("IC") to purchase Globalive's equity and the agreement was terminated.

VimpelCom Intends to Exit Wind

16. In early 2013, VimpelCom engaged UBS for the purpose of finding a purchaser for its debt and equity interests in Wind.

17. By the fall of 2013, VimpelCom had financed Wind's capital purchases and operating expenses through shareholder loans that Wind could not repay. As a result of Wind's massive debts owed to VimpelCom, VimpelCom controlled the sale process for Wind despite only owning a minority voting interest in the company.

18. In the fall of 2013 and winter of 2014, several parties, including Catalyst, expressed an interest in purchasing VimpelCom's interest in Wind.

19. VimpelCom negotiated with numerous bidders in 2013, including Verizon Wireless, a U.S. wireless company, and Birch Hill, a private equity firm.

20. In December 2013, Catalyst negotiated in earnest potential terms for a deal with VimpelCom to acquire its interest in Wind. On January 2, 2014, Catalyst delivered a letter of intent to VimpelCom whereby it offered to purchase Globalive Wireless Management Corp. for C$550,000,000, all-cash on closing. VimpelCom did not accept Catalyst's offer.

Globalive Seeks a Financier

21. At the same time as VimpelCom was seeking to sell its interest in Wind, and entirely separate from that process, Globalive approached a number of parties, including Catalyst, in an attempt to find capital to purchase VimpelCom's shares in Wind. Globalive wanted to control the identity of the other shareholder of Wind.

22. Anthony Lacavera ("Lacavera") is the principal of Globalive. At all material times, Lacavera was the former chief executive officer of Wind. Lacavera directed Globalive to seek out funding to purchase VimpelCom's shares in Wind.

VimpelCom Writes Down its Investment in Wind

23. On March 6, 2014, VimpelCom announced that it had written off its investment in Wind as a result of challenges it was facing in the Canadian market. It was apparent to all bidders that VimpelCom was motivated to sell its share in Wind. It was also widely known to all bidders that if VimpelCom did not receive a suitable offer for its interest in Wind, it would likely push Wind into insolvency proceedings.

24. VimpelCom continued to aggressively pursue purchasers for its interest in Wind. Given the nature of the sale process and the fact that Wind was a privately held company, VimpelCom demanded that interested bidders execute a non-disclosure agreement.

Catalyst Executes Confidentiality Agreement and Continues Negotiations with VimpelCom

25. In March 2014, Catalyst re-engaged with VimpelCom through UBS.

26. On March 23, 2014, Catalyst executed a confidentiality agreement with VimpelCom and Global Telecom Holding S.A.E (the "Confidentiality Agreement"). The Confidentiality

Agreement was intended in part, to protect the confidentiality of information exchanged during the diligence process. It also mandated complete confidentiality over the sale process:

> Agreement and Related Negotiations. Each Party agrees that, unless required (pursuant to the advice of reputable outside legal advisors) by applicable law or by the rules of any national stock exchange on which such Party's securities are listed or by any competent regulator authority (in any such case such Party will promptly advise and consult with the other Party and its legal advisers prior to such disclosure), without the prior written consent of the other Party, such Party will not, and will cause its Authorised Persons not to, disclose to any person other than the other Party and its Authorised Persons (a) the fact that discussions or negotiations are taking place with the other Party concerning the Project, (b) any of the terms, conditions or other facts related to the other Party's participation in the Project, including the status thereof, or (c) the existence of this Agreement, the terms hereof or that Confidential Information has been made available pursuant to this Agreement.

27. Between March and May of 2014, Catalyst and UBS negotiated terms upon which Catalyst would acquire VimpelCom's interest in Wind.

Wind Defaults on Vendor Debt and Catalyst Negotiations Continue

28. On May 1, 2014, Wind defaulted on $150 million in vendor debt. It had until May 30, 2014 to cure the default.

29. On May 6, 2014, Catalyst and VimpelCom agreed to preliminary terms for an acquisition of Wind: Catalyst would purchase Wind based on an enterprise value of $300 million, with a closing date of no later than May 30, 2014.

30. Catalyst's review of documents stored in VimpelCom's confidential "data room" commenced on May 9, 2014, after its meeting with Wind's management in Toronto.

31. Catalyst negotiated with VimpelCom and its advisors, UBS and Bennett Jones LLP, throughout May and June of 2014, but it could not finalize terms of a share purchase agreement during this period.

Other Suitors Pursue Transaction with VimpelCom

32. At the same time that Catalyst was negotiating with VimpelCom, VimpelCom was negotiating with other parties, including Tennenbaum and West Face.

33. In May 2012, Tennenbaum, together with an unknown partner, acquired certain vendor debt owed by Wind. During 2013 and 2014, Tennenbaum and its partner reached out to VimpelCom and Wind to offer to provide additional debt and equity capital to fund the business.

34. After Wind defaulted on its vendor debt on May 1, 2014, including the debt owed to Tennenbaum, VimpelCom informed Tennenbaum that it was selling its stake in Wind. Tennenbaum met with Wind's management in early May 2014 and started negotiating a proposal to acquire Wind. Tennenbaum's negotiations continued through May and June 2014.

35. While Tennenbaum negotiated with VimpelCom, it also began building a consortium of equity partners, including Oak Hill, Blackstone and LG. This initial consortium was permitted to conduct diligence on Wind.

36. In May 2014, West Face separately conducted diligence and negotiated with VimpelCom regarding a potential purchase of VimpelCom's interest in Wind.

37. West Face was unable to pursue the transaction on its own. In June 2014, it reached out to a strategic partner and worked with that partner on a potential acquisition of Wind, but ultimately the strategic partner backed out.

Catalyst Enters Into Exclusivity With VimpelCom

38. In July 2014, Catalyst reached a critical point with VimpelCom such that a deal was imminent. In an effort to control the negotiations, Catalyst proposed that the parties enter into an exclusivity agreement which would allow Catalyst and VimpelCom to continue negotiating for a defined period without the possibility of a competing bid interfering with those negotiations.

