

**MEMORANDUM TO THE UNITED STATES DEPARTMENT OF JUSTICE
REBUTTING ALLEGATIONS OF WIRE AND MAIL FRAUD, CRIMINAL
CONSPIRACY, MONEY LAUNDERING AND SECURITIES VIOLATIONS AGAINST
DONALD V. WATKINS AND HIS COMPANIES ARISING FROM A CIVIL COMPLAINT
FILED BY THE THOMAS GLOBAL GROUP, LLC, IN NEW JERSEY FEDERAL COURT**

December 21, 2015

Submitted By:

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**As Counsel for Donald V. Watkins and All Watkins-Owned and Managed
Entities that are the "Subjects" of a New Jersey Federal Grand Jury
Investigation**

RULES 408 AND 410 DISCLAIMER

THIS MEMORANDUM IS SUBMITTED TO THE DEPARTMENT OF JUSTICE PURSUANT TO RULES 408 AND 410 OF THE FEDERAL RULES OF EVIDENCE. DONALD V. WATKINS RESERVES ALL RIGHTS, PRIVILEGES, AND PROTECTIONS AFFORDED TO HIM BY THOSE RULES AS WELL AS ALL OTHER APPLICABLE PRIVILEGES AND PROTECTIONS, INCLUDING BUT NOT LIMITED TO THE FIFTH AND SIX AMENDMENTS TO THE UNITED STATES CONSTITUTION, MIRANDA, THE ATTORNEY-CLIENT PRIVILEGE AND THE ATTORNEY WORK PRODUCT DOCTRINE.

THIS MEMORANDUM REPRESENTS THE VIEWS OF DONALD V. WATKINS' COUNSEL AS TO WHAT THEY EXPECT THE EVIDENCE TO SHOW AND REFLECTS ONLY SUCH EVIDENCE THAT THE LIMITED POWERS OF DISCOVERY AVAILABLE TO THEM HAVE UNCOVERED. NO STATEMENT OR REPRESENTATION CONTAINED IN THIS MEMORANDUM SHOULD BE CONSIDERED, OR IS INTENDED TO BE, AN ADMISSION, STIPULATION OR CONCESSION BY DONALD V. WATKINS.

THIS MEMORANDUM IS SUPPLIED SOLELY TO ASSIST THE DEPARTMENT OF JUSTICE AND THE UNITED STATES ATTORNEY FOR NEW JERSEY FOR CRIMINAL LAW ENFORCEMENT PURPOSES. CONFIDENTIAL TREATMENT OF BOTH THE MEMORANDUM AND THE FACT OF ITS SUBMISSION IS REQUESTED. THE SUBJECT MATTER OF THIS MEMORANDUM IS ALSO THE SUBJECT MATTER OF: (A) AN AMERICAN ARBITRATION ASSOCIATION COMPLAINT DONALD V. WATKINS FILED AGAINST THE THOMAS GLOBAL GROUP, LLC ("TGG"), ON JUNE 17, 2013; (B) A CIVIL COMPLAINT FILED BY TGG AGAINST WATKINS AND HIS COMPANIES ON AUGUST 13, 2013, IN NEW JERSEY FEDERAL COURT; (C) A COUNTER-CLAIM WATKINS FILED AGAINST TGG ON APRIL 22, 2014 IN THE NEW JERSEY FEDERAL COURT LAWSUIT; AND (D) AN ATLANTA FEDERAL COURT LAWSUIT WATKINS AND WATKINS PENCOR, LLC, FILED AGAINST THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION ON OCTOBER 22, 2015. DISTRIBUTION OF THIS MEMORANDUM OUTSIDE OF THE DEPARTMENT OF JUSTICE AND THE UNITED STATES ATTORNEY'S OFFICE SHOULD NOT BE MADE WITHOUT THE PRIOR WRITTEN CONSENT OF DONALD V. WATKINS AND HIS UNDERSIGNED COUNSEL.

DONALD V. WATKINS VOLUNTARILY REQUESTS AN OPPORTUNITY TO APPEAR BEFORE AND TESTIFY IN FRONT OF THE GRAND JURY ABOUT THE MATTERS PRESENTED IN THIS MEMORANDUM. NO SUBPOENA OR WITNESS FEES AND TRAVEL EXPENSES ARE REQUIRED FOR THIS GRAND JURY APPEARANCE.

INTRODUCTION

From what we understand, Donald V. Watkins is the “subject” of a federal grand jury probe in New Jersey that centers on a 2009 purchase by TGG of an economic participation transaction in Watkins Pencor, LLC (“Watkins Pencor”). This purchase was a closed-end transaction that was described in detail to Bryan and Danielle Thomas, as well as their lead financial advisor in the Cushman Group at Morgan Stanley Smith Barney. The Thomases and their financial advisor specifically understood that the Watkins Pencor economic participation purchase was a high-risk transaction and was suitable only for individuals and persons who had no liquidity issues. This caution is stated in plain language on the first page of the purchase agreement.

A review of the facts in this case demonstrates that buyer’s remorse due to marital strife and financial woes caused the Thomases to continually flip-flop in regard to their request for a refund of TGG’s purchase money. Even when the Thomases made this request on multiple occasions, Danielle Thomas made it clear that these requests were for personal reasons, *not* any reason related to a feeling by TGG that the company had been “tricked” by Watkins Pencor.

Section I of this Memorandum provides details about the principal parties involved in this investigation: (1) Donald V. Watkins (“Watkins”); (2) Bryan Thomas; and (3) Danielle Thomas, Bryan’s wife and authorized representative for business deals. Section II provides a detailed account of how Bryan’s company TGG became involved with Watkins Pencor. This section also highlights the extensive due

diligence undertaken by the Thomases prior to executing the Purchase Agreement that forms the basis of this investigation.

Section III provides factual details with respect to the real reasons Danielle Thomas requested a refund, as well as the good-faith efforts by Watkins to accommodate the Thomases' request. Section IV demonstrates that the purchase transaction was undertaken with complete transparency, while further explaining the nature of the Purchase Agreement at issue and the manner in which proceeds derived from the Purchase Agreements have been utilized. And, Section V details the mandatory Arbitration Clause that applies to Thomases.

The remainder of this memorandum addresses a significant concern: The undersigned counsel wants to be sure that all persons involved in this grand jury investigation realize that Watkins/Penor and Masada Resources, Group, LLC ("Masada"), are legitimate business ventures. The research and development, innovative science and technology, third-party due diligence, and financial expenditures that have gone into establishing Masada as a leader in the waste-to-energy industry have been astounding. Masada and its strategic international partners are responsible for market and business development activities in forty-seven countries. As such, Masada is not now and has never been a "sham" business enterprise.

Finally, it is worth noting that when TGG filed its pending New Jersey federal Court lawsuit against Watkins (and the Masada family of companies) based on the Purchase Agreement at issue, Watkins notified the other 28 persons who executed the same Purchase Agreements. To date, none of those economic participants has

lodged any type of complaint (formal or otherwise) against Watkins, Watkins Pencor, or Masada.

I. The two principal parties who are currently litigating a private contract dispute in civil court

A. Donald V. Watkins

Donald V. Watkins (“Watkins”) is a successful attorney, banker, and global entrepreneur based in Birmingham, Alabama. In 1970, the NAACP recruited Watkins to desegregate the University of Alabama’s School of Law as an African-American law student. Watkins attended the Law School from 1970 to 1973.

Upon graduation from Law School, Watkins’ embarked upon a distinguished career as a litigator of civil rights cases. His landmark civil rights cases, all of which were met with massive resistance from the opposing parties, have literally transformed the educational, employment, housing, financial, electoral, and criminal justice landscape of Alabama. A summary of Watkins’ landmark cases is attached as **Exhibit 1**.

Watkins is the first and only African-American recipient of a bank charter from the state of Alabama. His Alamerica Bank, which opened in January 2000, is one of only 19 African-American owned banks in the U.S. The bank operates with one of the highest Tier 1 capital ratios of any bank in the state of Alabama. The bank did not seek or receive TARP funds during the Great Recession of 2008.

Since December 29, 2005, Watkins has been the chief executive officer of Masada. The company is an industry leader in waste-to-energy technology sector. Just this year, Masada was one of eight recipients of the Governor’s 2015 Trade Excellence Award for Alabama-based companies that export goods and services

around the world. Masada is the first African-American-owned/managed company to win this award.

Watkins is one of six children of the late Levi and Lillian Watkins. Watkins' siblings include his oldest sister Marie, who holds a PhD in mathematics from the University of California at Berkley. Marie's pioneering mathematical algorithms and inventions for Bell Laboratories and Lucent Technologies paved the way for the modern era of telecommunications and the electronic transmission of data around the world. His sister Pearl, who died in 2009, was a nationally known concert pianist and popular music teacher. His brother Levi, who died in April of 2015, was a world-renowned heart surgeon whose implantable defibrillator has kept more than three million hearts beating in a regular rhythm. His sister Doristine was a highly successful educator and school principal. His brother James is a well-respected surgeon/wound care physician in Charlotte. A history of the Watkins family's legacy of success in America since the early 1800s is attached as **Exhibit 2**.

B. Bryan Thomas

Watkins met Bryan Thomas ("Thomas"), a Birmingham native and the owner of Thomas Global Group, LLC ("TGG"), while Thomas was a student-athlete at the University of Alabama at Birmingham. Thomas was part of a group of athletes mentored by Watkins in business and finance. Larry Crowe, one of Thomas' college football coaches, wanted his young black athletes exposed to successful black entrepreneurs/role models, and arranged for the students' mentorship sessions with Watkins.

The New York Jets of the National Football League drafted Thomas in 2002. Thomas would play professional football for the Jets and enjoy success in the League until his retirement in 2013.

Notably, Watkins has no history of arrests; Bryan Thomas does. Watkins has no history of drug abuse; Bryan Thomas does. Watkins has no history of domestic violence; Bryan Thomas does. And, Watkins works in regulated industries (i.e., law, banking, insurance, alternative energy, etc.); Thomas does not.

II. The Watkins Pencor-Thomas Global Group, LLC, Purchase Transaction

In early 2009, Coach Crowe asked Watkins to meet with Thomas and his wife Danielle to mentor them on Thomas' business affairs and other quality of life matters. Crowe specifically wanted Watkins to help Thomas prepare for life after football.