39. On July 23, 2014, Catalyst and VimpelCom entered into an exclusivity agreement that provided for exclusive negotiations between the parties (the "Exclusivity Agreement"). The Exclusivity Agreement contained the following express and implied terms:

> (a) VimpelCom and Catalyst shall and shall cause their respective Affiliates to deal exclusively with each other in connection with the Transaction and VimpelCom shall use its reasonable efforts to ensure that GWMC and its subsidiaries deal exclusively with Catalyst and its respective Affiliates in connection with the Transaction;
>
> (b) VimpelCom shall not, shall ensure that its Affiliates will not, and shall use its reasonable efforts to ensure that GWMC and its subsidiaries do not, directly or indirectly, through any of its or their respective Representatives, solicit or encourage offers from, participate in any negotiations or discussions with, enter into any agreements with, or furnish any information to, any person regarding any alternative transaction to the Transaction (including but not limited to an acquisition, merger, arrangement, amalgamation, other business combination, joint venture or equity or other financing) involving GWMC or any of its subsidiaries, their respective voting or equity shares or any of their respective material assets (an "Alternative Transaction");
>
> (c) VimpelCom shall, shall cause its Affiliates and its and their respective Representatives to and shall use its reasonable efforts to ensure that GWMC and its subsidiaries, (A) discontinue or cause to be discontinued any existing activity of the nature described in Section 2(a), including but not limited to precluding access to any due diligence data room (except for access provided to Catalyst and its Representatives) and (B) enforce and not release any third party from, or otherwise waive, any standstill covenants or obligations owed by any such third party to VimpelCom and/or its

> Affiliates and/or GWMC or its subsidiaries under any confidentiality agreement entered into with respect to a potential Transaction involving GWMC or any of its subsidiaries, their respective voting or equity shares or any of their respective material assets; and
>
> (d) VimpelCom and Catalyst would undertake to negotiate with each other in good faith during the exclusivity period and would not take any steps to undermine the purpose and intent of the Exclusivity Agreement.

40. The Exclusivity Agreement also required the parties to keep the existence and terms of the Exclusivity Agreement confidential.

41. The Exclusivity Agreement is governed by the laws of the Province of Ontario.

42. VimpelCom instructed Wind's management, including Lacavera, that all discussions with any other prospective purchaser of GWMC, its subsidiaries or any of their material assets must cease until the end of the exclusivity period. Although not a party to the Exclusivity Agreement, Lacavera was obligated not to take any steps that undermined its purpose and intent.

43. Catalyst's reasonable expectation was that during the exclusivity period, VimpelCom and Lacavera could not and would not negotiate with any party, including West Face or Tennenbaum, regarding an alternative transaction, and that VimpelCom would honour its obligation to negotiate with Catalyst in good faith.

44. Catalyst also understood that during the exclusivity period, Wind's management, including Lacavera, was instructed to and was obligated to assist in exclusively attempting to conclude a deal between Catalyst and VimpelCom.

Other Bidders for the Consortium

45. By July 2014, Tennenbaum, West Face, LG, Serruya, and Novus had formed a consortium to pursue the purchase of VimpelCom's interest in Wind (the "Consortium"). The Consortium received Lacavera's and Globalive's support in the form of information provided to the Consortium by Lacavera and other senior managers of Globalive that was not provided to Catalyst.

Catalyst Extends the Exclusivity Agreement

46. By way of written extensions to the Exclusivity Agreement, Catalyst and VimpelCom agreed to extend the exclusivity period to August 18, 2014.

47. On or about August 3, 2014, VimpelCom and Catalyst reached an agreement in principle for the purchase of Wind by Catalyst.

48. In violation of the Confidentiality Agreement and the Exclusivity Agreement, VimpelCom, UBS, and Globalive informed the Consortium that an agreement had been reached with Catalyst in principle.

The Consortium Forms a Conspiracy

49. On or around July 23, 2014, UBS breached the Exclusivity Agreement and revealed to the Consortium that VimpelCom had entered into the Exclusivity Agreement.

50. Further, or in the alternative, VimpelCom breached the Exclusivity Agreement and revealed to the Consortium that it had entered into the Exclusivity Agreement.

51. Together with Lacavera and Globalive, the Consortium began discussing how they might cause VimpelCom to breach the Exclusivity Agreement so as to prevent Catalyst from successfully acquiring Wind.

52. The Consortium's and Globalive's joint intention was to induce VimpelCom to breach the Exclusivity Agreement knowing that, in so doing, they would cause damage to Catalyst.

53. In or about August 2014, the members of the Consortium, Globalive and Lacavera entered into a conspiracy the predominant purpose of which was to induce VimpelCom to breach the Exclusivity Agreement, to cause VimpelCom to cease negotiating with Catalyst in good faith and to thereby cause harm to Catalyst (the "Conspiracy").

54. The following parties met in in or about August 2016 to discuss how to induce VimpelCom to breach the Exclusivity Agreement, as particularized below:

(a) Michael Leitner ("Leitner"), as the principal of Tennenbaum;

(b) Lawrence Guffy ("Guffy") and Hamish Burt, ("Burt") as principals of LG Capital Investors LLC ("LG") and the manager of the managing member of 64NM GP;

(c) Greg Boland ("Boland"), Anthony Griffin ("Griffin"), Tom Dea ("Dea") and Peter Fraser ("Fraser"), as principals of West Face;

(d) Michael Serruya ("M. Serruya"), Aaron Serruya ("A. Serruya"), and Simon Serruya ("S. Serruya"), as principals of Serruya;

(e) Terence Hui ("Hui"), as principal of Novus; and

(f) Lacavera, as the principal of Globalive (together, the "Conspirators").

55. The Conspirators knew that VimpelCom and Catalyst were party to the Exclusivity Agreement and were aware that a term of the Exclusivity Agreement was that VimpelCom could not negotiate a potential sale of its interest in Wind with any other purchaser during the term of the Agreement.

56. Together, the Conspirators prepared terms of an offer to VimpelCom that were designed to induce VimpelCom to breach the Exclusivity Agreement and to cause VimpelCom to negotiate with Catalyst in bad faith during the terms of the Exclusivity Agreement.

57. The Conspirators agreed that one of the terms they would offer to VimpelCom would be that the closing of their offer would not be conditional on any regulatory approval from IC. The Conspirators included this term in their offer with the knowledge that Catalyst had not offered this term and would not do so.

58. Lacavera knew that the proposed offer that all the conspirators crafted would have the effect of causing VimpelCom to breach the Exclusivity Agreement and cause damage to Catalyst.

59. Leitner agreed to be the individual who would submit the terms agreed to by the Conspirators to VimpelCom. In so doing, Leitner was acting on his own behalf and on behalf of his fellow co-Conspirators, who in turn were acting for the benefit of the investments funds with which they were associated.

60. Tennenbaum is vicariously liable for all conduct of Leitner pleaded herein.

61. Lacavera agreed that Leitner should send an offer to VimpelCom in furtherance of the Conspiracy. Additionally, Lacavera agreed that Globalive would join the Conspiracy.