Shortly after the contact by Coach Crowe, Danielle Thomas, who was the authorized representative of TGG, contacted Watkins by phone. She asked Watkins to review a deal to acquire an Arby's store in Peoria, Arizona, for \$1.7 million. The store was reportedly grossing \$1 million per year. Watkins informed Danielle that he personally would not go forward with this type of investment because the Arby's transaction represented a low-return investment opportunity that required a high capital investment.

A. TGG engages in extensive due diligence before signing the Watkins Pencor Purchase Agreement

Danielle then inquired about the nature and scope Masada's business activities, its capital structure and ownership, its business plans, and the company's

anticipated exit strategies. Armed with a wealth of answers to these questions, Danielle requested an *unsolicited* opportunity for TGG to participate in Masada. She involved Bryan directly in these economic participation discussions. She also requested and received (1) additional *due diligence* information about Masada and (2) a proposed Watkins Pencor economic participation agreement, dated March 17, 2009.

Danielle, who is a close relative of American Express CEO Kenneth Chenault, thoroughly reviewed the terms and conditions of the agreement with Watkins. After reviewing the Masada-related information, Danielle reiterated TGG's request to join Watkins Pencor as an economic participant.¹

Danielle's request for TGG to join Watkins Pencor intensified after Watkins informed Daniel and Bryan in writing on March 21, 2009, of the following:

1. Watkins was attempting to purchase the St. Louis Rams NFL football team;
2. Watkins intended to liquidate certain Masada assets owned by him to fund this acquisition transaction; and
3. All existing Watkins Pencor stakeholders would automatically participate as economic participants in his Rams ownership entity on a basis proportionate to their economic interest in his block of Masada equity.

¹ At no time was TGG invited to become a member in any Masada-related limited liability entity. Furthermore, the only member of any Masada-related entity who has diluted his/her membership interest through the sale of economic participations is Watkins. The applicable Masada Operating Agreements gave Watkins (and other members of the Masada entities) the authority to sell all or a portion of their membership interests, including a "profits" or economic participation interest.

Thereafter, Danielle requested ***additional due diligence*** information on Masada. She also requested a personal meeting in New Jersey between Bryan, Mr. Watkins, and herself to discuss the purchase transaction.

As part of their due diligence, both Daniel and Bryan visited Masada's massive data room located at Masada/Watkins Pencor headquarters in Birmingham, Alabama. The data room is maintained by Masada/Watkins Pencor to facilitate due diligence conducted by or on behalf of Masada's key vendors, strategic partners, stakeholders, financial advisory firms, and waste-to-energy project financing entities.

Bryan and Danielle engaged in ***even more due diligence*** when they arranged an interview session between Watkins and Noah Doyle, the Thomases' ***lead financial advisor in the Cushman Group at Morgan Stanley Smith Barney***. During the call, Watkins explained to Noah Doyle the history of Masada, its business plan, ownership structure, its asset portfolio, diversification initiatives, exit strategies, the nature of the interest conveyed to TGG, and the terms and conditions of the economic participation agreement. Doyle asked many questions about the economic participation transaction. Doyle never requested access to the Masada data room or any of the documents expressly incorporated in the economic participation agreement.

The terms and conditions of the Watkins Pencor-TGG conveyance were specifically discussed with TGG and the Cushman Group prior to the closing of the purchase transaction. The economic participation transaction was a closed-end

transaction² that was described in detail to Bryan and Danielle Thomas, as well as their financial advisor/principal at the Cushman Group. The Thomases and their financial advisor specifically understood that the Watkins Pencor economic participation purchase was a high-risk transaction and was suitable only for individuals and persons who had no liquidity issues. This caution is stated in plain language on the first page of the purchase agreement.

Both the Thomases and the Cushman Group informed Watkins that TGG was an “accredited” investor. Furthermore, Watkins personally observed that Bryan and Danielle are highly intelligent individuals.

Several days after the call with the Cushman Group, TGG executed its “Purchase Agreement and Irrevocable Assignment of Economic interests” with Watkins Pencor. Then, TGG instructed the Cushman Group to wire the \$1 million in purchase money to Watkins. On March 22, 2009, the Cushman Group wired the purchase money to the office account of Donald V. Watkins, P.C. (“DVWPC”), as specified in the Purchase Agreement. DVWPC is an entity wholly owned by Watkins.

Since December 2005, DVWPC has been the entity that has made capital contributions to Watkins Pencor and Masada on behalf of Watkins.

III. Martial Discord Leads to a Request By TGG for a Refund

After TGG joined Watkins Pencor as an economic participant, Danielle began confiding in Watkins about the couple’s growing marital problems. According to Danielle, Bryan was a serial cheater; he had fathered children outside of their

² The Thomases and their financial advisors knew at the time of the purchase that the assignment was irrevocable for both parties to the Agreement and that the pathway to liquidation for the Masada entities was a sale, merger and acquisition, initial public offering (via a reverse merger into a listed company), and/or global licensing transaction.

marriage; he was a substance abuser; and he was subjecting her to spousal abuse. Watkins tried to counsel Danielle as best he could, but the Thomases' marital situation appeared to be deteriorating rapidly.

By August of 2010, the Thomases' marriage was in shambles and it was evident that Stan Kroenke, the 40% Limited Partners in the St. Louis Rams, would become the 100% owner of Rams. These two events prompted Danielle to have buyer's remorse and to request for a premature divestiture of the Watkins Pencor economic interests TGG purchased in 2009 and a return of the non-refundable \$1 million purchase money.

According to Daniel, her request for a refund was not based upon any performance issues relating to Watkins Pencor or Masada, but rather, it was an after-the-fact change of heart and mind by the Thomases that has been fueled by (1) Danielle's desire to exit her marriage with a large cash award, and (2) the advice of Bryan's New York financial advisors and accountants who, according to Danielle, never supported TGG's purchase of an economic participation in Watkins Pencor.

A. Watkins tried to accommodate buyer's remorse by the Thomases despite the agreed upon irrevocable nature of the Purchase Agreement

The Purchase Agreement was "irrevocable" and did not provide for a refund of Bryan's purchase money. Furthermore, the Purchase Agreement was subject the terms and conditions of various Masada-related operating agreements, including the requirement to arbitrate any disputes growing out of the Purchase Agreement.

Despite these binding terms and conditions, Watkins presented TGG with a responsible pathway to accommodate Bryan's apparent reversal of business goals

and unexpected buyer's remorse regarding his Watkins Pencor purchase. In an August 23, 2010 email to Bryan and Danielle, Watkins wrote:

We suggested a specific plan last week for Bryan's divestiture from Masada. We believe the plan is fair to Bryan, Masada and the company's remaining investors. Specially, we are attempting to include Bryan's refund transaction in a much larger investment transaction Masada is undertaking with a NYC investment bank. This refund plan effectively addresses the critical concerns articulated in my August 5 email (i.e., the redemption event must not impede Masada's ongoing progress in developing the waste-to-ethanol projects we have in active development; it must not undermine Masada's projected exit values; and it must not slow Masada's planned liquidity goals and events).

Assuming that we are successful in including Bryan's divestiture in the investment transaction, we will keep you posted on the specific timing of this transaction and Bryan's related refund transaction. If we are unable to include Bryan's divestiture in this investment transaction, we will continue our efforts to redeem Bryan's investment in a manner that is consistent with Masada's overall principles and guidelines that we have previously articulated.

As we stated on August 5, the refund must be accompanied by a complete release by Bryan of any and all economic interests and monetary entitlements Bryan has in the Masada family of companies. It must also be accompanied by a suitable and simultaneously executed confidentiality agreement.

We are sad that outside parties have undermined Bryan's confidence in his Masada investment and the post-football career opportunities the company envisioned for him. Several former NFL are now senior executives with Masada and work with Masada all over the world. We had hoped that Bryan would join them in these exciting career opportunities. Obviously, he has chosen a different path.

We are sorry Bryan has chosen to exit Masada, but we wish him well in his future endeavors.

B. After expressing buyer's remorse in 2010, the Thomases seek more due diligence, financial advice and then tell Watkins to disregard their request for a refund

After receiving this email, Bryan Thomas sought advice from David Germany, a Birmingham, Alabama friend and local investment advisor, on whether he should

exit his status as an economic participant in Watkins' portion of Masada. Bryan also discussed the Masada business plan and its implementation with John Hudson, a senior management executive with Alabama Power Company. Following these meetings, ***Bryan contacted Watkins directly (via a text message and phone call) and informed him to disregard Danielle's request for a refund.***

C. Danielle flip-flops again due to financial woes and plans to divorce; consequently, Watkins provides TGG with another exit plan

After following Bryan's directive to disregard Danielle's request for a refund, in December 2012, Danielle approached Watkins again asking him to meet with her in New York to discuss an exit from the economic participation in Watkins Pencor. She stated that Bryan had lost all of his money due to (1) bad business deals and (2) relentless womanizing. Danielle stated that she needed money to take with her after she divorced Bryan.

As a result of their conversation, on January 7, 2013, Mr. Watkins wrote all Watkins Pencor economic participants to apprise them of Bryan's situation and to afford every economic participant the same exit opportunity. Only four of the twenty-nine economic participants joined Bryan in expressing an interest in an early exit from Watkins Pencor. Each of these four participants was having personal financial difficulties in their lives that they did not expect.

Watkins Pencor's general counsel prepared and sent a Repurchase Agreement to TGG and the other participant. After further consultations with Watkins, the other three participants decided to remain in the Watkins Pencor group of economic participants. TGG received its Watkins-Thomas Repurchase

Agreement on January 29, 2013, a copy of which is attached as **Exhibit 6**. TGG never executed the Agreement. The other exiting economic participant never responded.³

IV. The purchase transaction was fully transparent when executed by TGG

By executing the Purchase Agreement, TGG acknowledged “*that its investment in the purchased economic interests involves a high degree of risk and is suitable only for persons or entities that have no need for liquidity in this investment and bear the loss of their entire investment*”. A copy of the Purchase Agreement is attached as **Exhibit 3**.

The Purchase Agreement conveyed to TGG a one percent economic participation interest in Watkins' equity stake in any Masada company existing as of March 17, 2009, or to be formed in the future. In effect, Watkins diluted his economic position in the Masada entities by one percent and awarded this one percent interest to TGG. The parties agreed that both the purchase and assignment were irrevocable.

Watkins' conveyance of an economic participation interest is commonly referred to as a conveyance of a “profits” interest. This term is defined in Section 1.64 of the Masada OxyNol US I, LLC (“Masada OxyNol”), Operating Agreement, dated June 12, 1996, and 1.68 of the Masada Resource Group Operating Agreement, dated December 31, 1998. The Masada OxyNol and Masada Operating Agreements are attached as **Exhibits 4 and 5**, respectively.

³ Other than TGG, no Watkins Pencor economic participant has initiated any AAA arbitration proceedings or judicial proceedings against Watkins or Watkins Pencor regarding their purchase transaction.

Section 12.1 of the Masada OxyNol Operating Agreement and Section 13.1 of the Masada Resource Group Operating Agreement provide that a member of these companies “may Dispose of all or a portion of the Member’s Membership Interest...”. The term “Dispose” is defined in Section 1.34 of the Masada OxyNol Operating Agreement and Section 1.41 of the Masada Resource Group Operating Agreement as “any sale, assignment, transfer...” of the Member’s Membership Interest.

The term “Membership Interest” is defined in Section 1.52 of the Masada OxyNol Operating Agreement and Section 1.57 of the Masada Resource Operating Agreement as the right of the Member who is entitled to distributions (liquidating and otherwise) and allocations of profits to sale and/or assign all or a portion of his/her “profits” to a designated assignee.

Watkins used the term “economic” interest in the Watkins Pencor-TGG Purchase Agreement so that TGG could benefit from the proceeds of a merger, sale, initial public offering (via a reverse merger into a listed company on the AIM of the London Stock Exchange) of Masada, or global licensing transaction and not just the distributions and profits derived by Watkins Pencor from Masada’s operation of one or more of the waste-to-energy facilities in development.

Watkins’ conveyance of an economic interest to TGG was irrevocable. Furthermore, the conveyance was made “subject to the assignment provisions of any and all operating agreements in force to which Pencor.... [and other listed companies] are parties”, including the Operating Agreements for Masada Resource Group and Masada US-I.

While TGG is not a Class A member of Masada OxyNol, Masada Resource Group, or any other Masada entity, TGG is the assignee of Watkins Pencor, which was a Class A member of various Masada entities at the time of the assignment.

As an assignee of a Class A member, TGG is expressly bound by the terms and conditions of the Masada OxyNol and Masada Resource Group Operating Agreements, as well as all of the other Masada-related operating agreements to which Watkins Pencor is a party. In the second paragraph of TGG's Purchase Agreement, TGG agreed to be bound by the terms and conditions of Masada's Operating Agreement, as well as the operating agreements of the other Masada entities specified in the purchase agreement.

A. The economic participation structure furthers the interest of its purchasers

Watkins used the economic participation structure for the TGG purchase (and others) because this structure allowed all of the purchasers to reap all of the economic benefits derived by Watkins from his equity position in the Masada family of companies without the burden of making capital calls throughout the business development cycle.⁴ The Purchase Agreement that was executed by TGG was similar in form and content to the one executed by *Watkins' brother and childhood friends*.

TGG purchased an economic interest in Watkins' equity portion of the Masada companies. TGG's purchase was a permitted transaction under the applicable Masada Operating Agreements of which TGG agreed to be bound. The

⁴ One economic participant has a 10% economic interest in Watkins Pencor and is subject to capital call because of the size of his interest.

proceeds of the sale belonged to Watkins as he was the Class A member in various Masada entities disposing of a portion of his membership interest. By contract and applicable Masada Operating Agreements, the proceeds of the sale belonged to Watkins, to be used as he saw fit.⁵

Furthermore, the Thomases and their financial advisor fully understood that Watkins was selling a portion of his interest in Watkins Pencor to TGG and that the proceeds of the sale belonged to Watkins to use as he saw fit.

B. Watkins used the proceeds derived from the Purchase Agreement to advance the business interests of Watkins Pencor/Masada

Watkins used the proceeds of the TGG purchase to advance his business interests in Watkins Pencor and Masada even though he had no legal duty or contractual obligation to do so. The proceeds from the TGG purchase were used to: (1) repay contingency-based bridge funding secured by Watkins in 2006 to finance Watkins Pencor/Masada project development activities; (2) pay legal expenses to successfully protect the Pencor Orange Corp. stock from a wrongful seizure in a Detroit legal proceedings; (3) pay the expenses and costs incurred with a commercially reasonable attempt to diversify a portion of Watkins' Masada-related assets by bidding to acquire the St. Louis Rams NFL team in 2009 and 2010, which is discussed in greater detail below; (4) pay project development costs incurred by the Masada family of companies; (5) pay normal operating expenses associated with the synergistic Watkins businesses that supported the substantial growth and expansion of the Masada companies in the international marketplace; and (6) pay

⁵ When TGG demanded a refund of his purchase money in May 2013, Watkins and Watkins Pencor initiated arbitration proceedings with the American Arbitration Association regarding Watkins' entitlement to the sales proceeds.

such other and different expenses as Watkins deemed necessary from money that by contract and law belonged to him.

V. The Applicable AAA Arbitration Clause

On May 15, 2013, TGG made a written demand for a \$1 million refund of the purchase price money. This demand was rejected.

Under Section 9.3 of the Masada Resource Group Operating Agreement, TGG is not permitted to withdraw from the Watkins Pencor investment without Watkins Pencor's written consent, nor is TGG entitled to any refund unless Watkins Pencor agrees in writing to such an event.

Watkins Pencor has not and did not agree to TGG's refund demand.

On June 17, 2013, Watkins and Watkins Pencor initiated arbitration of the refund dispute with the American Arbitration Association. The Complainants sought:

- a. A declaratory judgment that the economic participation interest in Pencor purchased by TGG is exempt from the registration requirements for any Federal and state securities acts;
- b. A declaratory judgment that TGG is bound by the operating agreement of Masada, including the arbitration provisions of said agreement;
- c. A declaratory judgment that Pencor has no legal obligation or duty to refund TGG's purchase price money;
- d. An award of attorney's fees and costs, assessed against TGG, for prevailing in the arbitration proceedings on the unfounded claims advanced in TGG's May 15, 2013 demand; and
- e. A grant of any and all further relief that the arbitrator deems just, equitable, necessary and proper.

On August 13, 2013, TGG initiated a lawsuit in federal court in New Jersey challenging the arbitration provision and asserting claims for monetary damages. These claims include: TGG's Complaint lists the following twelve claims: Count 1 (Breach of Contract), Count 2 (Breach of Implied Covenant of Good Faith & Fair Dealing), Count 3 (Conversion), Count 4 (Breach of Fiduciary Duty of Care), Count 5 (Breach of Fiduciary Duty of Loyalty), Count 6 (Fraud in the Inducement, Legal Fraud and Equitable Fraud), Count 7 (Common Law and Statutory Accounting), Count 8 (Unjust Enrichment), Count 9 (Violation of Section 10(b) of the Securities Exchange Act of 1934 and SEC Rule 10b-5), Count 10 (Alter-Ego Fraud by Defendants), Count 11 (Constructive Trust), and Count 12 (Declaratory Judgment).

Watkins and the other listed defendants have asserted counterclaims against TGG.⁶ The case is pending with no trial date set.

A. Particular details about the Arbitration Clause

The applicable arbitration clause for dispute resolution between Masada members and/or assignees is contained in Section 17.6 of the Masada OxyNol Operating Agreement. Its terms and conditions are mirrored in Section 18.6 of the Masada Resource Group Operating Agreement. Section 17.6 of the Masada OxyNol Operating Agreement provides as follows:

⁶ To leverage its litigation position in the New Jersey federal court civil case, TGG's legal counsel apparently provided selective and grossly distorted factual information about Watkins, Watkins Pencor, and the Masada entities to the SEC, FBI, and U.S. Attorney's Office in New Jersey. TGG has failed and refused to avail itself of hundreds of thousands of Watkins Pencor and Masada-related business records that contradict all twelve of its civil claims in the pending federal court case. Likewise, the SEC has failed and refused to avail itself of hundreds of thousands of Watkins Pencor and Masada records that the agency actually subpoenaed on June 17, 2014, during its non-public inquiry because these records contradict the underlying theory of the SEC's investigation and they demonstrate that the SEC lacks jurisdiction over the subject matter of its investigation. On November 20, 2015, the U.S. Attorney in New Jersey assured counsel for Watkins that its grand jury investigation was not acting in concert with the SEC's parallel investigation.

Other than actions for specific performance or injunctive relief, the Members and the Company agree that any and all claims, disputes or other matters in question among or between Class A Members, Class B Members, the Company or any combination thereof and arising out of, based upon or relating to this Agreement or any breach hereof, any covenant, agreement, representation or warranty contained in this Agreement, or any relationship or duty among or between the parties arising from this Agreement shall be subject to and decided by binding arbitration conducted in Birmingham, Alabama in accordance with the Commercial Arbitration Rules of the American Arbitration Association currently in effect. This agreement to arbitrate shall be specifically enforceable in accordance with applicable law. The Member and the Company acknowledge and agree that this Agreement involves and affects interstate commerce. Any arbitration award shall be in writing and shall specify the factual and legal basis for the award. Judgment on the award rendered by the arbitrator shall be final and may be entered in any court having jurisdiction hereof. The Members and the Company agree that the arbitration awards rendered pursuant to this Agreement shall not include, and the arbitrator has no authority to award, punitive or exemplary damages or damages for mental distress against any Member or the Company. In any arbitration proceeding conducted pursuant to this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees, costs and expenses from the other party, as determined and awarded by the arbitrator in the arbitration award.

Any and all claims TGG may assert against Watkins Pencor or Watkins, including any relationship or duty among or between the parties, are subject to mandatory arbitration in Birmingham, Alabama, with attorneys' fees awarded to the prevailing party. The Commercial Arbitration Rules of the American Arbitration Association currently in effect apply.