62. Globalive is vicariously liable for all conduct of Lacavera pleaded herein.

63. At all material times, Guffy was acting as principal of LG, 64NM GP and 64NM LP and agreed that LG, 64NM GP and 64NM LP would participate in the Conspiracy. Guffy agreed that Leitner should send an offer to VimpelCom in furtherance of the Conspiracy.

64. LG, 64NM GP and 64NM LP are vicariously liable for all conduct of Guffy pleaded herein.

65. At all material times, Burt was acting as principal of LG, 64NM GP and 64NM LP and agreed that LG, 64NM GP and 64NM LP would participate in the Conspiracy. Burt agreed that Leitner should send an offer to VimpelCom in furtherance of the Conspiracy.

66. LG, 64NM GP and 64NM LP are vicariously liable for all conduct of Burt pleaded herein.

67. At all material times, Boland, Griffin, Dea and Fraser were acting as principals of West Face and agreed that West Face would participate in the Conspiracy. Boland, Griffin, Dea and Fraser agreed that Leitner should send an offer to VimpelCom in furtherance of the Conspiracy.

68. West Face is vicariously liable for all conduct of Boland, Griffin, Dea and Fraser pleaded herein.

69. At all material times, M. Serruya, A. Serruya, and S. Serruya were acting as principals of Serruya and agreed that Serruya would participate in the Conspiracy. M. Serruya, A. Serruya, and S. Serruya agreed that Leitner should send an offer to VimpelCom in furtherance of the Conspiracy.

70. Serruya is vicariously liable for all conduct of M. Serruya, A. Serruya, and S. Serruya pleaded herein.

71. At all material times, Hui was acting as a principal of Novus and agreed that Novus would participate in the Conspiracy. Hui instructed agreed that Letiner should send an offer to VimpelCom in furtherance of the Conspiracy.

72. Novus is vicariously liable for all conduct of Hui pleaded herein.

Misuse of Catalyst's Confidential Information by the Consortium

73. While Tennenbaum and West Face were engaged in negotiations with VimpelCom beginning in May 2014, Lacavera was in constant communication with them in his capacity as Chief Executive Officer ("CEO") of Wind.

74. Lacavera had intimate knowledge of Catalyst's confidential negotiations with VimpelCom, which he received in his role as CEO of Wind, including Catalyst's regulatory strategy and negotiating positions with VimpelCom ("Confidential Information").

75. Lacavera knew that if Catalyst was the successful bidder, it intended to terminate his position as CEO of Wind and to eliminate his equity position in the company. In order to prevent this from occurring, and contrary to his contractual obligations to Catalyst under the Confidentiality Agreement, Lacavera shared Catalyst's Confidential Information with West Face and Tennenbaum, including the fact that Catalyst was negotiating with VimpelCom with regard to Wind.

76. Between April 2014 and August 18, 2014, Lacavera repeatedly communicated Confidential Information to the Consortium, either jointly or to individual members of the

Consortium, to assist the Conspirators in their efforts to prevent Catalyst from successfully purchasing Wind.

77. The Confidential Information that Lacavera transmitted included critical information regarding Catalyst's confidential negotiation communications with VimpelCom.

78. Lacavera knew that this information was confidential and that information was shared with him on the condition that he not communicate this information to other parties bidding for Wind. In breach of this obligation, Lacavera shared this information with the other bidders, including West Face, to give those other bidders an unfair advantage in their pursuit of Wind.

79. The Consortium knowingly received and misused Catalyst's Confidential Information to create the Proposal and gain an unfair advantage over Catalyst in its negotiations with VimpelCom.

80. By wrongly transmitting Catalyst's Confidential Information to the Consortium, Lacavera, acting on behalf of Globalive, and, separate and apart from the interests of Wind and VimpelCom, knew that the transmission would (and did) cause damage to Catalyst.

The Consortium Induces VimpelCom to Breach the Exclusivity Agreement

81. On August 6, 2014, acting in furtherance of the Conspiracy, Leitner sent a proposal to VimpelCom and UBS entitled "Superior Proposal to purchase WIND Canada" (the "Proposal"). The Proposal included the following terms:

(a) Binding commitments to purchase VimpelCom's equity and debt interests for a cash amount that approximates the net amounts distributed to VimpelCom based on the "reserve price";

(b) The proposal would not require regulatory approval and requires no engagement with regulatory authorities;

(c) The proposal would close quickly; and

(d) The Consortium would purchase Wind's Vendor Loans at par and refinance them.

82. Leitner delivered the Proposal with authorization and instructions from Tennenbaum, 64NM GP, 64NM LP, LG, Serruya, Novus, West Face, Globalive, Guffy, Burt, M. Serruya, A. Serruya, and S. Serruya, Hui, Boland, Griffin, Dea, Fraser and Lacavera.

83. In furtherance of the Conspiracy, Leitner submitted the Proposal with the intent that VimpelCom would breach the terms of the Exclusivity Agreement and prevent Catalyst and VimpelCom from completing any deal, thereby causing damage to Catalyst.

VimpelCom Uses Catalyst as a Stalking Horse Bid and Causes Catalyst Harm

84. The Conspiracy had the desired effect of causing VimpelCom to breach the Exclusivity Agreement. Between August 6 and August 18, VimpelCom and UBS engaged in discussions and negotiations with the Consortium, Globalive and Lacavera over the Proposal, in breach of the Exclusivity Agreement.

85. Following receipt of the Proposal, VimpelCom ceased negotiating with Catalyst in good faith. Instead, it used its negotiations with Catalyst as a stalking horse to improve the terms of the Proposal.

86. On or about August 11, 2014, VimpelCom and Catalyst contacted IC to provide an update on the negotiations. During the conference call, Catalyst and VimpelCom told IC that the "deal was done".

87. VimpelCom continually and repeatedly stalled its negotiations with Catalyst by, among other things, insisting on the need for approvals from its Board and its finance committee. The Board and the finance committee then insisted on additional, commercially unreasonable terms with the knowledge and intent that Catalyst could not agree to these new terms.

88. Despite the representations to IC on August 11, 2014 that the deal was, in fact, done, on or about August 15, 2014, VimpelCom demanded that Catalyst agree to a $5-20 million break-fee to be paid in the event that Catalyst's purchase of Wind did not receive regulatory approval. Prior to this date, VimpelCom had never requested a break fee from Catalyst.

89. VimpelCom's intention was to frustrate and defeat the purpose and intent of the Exclusivity Agreement so that its exclusivity period with Catalyst would expire without a signed agreement. While doing so, VimpelCom and the Conspirators continued to negotiate and discuss the terms of an agreement.

Exclusivity With Catalyst Ends

90. On August 19, 2014, the exclusivity between VimpelCom and Catalyst terminated without a signed agreement.

91. On September 15, 2014, the Consortium and VimpelCom announced an agreement by which the Consortium, through Mid-Bowline Group Corp., purchased VimpelCom's stake in Wind.

Harm to Catalyst

92. As a result of VimpelCom, UBS and Lacavera's breaches of the Confidentiality Agreement, the Conspiracy was formed with the intent of harming Catalyst.

93. As a result of the misconduct of the Conspirators, VimpelCom breached the Exclusivity Agreement and breached its duty of good faith during its negotiations with Catalyst. As a result, the Consortium was able to purchase Wind to Catalyst's detriment.

94. On or about January 2016, Shaw Communications ("Shaw") acquired Mid-Bowline, the corporation formed after the Consortium's acquisition of VimpelCom's interest in Wind, for $1.6 billion. As a result, the Consortium received a profit of over $750 million, thereby crystallizing Catalyst's damages as a result of the Conspirators' and VimpelCom's wrongful conduct, as described above.

Catalyst Discovers the Conspiracy in January 2015

95. In December 2014, Mid-Bowline commenced an application to seek Court approval of a plan of arrangement pursuant to which Shaw intended to acquire all of the equity in Mid-Bowline. The application originally sought a release of an unrelated claim by Catalyst to a constructive trust over West Face's interest in Wind.

96. In January 2015, Catalyst brought a motion to oppose the plan of arrangement. In the course of those proceedings, Griffin filed an affidavit in support of the plan of arrangement. In it, Griffin described in detail the Consortium's efforts to purchase Wind.

97. Simon Lockie (Chief Legal Officer of Globalive) ("Lockie"), Leitner and Burt also filed detailed affidavits in support of the plan of arrangement. In each affidavit, the respective affiant described the Consortium's efforts to purchase Wind and Globalive's role in assisting the Consortium members.

98. Catalyst carefully reviewed the affidavits of Griffin, Lockie, Leitner and Burt after they were filed in the public record. This new evidence, when considered in the context of the timing of the Exclusivity Agreement and VimpelCom's change in negotiation posture with Catalyst in August 2014, as detailed above, revealed the details of the Conspiracy, including the common intent of the Conspiracy, Consortium's efforts to induce VimpelCom to breach the Exclusivity Agreement and the Consortium's misuse of Confidential Information.

99. The affidavits revealed to Catalyst for the first time that VimpelCom did, in fact, breach the Exclusivity Agreement and had failed to negotiate with Catalyst in good faith throughout the exclusivity period.

Damage to Catalyst

100. As a result of the Consortium's inducement of breach of contract and VimpelCom's breach of the Exclusivity Agreement, Catalyst has suffered damages, which are crystallized in the form of the profits realized by the Conspirators from the sale of Wind to Shaw, which Catalyst estimates to be $750 million.

Punitive Damages

101. Catalyst claims that the Defendants' egregious actions, as pleaded above, were so high-handed, wilful, wanton, reckless, contemptuous and contumelious of Catalyst's rights and interests so as to entitle Catalyst to a substantial award of punitive, aggravated and exemplary damages.

102. Accordingly, the Defendants are liable, on a joint and several basis, to Catalyst for $1 million in punitive damages.

Service *Ex Juris*

103. The Defendants' actions include torts committed in Ontario. At all material times, the Defendants carried on business in Ontario. The matters at issue in this proceeding concern contracts entered into and governed by the laws of Ontario.

104. Pursuant to the terms of the Exclusivity Agreement, VimpelCom attorned to the jurisdiction of the courts of the Province of Ontario.

105. Catalyst pleads reliance on Rule 17.02(f), (g) and (p) of the Rules of Civil Procedure, R.R.O. 1990, Reg. 194.

106. Catalyst proposes that this action be tried at Toronto.

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Plaintiff

-and-

VIMPELCOM LTD. et al.
Defendant

CV-16-553800
Court File No.

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT
TORONTO

STATEMENT OF CLAIM

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EXHIBIT " B "

referred to in the Affidavit of

VANESSA VOAKES

Sworn September 6, 2016

Alexandra M. Urbanski

CONFIDENTIALITY AGREEMENT

THIS CONFIDENTIALITY AGREEMENT (this "**Agreement**") is dated the 21st day of March 2014.

BY AND BETWEEN:

VimpelCom Ltd., a limited liability company under Bermuda law, having its business address at Claude Debussylaan 88, 1082MD Amsterdam, the Netherlands, and registered with the Dutch Commercial Register under the number 34374835 ("**VimpelCom**");

Global Telecom Holding S.A.E., a company under Egyptian law, having its business address at 2005A Nile City Towers, South Tower, Corniche El Nile, Ramlet Beaulac, 11221, Cairo, Egypt ("**GTH**");

and

The Catalyst Capital Group Inc., a subsisting corporation under the laws of Ontario, on behalf of Funds managed by it (the "**Company**")

(hereinafter collectively referred to as the "**Parties**" and individually as a "**Party**").

*****

WHEREAS each Party has agreed to disclose to the other Party and has agreed to keep confidential certain Confidential Information (as defined below) subject to the terms and conditions hereinafter contained in relation to a potential transaction regarding the acquisition, merger, business combination, financing or other investment of and in VimpelCom's direct and indirect interest in Globalive Investment Holdings Corp. and its direct and indirect subsidiaries (the "**Project**");

NOW, THEREFORE the Parties have agreed as follows:

1. Definitions and Interpretation. The following expressions shall unless the context otherwise admits have the following meanings:

   "**Agreement**" has the meaning set out in the preamble to this Agreement.

   "**Affiliate**" shall mean any entity that controls, is controlled by, or is under common control with the Party (or such other entity for which such determination is being made).

   "**Authorised Person**" shall mean, in relation to a Party, any Affiliate, agent, director, officer, employee, representative or professional advisor (including without limitation legal advisors, auditors and accountants) and potential

financing sources and the professional advisors of such Party, excluding.in relation to the Company only, the Dave Entities.

"**Claim**" has the meaning set out in clause 18 of this Agreement.

"**Company**" has the meaning set out in the preamble to this Agreement.