Section 14.1 of the Masada OxyNol Operating Agreement and Section 13.3 of the Masada Resource Operating Agreement makes these company agreements binding on an assignee of a Class A member. By its acceptance of the "Disposition of a Membership Interest", TGG agreed to "be bound by all of the terms and conditions of [the Operating Agreement]". As stated earlier, the term "Disposition" includes

any “assignment” of this membership interest. Section 1.24 of the Masada OxyNol Operating Agreement and Section 1.28 of the Masada Resource Group Operating Agreement afforded Watkins Pencor the right to assign all or a portion of its allocation of distribution, profits and/or economic benefits to a non-member, as was the case with the Watkins Pencor-TGG transaction.

Likewise, a disassociation by a Class A member (or assignee of a Class A member) from Masada, except as permitted in Section 14.1 of the Masada Resource Group Operating Agreement (involving expressly approved withdrawals), shall constitute a breach of the Masada Operating Agreement for which Masada may recover damages (Section 14.2).

The Masada Resource Group Operating Agreement mandates in Section 18.8 that Alabama law govern the agreement. In the event of any conflict between any provisions of the operating agreement and any non-mandatory provisions of the Alabama Limited Liability Company Act, the provisions of the operating agreement shall control.

VI. A History of Masada and Watkins Pencor

Masada develops projects to convert municipal solid waste (“MSW”) into ethanol, diesel fuel, and other commercial products (i.e., gypsum, lignin, industrial carbon dioxide, ash residue, and carbon char). Masada owns the MSW-to-ethanol technology that is licensed to each proposed project.

Beginning in 2007, Masada’s executive team focused its market development efforts on deploying the company’s waste-to-energy technology in locations outside the United States where market conditions, permitting requirements, and product

pricing are more favorable. Masada is currently conducting market development activities in forty-seven countries.

In each of the forty-seven countries where Masada has market development activities underway, the company has identified and engaged a local partner, which is typically (a) a company or individual with experience in developing large-scale infrastructure projects in the local market, or (b) a government entity with portfolio responsibility over waste management or environmental issues.

Watkins Pencor was formed June 16, 1998, to purchase the membership interest of Pencor Orange Corp. (“Pencor”), a Class A of Pencor Masada OxyNol, LLC, and Masada OxyNol US-I. Pencor is the designated “Manager” of the Masada family of companies. Watkins wholly owns Watkins Pencor.

Watkins operates the Masada companies pursuant to a Manager’s Designation and Proxy, dated December 29, 2005, and the Watkins-Harms Parties agreement discussed below regarding equity sharing and capital contributions (from December 29, 2005 through March 3, 2014). Since December 2005, Watkins has been the principal Class A member who has provided the capital contributions for all Masada-related business activities worldwide. In exchange, Watkins has systematically acquired Class A equity in the Masada entities from the company’s other principals.

Watkins owns and/or controls all of the Class A membership shares of the Masada companies. In addition to the Class A membership shares held in the Masada family of companies by virtue of his ownership of Watkins Pencor, LLC, (which wholly owns Pencor Orange Corp), Watkins has executed purchase

agreements for all of the Class A ownership interests in all Masada-related companies held by the Estate of Daryl E. Harms, Deceased, together with various Harms family trusts and legatees (collectively referred to as the “Harms Parties”)⁷ and Terry Johnson, as well as various Johnson family trusts (collectively referred to as the “Johnson Parties”), in the Masada family of companies.

The Watkins-Johnson Parties purchase agreement was executed on May 16, 2007. The Watkins-Harms Parties purchase agreement was executed March 3, 2014. The Watkins-Harms Parties purchase agreement supersedes a December 29, 2005, agreement in which Watkins and the Harms Parties agreed to equally share their Class A interests in the Masada family of companies in exchange for equal capital contributions and Watkins’ assumption of the CEO/Manager’s role going forward.⁸

Both the Harms and Johnson Parties were founding Class A members of Masada and its predecessor companies. Watkins’ Class A equity position in Masada is derived from his 1998 acquisition of Pencor Orange Corp. and the December 29, 2005 equity sharing and capital contribution agreement between Watkins and the Harms Parties, among other documents.

⁷ The death of Daryl Harms in July 2005, together with the open status of his probatable estate since that time, caused the parties to delay formal modifications to the Masada Resource Group Operating Agreement to reflect the December 29, 2005, Class A equity sharing agreement between the Estate and Watkins. On March 3, 2014, the Watkins and the Harms Parties replaced the equal equity and capital calls sharing agreement with a buy-out agreement in which Watkins agreed to purchase all of the Harms Parties’ equity interests in the Masada entities for a return of their original capital investment by December 31, 2016. The new agreement accommodated the desire of Harms’ widow and children to relieve themselves of Masada-related capital calls. The Johnson Parties had reached the same decision on May 16, 2007 and executed a similar buy-out at that time.

⁸ The restructured Class A equity arrangements between the Watkins, Johnson, and Harms Parties has been reported to various government agencies, including the U.S. Department of Energy, since December 2005.

Masada is an ongoing privately owned business enterprise that is fully implementing its business plan in the international marketplace, to the extent possible and practicable in light of the distractions experienced by the TGG lawsuit, the SEC litigation, and now this federal grand jury inquiry.

In recent years, Masada has received a number of accolades that attest to its position as a leader in the waste-to-energy industry. In March 2015, Masada was one of eight recipients of the Governor's Trade Excellence Award, which recognizes Alabama companies for excellence in exporting. In 2012, Masada's Polyfuels licensing and distribution deal with Sustainable Technologies & Environmental Projects Pvt. Ltd. ("STEPS") in Mumbai, India, resulted in Masada winning the Alabama International Business Award's 2012 International Deal of the Year (Large Deal Category).

Masada enjoys a stellar reputation in the international waste-to-energy industry. This reputation is evidenced in a feature article on Masada and its waste-to-energy work in Sub-Saharan Africa in the July 2014 edition of the London-based *International Finance and Legal Review*, a prestigious subscription publication for European and African business leaders. Additionally, two Masada executives – Watkins and Jessica A. Findley - were invited in 2014 to join the World Bio Markets Advisory Board in Amsterdam.

A. Masada's Organization and Corporate Structure

The Masada family of companies is set forth below, starting with the parent company, Masada Resource Group, LLC:

Firm Name: Masada Resource Group, LLC; Formed in the State of Alabama,
USA Address: 2170 Highland Ave. S., Suite 100, Birmingham, AL 35205, USA,
205-558-4885. Registered Office: 2170 Highland Ave. S., Suite 100,
Birmingham, AL 35205, USA. Designated Manager: Pencor-Orange Corp. Year
Organized: 1994

Affiliates/Entities:

- a. Controlled Environmental Systems Corp.: Owner and Licensor of the CES OxyNol waste-to-ethanol technology worldwide.
- b. Masada OxyNol, LLC: Owns development rights to deploy the CES OxyNol technology in North America.
- c. Masada OxyNol US-1, LLC: Owns development rights to deploy the CES OxyNol technology in the United States.
- d. Pencor-Masada OxyNol, LLC: Owns development rights to the CES OxyNol project in Orange County, New York.
- e. Pencor Orange Corp.: Joint venture partner in Pencor-Masada OxyNol, LLC, Masada OxyNol US-1, and designated manager of all Masada's domestic and international companies.
- f. W2E Resources, S.A.: Joint venture entity formed to develop waste-to-ethanol projects in Santo Domingo East, Dominican Republic and Latin America.⁹
- g. OxyNol Solutions, Ltd.: Masada's development company formed to deploy the CES OxyNol technology in the United Kingdom, Europe, Africa, and Australia.
- h. Masada Clean Earth Solutions-Asia, LLC: Masada's development company formed with Leeyang Investments, Inc. to deploy the CES OxyNol technology in China, Hong Kong, Japan, Malaysia, Philippines, Singapore,

⁹ Watkins, individually, holds the Class A membership interests in W2E that was allocated to Masada. This strategic partnership encompassed in W2E was formed on February 6, 2008, and covered 2,000 to 3,000 tons per day of municipal solid waste with an established waste provider.

South Korea (on a non-exclusive basis), Taiwan, and Vietnam, as well as India, Denmark, Ghana, and Turkey.

- i. Masada Clean Earth Solutions-Saudi Arabia, LLC: Masada's joint venture company with Dr. Amin Ghanem, which was formed to deploy waste-to-energy projects in Saudi Arabia under a strategic alliance agreement with His Royal Highness Prince Abdulaziz bin Meshaal bin Abdulaziz Al Saoud ("HRH"), CEO of the Riyadh - based Al Shoula Group. Dr. Ghanem, or his designee company, also holds the CES OxyNol licensing rights on a non-exclusive basis for Morocco, Spain, Germany, Indonesia, and the countries that form the Gulf Coast States in the Middle East. The Masada-HRH agreement was authenticated with the U.S. State Department in February 2013.
- j. Masada-Ecuador International Energy, LLC: Joint venture entity formed with Tidores, Ltd. to develop a waste-to-energy facility in Guayaquil, Ecuador.
- k. GDA Energy International, LLC: Joint venture with GDA-sgpps to develop waste-to- energy projects in the Azores Islands of Portugal.
- l. Masada Clean Earth Solutions-South Korea, LLC: Joint venture with SPL Masada Holdings, LLC, to develop waste-to-energy projects in Seoul, South Korea under a strategic alliance agreement with Hanmaek Group. The agreement was terminated on May 13, 2015, but can be revived upon completion of a "non-public" inquiry by the Securities and Exchange Commission ("SEC"). This SEC inquiry is the subject of litigation initiated by Watkins against the SEC seeking declaratory and injunctive relief.
- m. Coberal Energy International, LLC: Joint venture with Coberal, S.A., a Uruguayan corporation, to develop waste-to-energy projects in Uruguay, Paraguay, Chile, Peru, Argentina, and Columbia.
- n. Masada Energy International-SL, LLC: Joint venture with Matu Holdings, LLC, to develop a waste-to-energy project in Freetown, Sierra Leone and the Mano River Region (i.e., Sierra Leone, Guinea, Liberia, and Ivory Coast). The work in Sierra Leone was suspended after the recent outbreak of Ebola in the Country.
- o. Masada-South Africa Energy International, LLC: Joint venture with Bishop-South Africa, LLC, to develop waste-to-energy facilities in Mandeni and other municipalities in South Africa.
- p. Masada Oxynol-South Africa Energy International II: Joint venture with the Dake Group (Pty) Ltd to develop waste-to-energy projects in South

Africa and in Hyderabad, India, in a strategic business alliance with Hyderabad Intergrated MSW Ltd., an affiliate of Ramky Enviro Engineers, Ltd.