"**Confidential Information**" means any and all non public, confidential and/or proprietary knowledge, data, or information of the Disclosing Party or its Affiliate, including, without limitation, any: (A) trade secrets, drawings, inventions, methodologies, mask works, ideas, processes, formulas, source and object codes, data, programs, software source documents, works of authorship, know-how, improvements, discoveries, developments, designs and techniques, and all other work product of the Disclosing Party or its Affiliate, whether or not patentable or registrable under trademark, copyright, patent or similar laws; (B) information regarding plans for research, development, new service offerings and/or products, marketing, advertising and selling, distribution, business plans, acquisition plans, business forecasts, budgets and unpublished financial statements, licenses, prices and costs, suppliers, customers or distribution arrangements; (C) any information regarding the skills and compensation of employees, suppliers, agents, and/or independent contractors of the Disclosing Party or its Affiliate; (D) concepts and ideas relating to the development and distribution of content in any medium or to the current, future and proposed products or services of the Disclosing Party or its Affiliate; (E) any other information, data or the like that is labelled confidential or orally disclosed as confidential; or (F) Notes. Confidential Information does not include any information that (i) becomes generally available to the public other than as a result of a disclosure by the Receiving Party or any of the Authorised Persons of the Receiving Party in violation of this Agreement; (ii) was in the Receiving Party's possession prior to the disclosure of the Confidential Information by the Disclosing Party pursuant to this Agreement, provided that the source of such information was not known by the Receiving Party to be subject to an obligation not to disclose such information; or (iii) becomes available to the Receiving Party or the Authorised Persons of the Receiving Party on a non-confidential basis from a source other than the Disclosing Party or any Authorised Person of the Disclosing Party, provided that such source was not known by the Receiving Party to be subject to an obligation not to disclose such information;.

"**Disclosing Party**" shall mean the Party to which the Confidential Information relates.

"**GTH**" has the meaning set out in the preamble to this Agreement.

"**LCIA**" has the meaning set out in clause 18 of this Agreement.

"**Notes**" shall mean any memoranda, reports, analyses, extracts or notes that the Receiving Party or any Authorised Person of the Receiving Party produced that are based on, reflect or contain any of the Confidential Information.

"**Party**" has the meaning set out in the preamble to this Agreement.

"**Project**" has the meaning set out in the recital to this Agreement.

"**Purpose**" shall mean the analysis, evaluation, structuring and negotiation of the Project.

"**Receiving Party**" shall mean a Party that has received Confidential Information relating to the other Party.

"**VimpelCom**" has the meaning set out in the preamble to this Agreement.

2. Term of the Agreement. This Agreement shall remain in force until three years from the date hereof.

3. Obligations of the Receiving Party. Each Party shall agree that, as the Receiving Party, it and its Authorised Persons:

3.1. shall take all measures reasonably practicable to ensure the continued confidentiality of the Confidential Information;

3.2. shall not use the Confidential Information or any part of it for any purpose other than the Purpose;

3.3. shall not disclose the Confidential Information or any part thereof to any person other than an Authorised Person under the terms and conditions of clause 3.4;

3.4. shall (i) disclose the Confidential Information to an Authorised Person only to the extent necessary to allow such Authorised Person to assist the Receiving Party in the Purpose; (ii) prior to disclosing any Confidential Information to any Authorised Person, inform such Authorised Person of the confidential nature of the Confidential Information and of the terms of this Agreement; (iii) be responsible for any breach of this Agreement by any Authorised Person of the Receiving Party; and (iv) reimburse, indemnify and hold harmless the Disclosing Party and the Authorised Persons of the Disclosing Party from any damage, loss or expense incurred as a result of the use of the Confidential Information by the Receiving Party or any Authorised Person of the Receiving Party contrary to the terms of this Agreement;

3.5. shall not take any copies or make any summaries or transcripts of the whole or any part of the Confidential Information save as is necessary for the Purpose;

3.6. shall notify the Disclosing Party immediately, if it becomes aware that any Confidential Information has been disclosed to or is in the possession of any person who is not an Authorised Person; and

3.7. shall, upon termination of this Agreement or at the written request of the Disclosing Party, either destroy or return to the Disclosing Party (as the Disclosing Party may reasonably direct) the Confidential Information that is in tangible form, including any copies that the Receiving Party has

made, and all Notes or other references to the Confidential Information in its documents. Notwithstanding the return or destruction of the Confidential Information, the Receiving Party and its Authorised Persons will continue to be bound by the Receiving Party's obligations of confidentiality and other obligations under this Agreement. The destruction or return of Confidential Information does not apply to any Confidential Information necessary to comply with any obligations or best practices under all applicable laws, rules, regulations or internal compliance policies and procedures or to any Confidential Information that cannot reasonably be destroyed (such as oral communications reflecting Confidential Information, firm electronic mail back-up records, back-up server tapes and any similar such automated record-keeping or other retention system), which shall remain subject to the terms of this Agreement.

4. Limitation of Applicability. Notwithstanding any other provisions hereof, if the Receiving Party or any Authorised Person of the Receiving Party is required to disclose any Confidential Information (including, but not limited to, any Notes) by any competent regulatory authority or in connection with any legal or administrative proceeding or in accordance with the rules of the stock exchange on which the shares of the Receiving Party and/or its Affiliates are traded, the Receiving Party will notify the Disclosing Party immediately of the existence, terms and circumstances surrounding such requirement so that the Disclosing Party may seek a protective order or other appropriate remedy and/or take steps to resist or narrow the scope of the disclosure sought by such requirement. The Receiving Party agrees to assist the Disclosing Party in seeking a protective order or other remedy, if requested by the Disclosing Party. If a protective order or other remedy is not obtained and disclosure is required (pursuant to the advice of reputable outside legal advisors), the Receiving Party may make such disclosure without liability under this Agreement, provided that the Receiving Party or its Authorised Persons furnish only that portion of the Confidential Information that is legally required to be disclosed, the Receiving Party gives the Disclosing Party notice of the information to be disclosed as far in advance of its disclosure as practicable and the Receiving Party uses its reasonable endeavours to ensure that confidential treatment will be accorded to all such disclosed information.

5. No Representation or Warranty. The Receiving Party acknowledges and agrees that neither the Disclosing Party nor any of its Authorised Persons or "controlling persons" (within the meaning of Section 20 of the United States Securities Exchange Act of 1934, as amended) (i) has made or makes any express or implied representation or warranty as to the accuracy or completeness of the Confidential Information or (ii) will have any liability whatsoever to the Receiving Party or any of its Authorised Persons resulting from or relating to any use of the Confidential Information or any errors therein or omissions therefrom. The Receiving Party further agrees that it is not entitled to rely on the accuracy or completeness of the Confidential Information, and that it will only be entitled to rely on such representations and warranties as may be included in any definitive agreement with respect to the Project, subject to such limitations and restrictions as may be contained therein.

6. Ownership of Confidential Information. All Confidential Information shall be deemed to be (and all copies thereof or of any part or parts thereof shall become upon the creation thereof) and shall remain the property of the Disclosing Party.

7. Intellectual Property. This Agreement shall not operate as an assignment to the Receiving Party of any patents, copyrights, registered designs, unregistered designs, trademarks, trade names or other intellectual property rights of the Disclosing Party as may subsist in or be contained in or reproduced in the Confidential Information and the Receiving Party shall not, nor shall any Authorised Person of the Receiving Party or persons on the Receiving Party's or any Authorised Person's behalf, apply for any patent or registration of any trademark or design or any other intellectual property right in respect of the Confidential Information or any part thereof.

8. Right to Disclose. Each Party warrants that it has the right to disclose the Confidential Information that it discloses under this Agreement and such disclosure shall not violate any obligation, covenant or restriction imposed upon such Party pursuant to any agreement, regulation, law or otherwise.

9. No Further Obligations. Nothing in this Agreement shall impose or be deemed to impose on either Party an obligation to disclose Confidential Information or to enter into any agreement or transaction and in particular shall not oblige either Party to enter into any agreement with respect to the Project.

10. No Assignment. The Parties shall not assign or otherwise transfer their rights or obligations under this Agreement.

11. Damages. The Receiving Party acknowledges and agrees that the Disclosing Party would be damaged irreparably if any provision of this Agreement were not performed in accordance with its specific terms or were otherwise breached. Accordingly, the Disclosing Party will be entitled to an injunction or injunctions to prevent breaches of the provisions of this Agreement and to enforce specifically this Agreement and its provisions by an action or proceeding instituted in any court having jurisdiction over the Receiving Party. Except as expressly provided herein, the rights, obligations and remedies created by this Agreement are cumulative and in addition to any other rights, obligations or remedies otherwise available at law or in equity. Except as expressly provided herein, nothing herein will be considered an election of remedies.

12. Execution of Additional Documents. The Receiving Party shall, as and when requested by the Disclosing Party, do all acts and execute all documents as may be reasonably necessary to prevent any loss, misuse or unauthorised disclosure of the Confidential Information or any part of it by any of its Authorised Persons.

13. Severability. The illegality, invalidity or unenforceability of any part of this Agreement for any reason whatsoever shall not affect the legality, validity or enforceability of the remainder of this Agreement.

14. Agreement and Related Negotiations. Each Party agrees that, unless required (pursuant to the advice of reputable outside legal advisors) by applicable law or by the rules of any national stock exchange on which such Party's securities are

listed or by any competent regulatory authority (in any such case such Party will promptly advise and consult with the other Party and its legal advisers prior to such disclosure), without the prior written consent of the other Party, such Party will not, and will cause its Authorised Persons not to, disclose to any person other than the other Party and its Authorised Persons (a) the fact that discussions or negotiations are taking place with the other Party concerning the Project, (b) any of the terms, conditions or other facts related to the other Party's participation in the Project, including the status thereof, or (c) the existence of this Agreement, the terms hereof or that Confidential Information has been made available pursuant to this Agreement.

15. Entirety of the Agreement; Previous and Subsequent Agreements. This Agreement constitutes the entire agreement and understanding between the Parties with respect to its subject matter and replaces all previous agreements between, or understandings by, the Parties with respect to such subject matter. This Agreement cannot be amended except by written instrument signed on behalf of both of the Parties.

16. Third Party Rights. A person who is not a party to this Agreement has no rights under the Contracts (Rights of Third Parties) Act of 1999 to enforce any term of this Agreement.

17. Applicable Law. This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law.

18. Arbitration. Any dispute, controversy or claim arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination (a "**Claim**"), may be referred to and finally resolved by arbitration under the Rules of the London Court of International Arbitration (the "**LCIA**"), which Rules are deemed to be incorporated by reference into this Clause 18. The dispute will be heard by a single arbitrator. If the Parties are unable to agree an arbitrator within 15 days, then any Party may ask the LCIA to appoint one. The arbitrator must have expertise in the matter(s) in dispute and not be a present or former officer, employee, director, consultant for, or a greater than 1% shareholder of any party to the arbitration. The place of arbitration will be the city of London, England. The language of the arbitral proceedings will be English, and the procedure (insofar as it is not governed by the Rules of the LCIA) will be governed by English law. Insofar as they are legally able to do so, the Parties hereby agree to exclude the jurisdiction of English courts. The decision of the arbitrators will be final, binding and enforceable against the Parties and a judgment upon any award rendered by the arbitrators may be entered in any court having jurisdiction thereof.

19. Insider Trading. The Company hereby acknowledges that it is aware, and will inform its Authorised Persons, that the securities laws of the United States (as well as stock exchange regulations) and the securities laws of any other country applicable to the Company prohibit any person who has material, non-public information concerning VimpelCom and GTH or a possible transaction involving VimpelCom and GTH from purchasing or selling VimpelCom's and GTH's securities when in possession of such information and from communicating such

information to any other person or entity under circumstances in which it is reasonably foreseeable that such person or entity is likely to purchase or sell such securities while in possession of such information. The Company hereby agrees, and will inform its Authorised Persons, that it will not use or cause a third party to use Confidential Information in contravention of the securities laws of United States or the securities laws of any other country applicable to the Company.

20. Headings. The headings to clauses in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

21. Counterparts. This Agreement may be signed in two or more counterparts in the English language, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

22. Non-Solicitation of Employees. Each Party agrees that, without the other Party's prior written consent, neither it nor any of its Authorised Persons will for a period of *one* year from the date of this Agreement directly or indirectly knowingly solicit any employee of the other Party (a) for employment by the Party or any of its controlled affiliates or (b) to provide consulting or other services to or on behalf of the Party or any of its controlled affiliates; provided, however, that the Parties shall not be prohibited from employing any such person who contacts such Party on his or her own initiative or in response to a published general solicitation not specifically targeted at such person, in either case without any direct or indirect solicitation by the other Party.

23. Nothing herein to apply to Data and Audio- Visual Enterprises. It is understood that the Company or investment funds managed by it or Affiliates of the Company (collectively the "**Company Entities**") are substantial creditors of Data and Audio-Visual Enterprises Wireless Inc. and/or one or more of its Affiliates (collectively the "**Dave Entities**"). Nothing herein shall be interpreted to restrict or limit the ability of the Company Entities to deal with the Dave Entities or any of them in such manner as the Company Entities shall deem fit in their discretion provided that the Company Entities do not disclose to the Dave Entities any Confidential Information.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS whereof the duly authorised representatives of the Parties have executed this Agreement the day and year before written.