- q. Masada-Haiti International Energy, LLC: Joint venture with LIRR Management Group, Inc. to develop a waste-to-energy in Haiti.
- r. Masada Clean Earth Solutions-Zimbabwe, LLC: Joint venture with Manala Enterprises (Pty) Ltd to develop waste-to-energy projects in Zimbabwe.
- s. Masada Clean Earth Solutions-Turkey, LLC: Joint venture with former Georgia Attorney General Thurbert Baker b/d/a TCJC Investments, LLC, and Turquoise Consulting, LLC, to develop waste-to-energy projects in Turkey.
- t. Masada-WS International Energy, LLC: Joint venture with SPL Masada, or its country- specific designated affiliate, to develop waste-to-energy projects on a non-exclusive basis in Algeria, Austria, Benin, Czech Republic, Egypt, Gabon, Gambia, Ivory Coast, Tunisia, and Ukraine.
- u. Masada-TCJC International Energy, LLC: Joint venture with TCJC Investments, LLC, to develop waste-to-energy projects in Senegal.
- v. Masada-Trak: Letter of Intent to develop waste-to-energy projects in Turkey.
- w. Masada-Podolsky: Partnership to develop waste-to-energy projects in Ukraine

It should be noted that some of these market development relationships will need to be refreshed depending upon which markets are selected by the potential global “Licencee” that licenses Masada’s OxyNol waste-to-energy technology. Each market is different and offers a wide range of advantages and challenges. These markets are set forth in the Masada pipeline chart, which is included below:

AFRICA/MIDDLE EAST (18)	CARIBBEAN/SOUTH AMERICA (10)	ASIA (9)	EUROPE (10)
SIERRA LEONE	DOMINICAN REPUBLIC	VIETNAM *	AZORES *
SENEGAL	COLOMBIA	CHINA *	UKRAINE *
MAURITANIA	ECUADOR	TAIWAN	CZECH REPUBLIC *
MALI	HAITI	INDIA *	AUSTRIA
IVORY COAST	URUGUAY	MALAYSIA	DENMARK *
SOUTH AFRICA *	PARAGUAY	PHILIPPINES	UNITED KINGDOM *
MOROCCO	ARGENTINA *	REP OF SOUTH KOREA *	TURKEY
GHANA *	PERU	SINGAPORE	CROATIA +
EGYPT	CHILE *	JAPAN *	ROMANIA* +
TUNISIA	MEXICO *		SPAIN *
ALGERIA			
GAMBIA *			
BENIN			
GABON			
NAMIBIA			
UNITED ARAB EMIRATES			
SAUDI ARABIA			
ZIMBABWE *			
Notes:			
1. All listed countries have market development and/or joint venture agreements in-place.			
2. " * " denotes existing patent filings.			
3. " + " denotes countries where Masada has authorized Findley Enterprises, LLC, to develop stand-alone Polyfuels facilities.			

All of the Masada companies are pre-revenue project development companies. All Masada affiliate companies are special purpose entities formed to hold title to individual development projects.

The most recent business plan template for Masada is dated January 29, 2014. This template is adaptable, depending on location and market conditions. Watkins Pencor also has developed variations of Masada’s core business plans for Saudi Arabia, Vietnam, South Korea, South Africa, India, Ecuador, and Sierra Leone.

B. Masada’s Human Resources

Masada uses a core group of highly credentialed independent contractors and key external vendors to implement its business plan. Other independent contractors and key external vendors are consulted and/or used on an “as needed basis”. The use of independent contractors has greatly reduced Masada’s general corporate overhead and has spread the cost of market and project development

activities among a cadre of committed stakeholders.¹⁰ In turn, this business practice has contributed to Masada's sustained competitive advantage in the marketplace.

Since 2005, these independent contractors have included:

- a. Dr. Baris Trak (Chief Strategy Advisor);
- b. Jessica A. Findley (Executive Vice President and Masada board member);
- c. David J. Webster (Chief Technology Consultant);
- d. Ralph Malone (Vice President for Program Management-Markets);
- e. Thurbert Baker, former Attorney General of Georgia, USA (Global Markets Consultant);
- f. Dr. Amin Y. Ghanem (Managing Director for Middle Eastern Projects);
- g. David Minkin (General Counsel);
- h. Allen Rossum (Vice President for Project Development-Latin America);
- i. Jessica Verduzco-J Insurance Group (Risk Management);
- j. Jerry Jones of Malcolm Pirnie/Arcadis, Inc. (Environmental Engineering);
- k. Robert Harris of the Harris Group, Inc. (Process Engineering);
- l. Howard Barrie of London-based Eversheds (Institutional Financing);
- m. Chandra Dake-Dake Solutions (Pty) Ltd (Financial Modeling/Feasibility Studies);
- n. Dr. Christopher Roberts-Auburn University (Research & Development);
- o. T. Raghavendra Rao-STEPS (Strategic Partner-Polyfuels Division);
- p. Brown Rudnick, London (Environmental Law);
- q. J.P. Morgan Chase, New York (Financial Advisory Services)

C. Masada's Tangible Assets

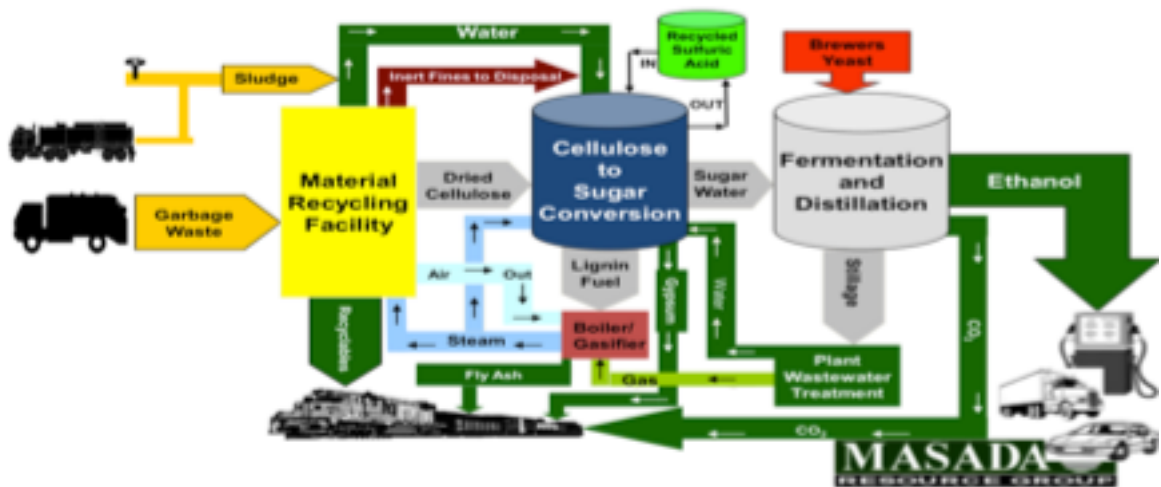
Masada's tangible assets include the following:

- a. **Market Development.** Masada has invested substantial resources in developing a pipeline of market and project development opportunities in forty-seven international markets. Being able to tap into this pipeline significantly reduces the time to market for a global licensee who wants

¹⁰ Donald V. Watkins is Masada's only "employee". Watkins has served in his position without compensation for ten years. Furthermore, since 2005, Watkins has provided Masada with Class A office space in his Birmingham, Alabama, headquarters building without charge for ten years. During this ten-year period, Watkins has also loaned employees of DVWPC to Watkins Pencor and Masada without charge.

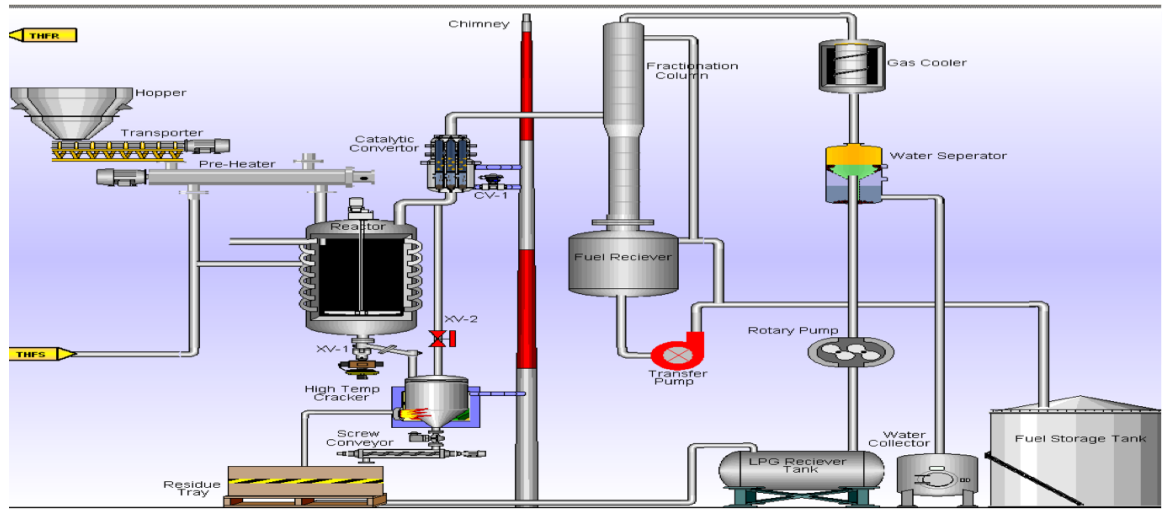
to increase its market share in the international waste management industry.