VimpelCom Ltd.

By: _____

Name: _____

Title: _____

Global Telecom Holding S.A.E.

By: _____

Name: _____

Title: _____

The Catalyst Capital Group Inc., on behalf of Funds managed by it

By: _____

Name: Gabriel de Alba

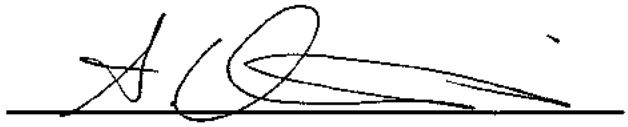
Title: Managing Director & Partner

EXHIBIT " C "

referred to in the Affidavit of

VANESSA VOAKES

Sworn September 6, 2016



Alexandra M. Urbanski

EXCLUSIVITY AGREEMENT

THIS EXCLUSIVITY AGREEMENT (the "**Exclusivity Agreement**") is made as of the 23rd day of July, 2014.

AMONG:

> **THE CATALYST CAPITAL GROUP INC.**, a corporation subsisting under the laws of Ontario, on behalf of Funds managed by it ("**Catalyst**")

AND:

> **VIMPELCOM LTD.**, a company subsisting under the laws of the Netherlands ("**VimpelCom**")

WHEREAS Catalyst and VimpelCom (the "**Parties**") are considering a possible business transaction involving the acquisition by Catalyst of 100% of the common shares of Globalive Wireless Management Corp. ("**GWMC**")(the "**Transaction**");

AND WHEREAS the Parties have entered into that certain confidentiality agreement dated March 21, 2014 (the "**Confidentiality Agreement**") in connection with the Transaction;

NOW THEREFORE THIS EXCLUSIVITY AGREEMENT WITNESSES that in consideration of each of the Parties continuing discussions concerning, and committing time and effort to assess, the Transaction and the negotiation of definitive agreements in respect thereof (the "**Transaction Agreements**"), and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the Parties, the Parties hereby agree as follows:

1. Definitions

In this Exclusivity Agreement, the following words, phrases and expressions shall have the following meanings, together with the definitions set out above:

(a) "**Affiliate**" means a person, company or other form of entity or enterprise which, directly or indirectly, Controls or is Controlled by a Party, or is under Control of a third party which also Controls a Party, where "**Control**" means possession, directly or indirectly, of the power to direct or cause direction of management and policies through ownership of voting securities, contract, voting trust or otherwise, provided; however, that, for purposes of this Agreement:

(i) Global Telecom Holding S.A.E., a company subsisting under the laws of the Netherlands and its subsidiaries (which term, as used in this Agreement, has the meaning attributed to it in the Ontario *Business Corporations Act*) shall be considered to be Affiliates of VimpelCom; and

(ii) AAL Telecom Holdings Incorporated, a company controlled by Anthony Lacavera, and its subsidiaries (which, for greater certainty do not include GWMC and its subsidiaries) are not Affiliates of VimpelCom;

(b) "**Alternative Transaction**" has the meaning given to such term in Section 2(b);

(c) "**Confidentiality Agreement**" has the meaning given to such term in the recitals;

(d) "**Parties**" has the meaning given to such term in the recitals;

(e) "**Representative**" means any director, officer, employee, agent, advisor, banker or consultant of a Party or any of such Party's Affiliates;

(f) "**Transaction**" has the meaning given to such term in the recitals;

(g) "**Transaction Agreements**" has the meaning given to such term in the recitals; and

(h) "**VimpelCom**" has the meaning given to such term in the recitals.

2. **Exclusivity**

From the date hereof until the earlier of (i) the execution of the Transaction Agreements, and (ii) 11:59 pm on July 30, 2014 (the "**Expiry Time**"):

(a) VimpelCom and Catalyst shall and shall cause their respective Affiliates to deal exclusively with each other in connection with the Transaction and VimpelCom shall use its reasonable efforts to ensure that GWMC and its subsidiaries deal exclusively with Catalyst and its respective Affiliates in connection with the Transaction;

(b) VimpelCom shall not, shall ensure that its Affiliates will not, and shall use its reasonable efforts to ensure that GWMC and its subsidiaries do not, directly or indirectly, through any of its or their respective Representatives, solicit or encourage offers from, participate in any negotiations or discussions with, enter into any agreements with, or furnish any information to, any person regarding any alternative transaction to the Transaction (including but not limited to an acquisition, merger, arrangement, amalgamation, other business combination, joint venture or equity or other financing) involving GWMC or any of its subsidiaries, their respective voting or equity shares or any of their respective material assets (an "**Alternative Transaction**");

(c) VimpelCom shall, shall cause its Affiliates and its and their respective Representatives to and shall use its reasonable efforts to ensure that GWMC and its subsidiaries, (A) discontinue or cause to be discontinued any existing activity of the nature described in Section 2(a), including but not limited to precluding access to any due diligence data room (except for access provided to Catalyst and its Representatives) and (B) enforce and not release any third party from, or otherwise waive, any standstill covenants or obligations owed by any such third party to VimpelCom and/or its Affiliates and/or GWMC or its subsidiaries under any confidentiality agreement entered into with respect to a potential Transaction

involving GWMC or any of its subsidiaries, their respective voting or equity shares or any of their respective material assets; and

(d) VimpelCom shall:

(i) ensure that its Representatives who are aware of the potential Transaction are made aware of the provisions of this Section 2;

(ii) use its reasonable efforts to ensure that the Representatives of GWMC and its subsidiaries who are aware of the Potential Transaction are made aware of the provisions of this Section 2;

(iii) direct the Representatives referred to in (i) to comply with the terms of this Exclusivity Agreement; and

(iv) use its reasonable efforts to cause the Representatives referred to in (ii) to comply with the terms of this Exclusivity Agreement.

3. **No Obligation to Complete Transaction**

The Parties acknowledge that the terms of this Exclusivity Agreement do not obligate them to proceed with a Transaction and that no such obligations will arise unless and until written Transaction Agreements between the Parties have been executed and delivered.

4. **Confidentiality**

Each Party shall hold the existence and terms of this Exclusivity Agreement in confidence in accordance with the terms of the Confidentiality Agreement and shall only disclose the existence and terms of this Exclusivity Agreement to its Representatives who have a *bona fide* need to know such information in connection with such Party's evaluation of the Transaction.