- b. **Contracts.** Masada's waste-to-energy projects are supported by government-guaranteed long-term, put-or-pay (in some countries) waste management/disposal contracts. Masada's September 24, 2014, strategic alliance agreement with Hyderabad Integrated MSW Ltd. ("HIMSW") is an example of such an agreement. HIMSW agreed to provide Masada with a suitable site and a minimum of 2,000 tons per day to develop waste-to-energy facilities in India.
- c. **Waste Conversion Technology.** Masada owns the rights to the CES OxyNol Process, which converts organic waste into ethanol. Masada also holds technology-licensing rights to all facilities using the CES OxyNol Process. The CES OxyNol Process diagram is included below:



Through a strategic business partnership with Sustainable Technologies and Environmental Projects ("STEPS") in Mumbai, India, Masada is also able to

deploy Polycrack Technology, which converts the plastic and rubber portions of the waste stream into diesel fuel. The Polycrack Technology process diagram is included below:



- d. **Domestic Patents.** The Company has been granted U.S. Patent Nos. 5,407,817; 5,571,703; 5,779,164; 5,975,439 and 6,267,309 for the ethanol production portion of the Process; 5,506,123 for lactic acid production; and 5,968,362; 6,391,204 and 6,419,828 for the separation of acid from sugar with an anionic exchange resin process.
- e. **International Patents. International Patents.** Masada also pursued and acquired broad international coverage relating to its U.S. patents. During the past 15 years, Controlled Environmental Systems Corp. ("CESC") filed patent applications to secure international patent protection with the Patent Cooperation Treaty and African Organization of Intellectual Property countries, nominating the U.S. Patent Office/U.S. Receiving office as the designated searching authority. Patent protection

was also filed in other Paris and Non-Paris Convention Member countries.

These applications resulted in CESC acquiring international patents

filings for the following countries:

i. Patent Cooperation Treaty and African Organization of Intellectual Property

Argentina, Australia, Barbados, Brazil, Canada, Chile, China, Czech Republic, Denmark, Finland, Hong Kong, Hungary, India, Israel, Italy, Japan, Korea, Mexico, New Zealand, Norway, Poland, Romania, Russia, South Africa, Ukraine, Venezuela, and Vietnam

ii. African Regional Industrial Property Organization (AP 1129)

Ghana, Gambia, Kenya, Lesotho, Malawi, Sudan, Swaziland, Uganda, and Zimbabwe

iii. Eurasia Patent Convention (002308)

Armenia, Azerbaijan, Belarus, Kyrgyzstan, Moldova, Kazakhstan, Russian Federation, Tajikistan, and Turkmenistan

iv. European Patent Office (0 795 022B1)

Austria, Belgium, Switzerland, Liechtenstein, Germany, Denmark, Spain, France, Greece, Ireland, Italy, Netherlands, Portugal, Sweden, and United Kingdom

In addition to the patent filings listed above, Masada executed an exclusive worldwide license agreement with Auburn University (Auburn, AL) for intellectual property related to co-fermentation of prehydrolyzates, mill sludge to ethanol, and chemical treatment of pulp mill sludge for cellulase enzyme production. On August 20, 2010,

Masada filed a Patent Cooperation Treaty application (PCT/US2010/046161) for international patent protection for "Fermentation and Chemical Treatment of Pulp and Paper Mill Sludge" developed by Auburn University. Masada filed its US provisional patent applications (Nos. 61/235,894 and 61/235,877) for this technology on August 21, 2009.

Each national patent (listed above) is effective subject to the national laws governing the individual country. Masada reviews its international patents annually and renews the ones necessary to protect its sustained competitive advantage in the global marketplace.

- f. **FEL Package.** Masada owns detailed commercial-scale engineering plans and specifications for the CES OxyNol Process design basis. The Front End Loaded ("FEL") engineering documents include equipment data sheets and commercial proposals for all major systems. This FEL package cost \$4.8 million to produce and is readily adaptable for use in the design and construction of any new CES OxyNol facility. Masada's engineering plans and specifications would enable future licensees/owners of this FEL package to develop CES OxyNol facilities anywhere in the world by using experienced and capable engineering, procurement and construction firms ("EPC") of choice to construct the facilities on a design-build basis with a maximum guaranteed price and a performance bond. Upon the execution of a licensing deal, the licensee will need to refresh the FEL package to meet current country building codes.

- g. **WinGEMS.** Masada owns rights to the application of the unique WinGEMS process flow software, which provides an integrated material and energy picture of the entire CES OxyNol process adaptable to any site in the world. It shows material inputs and outputs (flow rates, solids and liquid constituents, trace metals, water needs or outputs) at every process step or system. Masada's external design team and independent process engineers estimate that it would take 10 to 15 years to fully recreate the WinGEMS CES OxyNol platform since it is linked to the process development work performed by Masada at TVA and elsewhere. WinGEMS is the core of Masada's intellectual property package and represents the full maturity of the company's process deployment. Masada believes WinGEMS is more valuable than the patents themselves since it embodies the proprietary "know-how" the company developed over the course of its entire development period, and it represents the economic choices Masada made to select specific vendors and system in the design basis based on their unit's performance under scalable conditions.
- h. **Risk Mitigation Package.** Masada offers a comprehensive risk mitigation and performance assurance program. Its package of risk mitigation products includes items such as system performance insurance, revenue floor insurance, and political risk insurance.

Masada and its core CES OxyNol Process have successfully "passed" substantial due diligence by numerous third parties, including

environmental agencies, U.S. and Swiss engineering consultants, bond underwriters, EPC contractors, major equipment vendors and potential insurance providers. The following third parties conducted extensive diligence and thoroughly reviewed Masada and/or the Process:

- a. RW Beck (2003) U.S.;
- b. Mouchel Parkman (2008), U.K.;
- c. Biomass Process Services (2010);
- d. Switzerland o Hartford Steam Boiler Inspection and Insurance;
- e. Kroll, Inc.;
- f. Kvaerner (Aker);
- g. Stone & Webster (Shaw);
- h. Lurgi (Air Liquids);
- i. NYS Department of Environmental Conservation;
- j. U.S. EPA; and,
- k. NREL/USDOE

- h. **Key External Vendor Relationships.** The development of the OxyNol Process involved a number of key external vendors with recognized and respected experience and expertise in a number of areas, including O&M firms, process and environmental engineers, R&D institutions, financial advisory firms, and risk mitigation firms.
- i. **Strategic Local Partners.** Masada utilizes the knowledge, expertise and human resources of strategic local partners in each of its project locations. Each local partner has an equity interest in Masada's project specific affiliate entity. Masada has conducted extensive due diligence and comprehensive background checks on each of its local partners. In February 2013, Masada authenticated its strategic alliance agreement ("SAA") with His Royal Highness Prince Abdulaziz bin Meshaal bin Abdulaziz Al Saoud ("HRH"), CEO of the Riyadh-based Al Shoula Group, with the U.S. State Department and the

Saudi Arabian Embassy. The authentication of the Masada's SAA with HRH was signed by Secretary of State John Kerry.

- j. **Foreign Corrupt Practices Act Compliance Assurance Program.** Since Masada's founding in 1978, the company has spent ample time and resources developing and refining a comprehensive and sensible Foreign Corrupt Practices Act ("FCPA") compliance assurance program. This flexible program is an industry leader and evolved from Masada's many years of successful international business experiences in the cable television, cellular telephone, and electronic home and business security industries.
- k. **Established Relationships with Major Financial Institutions.** Masada has an international network of well-known financing partners, such as JP Morgan Chase (NYC), a global financial services firm with \$2 trillion USD under management and Masada's primary investment bankers since September 4, 2001; Seymour Pierce (London), a leading London-based independent investment bank; Global Emerging Markets, Inc. (NYC), a \$3.4 billion alternative investment group that manages a diverse set of investment vehicles focused on emerging markets across the world; the Inter-American Development Bank (Washington, DC), the main source of multilateral financing in Latin America; Standard Bank, the largest financial services firm in Africa; and Standard Charter Bank, a London-based multinational bank and financial services company, which includes Frontier Markets Fund Managers.
- l. **Carbon Credit Eligibility.** In 2002, Masada, working in collaboration with

Evolution Markets, Inc., assessed the commercial and technical viability of using the CES OxyNol Process as a basis for creating Certified Emission Reductions (“CERs”) under the UNFCCC. Masada completed the detailed analytical work necessary to determine whether the CES OxyNol Process reduced the carbon footprint typically associated with landfilling operations and to quantify the carbon emission reductions. A typical Masada plant, processing 1,000 tons of MSW per day, produces 280,342 tons of CO2 equivalent emission reductions per year.

With the adoption of the Paris Agreement on December 12, 2015 by 196 countries attending the United Nations Framework Convention on Climate Change, Masada carbon emissions saving become a more valuable commodity.

m. **Financial Model.** Masada, in conjunction with Dake Solutions (Pty) Ltd. (South Africa), has developed a detailed financial model template that is adaptable on a site-specific basis.

VII. Exemption from SEC and Alabama Securities Registration

TGG’s economic participation interest in Watkins Pencor has not been registered under the Securities Act of 1933, as amended (the “Securities Act”), or any applicable state securities laws. The economic participation interest was a “profits” interest sold to TGG in reliance on exemptions from the registration requirements of such acts, including section 4(a)(2) of the Securities Act. Watkins confirmed the exemption for this transaction with the SEC prior to the sale of the first Watkins Pencor economic participation interest in 2001.

Likewise, the economic participation in this case is exempt from registration under Alabama securities laws codified in the Alabama Code, Section 8-6-10 (1975, as amended).

The Watkins Pencor purchase transaction with TGG was a private purchase of an economic interest. The total number of Watkins Pencor economic interests purchased since 2001 is twenty-nine.¹¹ Watkins Pencor does not advertise or solicit the purchase transactions, a fact that has been acknowledged by TGG on multiple occasions. Each purchaser was given the opportunity to buy his/her/its economic interest because of his/her/its personal relationship with Donald V. Watkins. Of these the twenty-nine purchases, only eleven have occurred since 2007. The aggregate amount of the purchases never reached \$5 million in any single year or 12-month period.