5. **Binding Nature, Term and Termination of Exclusivity Agreement**

Pending the execution by the Parties of the Transaction Agreements, this Exclusivity Agreement shall constitute a legally enforceable agreement between the Parties. The execution of the Transaction Agreements does not constitute a condition precedent to this Exclusivity Agreement. This Exclusivity Agreement shall terminate without any further action of the Parties immediately upon the earliest of: (i) the execution of the Transaction Agreements, (ii) the Parties agreeing in writing to terminate this Exclusivity Agreement; and(iii) the Expiry Time. For greater certainty and notwithstanding any other provision hereof, the terms of Section 4 shall survive any such termination of this Exclusivity Agreement.

6. **General**

(a) Headings in this Exclusivity Agreement shall not affect the interpretation of this Exclusivity Agreement. If any provision or part of this Exclusivity Agreement is unenforceable, such unenforceability shall not affect the enforceability of the

balance of this Exclusivity Agreement which shall be interpreted as if the unenforceable provision had not been a part hereof.

(b) Neither Party may assign this Exclusivity Agreement or any part hereof without the other Party's prior written consent.

(c) Without prejudice to any other rights or remedies that Catalyst may have, Catalyst shall be entitled, without proof of special damages, to the remedy of injunction or such other equitable relief for any threatened or actual breach of this Exclusivity Agreement.

(d) This Exclusivity Agreement shall enure to the benefit of and be binding upon the Parties hereto and their respective successors and permitted assigns.

(e) This Exclusivity Agreement shall be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein and the Parties hereby attorn to the non-exclusive jurisdiction of the courts of the Province of Ontario.

(f) This Exclusivity Agreement may be executed in one or more counterparts, all of which together shall constitute one and the same document. This Exclusivity Agreement and any counterpart thereof may be delivered by facsimile or other electronic transmission and when so delivered will be deemed to be an original.

(g) This Exclusivity Agreement, together with the Confidentiality Agreement, constitutes the Parties' entire agreement and understanding relating to the subject matter hereof and supersedes all previous or contemporaneous agreements, arrangements, negotiations or understandings between the Parties (whether written or oral) with respect to the subject matter hereof.

(h) Time is of the essence of this Exclusivity Agreement.

IN WITNESS WHEREOF this Exclusivity Agreement has been executed by each of the Parties as of the date first written above.

THE CATALYST CAPITAL GROUP INC.,

on behalf of Funds managed by it

By: _____
Authorized Signatory

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VIMPELCOM LTD.

By: _____
Authorized Signatory

AMENDMENT NO. 2 TO EXCLUSIVITY AGREEMENT

THIS AMENDMENT NO. 2 TO EXCLUSIVITY AGREEMENT (the "**Amending Agreement**") is made as of the 8th day of August, 2014.

AMONG:

THE CATALYST CAPITAL GROUP INC., a corporation subsisting under the laws of Ontario, on behalf of Funds managed by it ("**Catalyst**")

AND:

VIMPELCOM LTD., a company subsisting under the laws of the Netherlands ("**VimpelCom**")

WHEREAS Catalyst and VimpelCom (the "**Parties**") entered into an exclusivity agreement dated July 23, 2014, as amended on July 30th, 2014 (the "**Exclusivity Agreement**") in connection with a possible business transaction involving the acquisition by Catalyst of 100% of the common shares of Globalive Wireless Management Corp. (the "**Transaction**");

AND WHEREAS the Parties wish to amend certain terms of the Exclusivity Agreement in accordance with the terms of this Amending Agreement;

NOW THEREFORE THIS AMENDING AGREEMENT WITNESSES that in consideration of each of the Parties continuing discussions concerning, and committing time and effort to assess, the Transaction and the negotiation of definitive agreements in respect thereof, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the Parties, the Parties hereby agree as follows:

1. **Definitions**

Capitalized terms used herein that are not otherwise defined have the meaning ascribed thereto in the Exclusivity Agreement.

2. **Amendment to Exclusivity Agreement**

(a) The first paragraph of Section 2 of the Exclusivity Agreement is hereby deleted and replaced with the following:

"From the date hereof until the earlier of (i) the execution of the Transaction Agreements, and (ii) 11:59 PM (Toronto time) on August 18, 2014 (the "**Expiry Time**")."

(b) This Amending Agreement is an amendment to the Exclusivity Agreement. Unless the context of this Amending Agreement otherwise requires, the

Exclusivity Agreement and this Amending Agreement shall be read together and shall have effect as if the provisions of the Exclusivity Agreement and this Amending Agreement were contained in one agreement. The term "Agreement" when used in the Exclusivity Agreement means the Exclusivity Agreement, as amended by this Amending Agreement and as further amended, revised, replaced, supplemented or restated from time to time.

3. General

(a) Headings in this Amending Agreement shall not affect the interpretation of this Amending Agreement. If any provision or part of this Amending Agreement is unenforceable, such unenforceability shall not affect the enforceability of the balance of this Amending Agreement which shall be interpreted as if the unenforceable provision had not been a part hereof.

(b) This Amending Agreement shall enure to the benefit of and be binding upon the Parties hereto and their respective successors and permitted assigns.

(c) This Amending Agreement shall be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein and the Parties hereby attorn to the non-exclusive jurisdiction of the courts of the Province of Ontario.

(d) This Amending Agreement may be executed in one or more counterparts, all of which together shall constitute one and the same document. This Amending Agreement and any counterpart thereof may be delivered by facsimile or other electronic transmission and when so delivered will be deemed to be an original.

(e) This Amending Agreement, together with the Exclusivity Agreement and the Confidentiality Agreement, constitutes the Parties' entire agreement and understanding relating to the subject matter hereof and supersedes all previous or contemporaneous agreements, arrangements, negotiations or understandings between the Parties (whether written or oral) with respect to the subject matter hereof.

(f) Time is of the essence of this Amending Agreement.

IN WITNESS WHEREOF this Amending Agreement has been executed by each of the Parties as of the date first written above.

THE CATALYST CAPITAL GROUP INC.,

on behalf of Funds managed by it

By: _____
Authorized Signatory

VIMPELCOM LTD.

By: _____
Authorized Signatory

THE CATALYST CAPITAL GROUP INC.
Plaintiff
and
VIMPELCOM LTD. et al.
Defendants

Court File No. CV-16-553800

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

AMENDED MOTION RECORD
(MOTION TO STRIKE)
(RETURNABLE ON A DATE TO BE DETERMINED)

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