The purchase transactions are documented by a written agreement where the purchaser acknowledged his/her/its ability to bear the economic risk involved in the business venture. Each purchaser has had and continues to enjoy access to information normally provided in a prospectus.¹² Each purchaser has had

¹¹ This number includes a handful of individuals who were rolled into Watkins Pencor from a business Watkins formed to hold his equity interest in TradeWinds Airlines, an international cargo carrier. Shortly after assuming ownership of TradeWinds, various Trustees of the two Detroit Pension Funds that made investment loans for the airline purchase transaction approached Watkins with illegal pay-to-play requests. Watkins summarily rejected each request. In retaliation, the key Trustees who originally supported Watkins' purchase of TradeWinds thereafter orchestrated the collapse of this airline company in June 2008 by prematurely calling the loan due. These Trustees, along with the Pension Funds general counsel, were subsequently charged, tried and convicted of federal bribery charges related to investment transactions where the project sponsors agreed to their pay-to-play demands. After TradeWinds collapsed, Watkins rolled his TradeWinds stakeholders into Watkins Pencor so that they would not experience a financial loss on this transaction.

¹² TGG's previous access to Masada-related information was terminated after it violated the terms of the confidentiality agreement it executed with Watkins Pencor by its filing a public Complaint in

unfettered access to the permanent Watkins Pencor/Masada data room. Each purchaser, including TGG, has signed a confidentiality provision regarding this information. Watkins Pencor/Masada maintains a permanent data room that has been continuously available to each purchaser. Each purchaser is bound by restrictions on the transfer on his/her economic interest to members of the general public.

The purchase money for the economic participation agreements was not an “investment” within the meaning of the Securities Act. The money was the consideration each purchaser paid for acquiring an irrevocable assignment of a tangible and defined stakeholder property interest in Watkins Pencor’s portion of the Masada family of companies.

Both Masada and Watkins Pencor are ongoing business enterprises. They engage in regular business activities aimed at advancing and protecting stakeholder value everyday. Both companies survived the Great Recession of 2008 that saw the loss of more than 85 ethanol plant projects in the U.S. and billions of dollars in capital expenditures.

The purchase money in each Watkins Pencor transaction was directed to Donald V. Watkins, P.C. (“DVWPC”), an entity wholly owned by Donald V. Watkins. Mr. Watkins also wholly owns Watkins Pencor, which wholly owns Pencor-Orange.

Under the applicable Masada OxyNol and Masada Resource Group Operating Agreements, the member who sold or assigned all or a portion of his/her/its

August 2013, that contained some of the company’s of proprietary company information and documents.

economic participation interests had the legal right to use the purchase money proceeds as he/she saw fit. Any dispute regarding the exercise of this right was required to be arbitrated with the AAA. A literal reading of the Watkins Pencor-TGG purchase agreement does not state in any provision that Watkins Pencor, DVWPC, or Donald V. Watkins had a contractual duty to invest the purchase money into Masada or any other entity.

Watkins' capital contributions since 2005 have totaled at least \$16,769,000, subject to confirmation. Of this amount, (i) the cash portion was at least \$9,600,000 and was funded primarily through economic participation agreements, (ii) the loan portion totals \$6,169,000, and (iii) the Watkins Parties' contributed executive services has been at least \$1,000,000 or greater, exclusive of legal and support services contributed by Watkins and DVWPC.

VIII. Valuation of the Watkins Pencor/Masada Assets Since 1999.

The Watkins Pencor and Masada assets have been the subjects of valuation exercises by different entities on several occasions. The earliest know valuation for the Watkins Pencor asset was prepared for the Alabama Banking Department and FDIC on April 1, 1999, and was based upon a Masada project planned for Middletown, New York. Watkins Pencor's value for the Middletown project on a pre-construction basis was \$5,890,400, as of April 1, 1999. This valuation was performed by Masada (under different senior executive management) and accepted by state and federal bank regulatory authorities.

On November 29, 1999, Hartford Steam Boiler Inspection and Insurance Company Special Risk Energy Division ("HSB") valued Masada's CES OxyNol waste-

to-energy technology at \$185 million for the purposes of issuing a system performance insurance binder. This was a single asset valuation for insurance purposes. HSB is the world's leading insurer of industrial companies. On August 29, 2000, HSB increased the system performance insurance face amount from \$185 million to \$225 million.

In October 2003, Masada prepared a detailed valuation for a 10-year development plan with supporting financial projection summaries. This valuation document has been used, along with other corporate records, to support various financing arrangements at the project level. One example of such financing arrangements was a December 28, 2006 credit arrangement letter from JP Morgan (New York) to Watkins in the amount of \$229 million for the Middletown, New York project. Another example was a February 10, 2009 term sheet for €100 million (Euros) from Global Emerging Markets (New York) for Masada's planned waste-to-energy facility in the Dominican Republic.

In 2009, the Masada assets were used as the basis to qualify Watkins as a purchaser for the St. Louis Rams NFL football team. Goldman Sachs represented the Rams. Seymore Pierce, a London-based independent investment bank, represented Watkins. In 2009, Seymore Pierce was a member of the London Stock Exchange and one of the oldest and most-respected investment banks in the UK.

Ranked by volume and then by value, Seymore Pierce ranked number three in the United Kingdom for major deal volume (through the third quarter of 2009). The firm trailed number one JP Morgan Chase by only 7 deals and number two Rothschild by only 1 deal. Credit Suisse was number four, UBS was number eight,

Bank of America/Merrill Lynch was number nine, and HSBC was number ten.

JP Morgan facilitated the back-channel discussions between Rams owner Chip Rosenbloom and Watkins to assure Rosenbloom that the Masada assets had the economic value necessary to support the transaction. These assets supported the following sequential steps in the team acquisition process: (a) Watkins' request for and submission of a May 3, 2008, ownership application to the NFL; (b) the issuance to Watkins of the Rams bid instructions and Confidential Informational Memorandum on July 28, 2009¹³; (c) Watkins' submission to Goldman Sachs of an August 17, 2009, purchase offer for the Rams, together with an August 17, 2009, loan commitment letter secured by Watkins' portion of the Masada assets and with a designation of Citibank as the funding source; (d) Goldman Sachs' October 12, 2009, invitation to Watkins to submit a written, binding offer for the Rams¹⁴ (d) Watkins' submission of a binding offer for the Rams, including (i) an October 22, 2009, non-contingent commitment letter issued by Seymore Pierce in the loan amount of \$250 million, and (ii) revisions to a purchase contract prepared by the Rams and edited by Watkins;¹⁵ and (e) an assessment from JP Morgan on January 7, 2010, that Masada was in "great shape, with tons of future value" and advice from JP Morgan on January 28, 2010, that Watkins should not attempt a monetization of his Masada assets at this stage given the ramp and potential in the business because he

¹³ The bid instructions and CIM are attached as **Exhibits 7 and 8**, respectively

¹⁴ The October 12, 2009 invitation letter to make a binding offer for the Rams is attached as **Exhibit 9**.

¹⁵ Watkins' October 22, 2009, purchase offer for the Rams is attached as **Exhibit 10**.

would simply be giving up too much value for the liquidity.¹⁶

On November 18, 2009, Masada received a valuation opinion and analysis from Black Emerald, Masada's global financial advisory firm at the time, in connection with the Rams transaction. Black Emerald specialized in valuations for pre-revenue companies in the green space industry. Black Emerald opined that the total enterprise value of the Masada constellation of assets was between \$2.9 billion and \$3.6 billion. These valuation documents were consistent with the pre-discounted value assessment of JP Morgan and Citibank.

On February 28, 2011, Watkins prepared an internal valuation of the Watkins Pencor/Masada assets as an expert witness report in connection with litigation in Detroit. His range of enterprise values was consistent with the Black Emerald valuations and the assessment made by JP Morgan, Citibank, HSB, and Seymore Pierce.

IX. Today's Potential Value of Masada's Exported Technology

Because Masada is a pre-revenue company, the projected dollar value of the company's international activity has been estimated based on the potential revenue that Masada anticipates generating from its constellation of waste-to-energy assets. These estimates are subject to market and economic conditions and other salient factors, which may change with or without notice to the company.

A full breakdown of Masada's assets was provided earlier in this

¹⁶ See, Emails from Andrew Sriubas to Watkins, dated January 7 and 29, 2010, which are attached hereto collectively as **Exhibits 11**. This advice was consistent with the 20% loan-to-value discounts Citibank placed on the Masada assets in early October 2009 for each of the following factors: (a) private company status, (b) pre-revenue assets, (c) ethanol sector business, and (d) economic market conditions. The aggregate discounts produced a 20% loan-to-value credit facility. See, Watkins' October 12, 2009, email to members of his Rams acquisition team, which is attached as **Exhibit 12**. It should be noted that Masada has grown substantially since these emails were written.

memorandum, but the company's key assets include (1) its proprietary waste-to-energy technology, complete with front-end loaded engineering plans and specifications, (2) its proprietary WinGEMS platform, and (3) its market development agreements covering forty-seven countries from which the company expects to receive a minimum daily volume of waste at a Masada-controlled site for a minimum contract term.

Masada's most basic contract requirements specify that for a single facility the company shall receive a minimum of 1,000 tons of acceptable MSW per day for a period of no less than twenty (20) years. Thus, to determine the potential revenue to be generated from a single facility receiving the *minimum* 1,000 tons of waste per day for a period of twenty (20) years (6,600 days), Masada employs the following equation¹⁷:

$$\text{Total Potential Revenue} = TF + ES + DS$$

Where

TF = Potential Revenue from Tipping Fees¹⁸; ES = Potential Revenue from Ethanol Sales; and DS = Potential Revenue from Diesel Sales.

Thus,

$$TF = (1,000 \text{ tons} * \$20 \text{ USD} * 330 \text{ days} * 20 \text{ years})$$

¹⁷ This is a simplified equation for illustration purposes only. The full equation includes numerous additional variables and assumptions, which take into account the additional commercial products generated from the conversion process and the cost of production per gallon. Masada prepares a detailed and customized financial model that includes all forecasted revenues, expenses, and financial assumptions to determine the estimated free cash flow and IRR for each project. The simplified equation used in this memorandum estimates the minimum potential value of Masada's exported technology per facility.

¹⁸ Typically, Masada's contracts require that the feedstock provider pay a minimum tipping fee of \$20 USD per ton.

$ES = (1,000 \text{ tons} * 60\% * 85 \text{ gallons} * 6600 \text{ days} * MP \text{ ethanol})^{19}$

$DS = (1,000 \text{ tons} * 10\% * 260 \text{ gallons} * 6600 \text{ days} * MP \text{ diesel})^{20}$

Which comes to

$Total \text{ Potential Revenue} = \$132m + \$387m + \$290m$

Or

Total Potential Revenue (to be generated from a single facility) based upon the minimum volume of MSW for the minimum contract period = \$809 million USD

Masada is repackaging its forty-seven market opportunities into the company's top forty markets for liquidation purposes. This allows the company to eliminate the seven least attractive markets in its pipeline of project opportunities. Today, markets that are being considered for elimination include, but are not limited to, Sierra Leone (due to the seemingly outbreak of Ebola and the national government's extremely weak credit history), Egypt (due to its military rule), Mexico (due to growing drug cartel and gang violence), and Ukraine (due to a conflict zone within the country's borders).

X. Liquidation Strategy

Based upon expert advice, market conditions and available resources, Masada's preferred liquidation approach at this juncture is a global licensing transaction with an international infrastructure development company that has in-

¹⁹ The current market price for a gallon of ethanol, as determined by the U.S. Energy Information Administration's prompt-month energy futures settlement, \$1.64 USD, but to keep our projections even more conservative, we have used \$1.15 USD, which was the lowest recorded price for a gallon of ethanol as observed between 2005 and 2014 (<http://www.eia.gov/todayinenergy/prices.cfm> and <http://www.tradingeconomics.com/commodity/ethanol>).

²⁰ The current wholesale price for a gallon of diesel fuel ranges from \$1.69 USD to \$1.97 USD, and we have therefore used the lower price point to keep estimates conservative (<http://www.eia.gov/todayinenergy/prices.cfm>).

house engineering, construction, and operations & maintenance divisions.²¹ In consultation with Mr. Robert H. J. Lee and Dr. Amin Ghanem, Masada prepared its preferred licensing deal points on September 15, 2014 and updated them on June 16, 2015. Watkins and Dr. Ghanem have been authorized to negotiate the global licensing deal. The deal structure and terms²² are summarized below.

A. Summary of the Strategic Licensing Transaction

Masada envisions a strategic licensing agreement (“LA”) with a qualified licensee (the “Licensee”) of Masada’s waste-to-energy technologies to create dynamic economic value for both parties.

Licensee shall license Masada’s assets, either outright, or on a phased basis. Licensee shall make a specific payment for such interest that recognizes the present cash value of Masada’s shareholder investment as well as the future economic value to be derived from Masada’s constellation of waste-to-energy opportunities.

1. Licensor’s Commitment Payment to Masada

Upon acceptance of the License Agreement, Licensor shall make a commitment payment (the “Commitment Payment”) to Masada in the amount of \$15 million (USD). The Commitment Payment shall be made upon execution of a Letter of Intent (“LOI”) or Memorandum of Understanding (“MOU”), whichever document form is selected by Masada and Licensor to commence the licensing transaction. The Commitment Payment shall constitute a credit against the up-front cash payment due Masada upon the execution of the LA as described below. The LOI or MOU, as the case may be, shall be fully negotiated and executed by both parties on or before October 31, 2014.

2. Licensor’s Exclusivity

Upon receipt of the Commitment Payment, Masada shall guarantee Licensor an exclusive opportunity for a period of sixty (60) days to negotiate and execute the LA. Licensor shall have the right to extend the period of

²¹ The SEC litigation and this grand jury investigation make it impossible for Masada to undertake a liquidation transaction on an American or European stock exchange. It also makes a sale of the company problematic. In a global licensing transaction, the licensee will be focused on the waste-to-energy technology, its validation, and commercial application.

²² These terms and conditions are subject to change based upon market conditions and negotiations between the parties.

exclusivity for an additional sixty (60) days by an additional \$15 million payment to Masada prior to the expiration of the first 60-day period. Notwithstanding such exclusivity, Masada shall have the right: (i) to continue its efforts to develop new markets, (ii) to work on its existing international markets, and (iii) to work with potential sources of equity or debt financing. Masada shall not enter into any strategic licensing agreement with any other party during the period of exclusivity.

3. Up-front Cash Payment upon Closing

Over the past 15 years, Masada has invested approximately \$50 million in developing its core waste-to-ethanol technology, the CES OxyNol Process, for commercial deployment. Upon execution of the LA, the Licensor shall pay Masada \$100 million (less the amount of the Commitment Payment) for the time and value of Masada's monetary investment in developing the OxyNol Process.

4. Breakaway Fee

If Masada and Licensor fail to execute a definitive licensing agreement through no fault of Masada, the Commitment Payment shall constitute Licensor's breakaway fee to Masada.

5. Masada's CES OxyNol Process and Other Waste-to-Energy Technologies

a. Licensing for Global Opportunities

Masada shall grant an exclusive license for the CES OxyNol Process to Licensor for all markets on commercially reasonable terms. In addition, Masada and Licensor shall retain Masada, on commercially reasonable terms, to perform project development and management services during the design, construction and commissioning phases of each commercial scale waste-to-energy facility developed by Licensor. In this capacity, Masada shall be entitled to following fees:

- i. Technology Licensing Fee: 5% of gross revenues for the first facility and 2% of gross revenues for each facility thereafter. The license fee shall be paid on a monthly basis, commencing with the first month of commercial operations;
- ii. Project Development Fee: \$400,000 USD per month for the first facility (with a capacity of 1,000 to 3,000 tons per day of MSW) and \$350,000 USD per month for each licensed facility thereafter;

iii. Operations and Maintenance Management Fee: 2% of the gross revenues paid monthly for each facility, commencing with the first month of commercial operations; and,

iv. Technical Advisory Service Fee: 1% of gross revenues paid monthly for each facility, commencing with the first month of commercial operations.

6. Equity in Licensor's Waste-to-Energy Operating Companies

Masada shall be granted a 25% Class A equity stake in any of Licensor's operating companies or special purpose affiliates that deploy Masada's waste-to-energy conversion technologies.

7. Global Opportunities

Licensor and Masada recognize that the LA will require ongoing financial obligations from Licensor with respect to the equity required for the commercialization opportunities. In respect of those obligations, Licensor and Masada will determine the composition of the opportunities that will be included in the LA as set forth below.

a. Masada's Current Global Opportunities

In the LA, Licensor will identify which, if any, of Masada's current global commercial opportunities the Licensor does not want Masada to include in the LA. Such excluded opportunities shall be further described in the section on "Masada's Opportunities" below.

b. Future Global Opportunities Identified by Masada

With respect to future global opportunities identified by Masada, Licensor shall have the right to exclude such opportunities from the agreement. Such excluded global opportunities shall be further described in the section on "Masada's Opportunities" below.

c. Future Global Opportunities Identified by Licensor

With respect to future global opportunities identified by Licensor, Masada shall have the right to exclude such opportunities from the LA. Such excluded opportunities shall be further described in the section on "Licensor's Opportunities" below.

d. Masada's Opportunities

Masada shall have the right to pursue any opportunities excluded by The Licensor, which shall be termed the Masada Opportunities. The Masada Opportunities may be pursued by Masada, without restriction, in any manner determined by Masada in its sole discretion. In addition, Masada shall have all rights to use the CES OxyNol Process with such Masada Opportunities in any manner determined by Masada in its sole discretion.

e. Licensor's Opportunities

Licensor shall have the right to pursue Licensor's Opportunities in any manner determined by Licensor in its sole discretion. In addition, Licensor shall have the right to license the CES OxyNol Process from Masada for Licensor's Opportunities on commercially reasonable terms. In such licensing event, Licensor shall retain Masada, on commercially reasonable terms, to perform project development and management services during the design, permitting, construction, commissioning, and operational phases of such applicable Licensor Opportunities. In this capacity, Masada shall be entitled to following fees:

- i. Technology Licensing Fee, as described in Section 5(a) above.
- ii. Project Development Fee, as described in Section 5(a) above.
- iii. Operations and Maintenance Management Fee, as described in Section 5(a) above.
- iv. Technical Advisory Service Fee, as described in Section 5(a) above.

XI. Risk Assessment and Mitigation

The potential Licensee's expected risk assessment of Masada, when viewed in the context of the company's comprehensive risk mitigation strategies and products, will directly impact Masada's valuation and global licensing transaction, favorably or negatively. Risk mitigation is an ongoing focus at Masada.

The typical risk areas for a pre-revenue infrastructure development company like Masada include, but are not limited to, the following:

1. ***Stage of business risk:*** Masada moved beyond TVA pilot testing in 2002 and has been in the project development stage of deploying commercial-scale facilities since that time. The company also enjoys an experienced and persistent executive team, as well as strong, business savvy, strategic partners. Additionally, Masada owns its core technology. Its commercial-scale engineering plans and specifications are prepared. Its process engineering is complete.
2. ***Funding/capital-raising risk:*** Masada has demonstrated through its relationship with financial institutions like JP Morgan (New York), GEM Capital (New York), the Inter-American Development Bank (Washington, D.C.), Frontier Markets Fund Managers (London), and Standard Bank (Johannesburg) that it has the ability to attract project financing. Under the LA, the capital costs for constructing the Masada facilities shifts to the Licensor.
3. ***Regulatory approval risk:*** Masada depends upon qualified and capable local partners to handle regulatory approvals. Additionally, Masada has proven its ability to secure the necessary environmental permits for its projects. To its knowledge, Masada received the first waste-to-ethanol environmental permit ever issued in the U.S. and North America.
4. ***Legislation/political risk:*** Masada uses a combination of the local partner's stature in the business community and political risk insurance

products to manage and mitigate this risk. Additionally, Masada has achieved market penetration in forty-seven countries through affiliated entities and strategic partnerships. Political difficulties in any individual project location will not adversely affect Masada or other affiliated entities in other locations.

5. ***Manufacturing risk:*** Masada's core waste-to-ethanol process was proven at industrial scale in World War II. The process was updated in the 21st century to use off-the-shelf equipment, which ultimately minimizes risk. The key process systems and hardware are in daily operation in similar applications and have been thoroughly tested at a large-scale demonstration plant. Additionally, the CES OxyNol process has enjoyed system performance insurance for up to \$225 million in coverage.
6. ***Technology risk:*** Significant investment since the mid-1990s substantially reduces development and operational risks. The progress to date includes: (a) assembling key parties required for construction, start-up and operations, including key engineering and design packages and (b) completing an extensive engineering package, including specifications and vendor quotations with commercial terms. The Company has nine U.S. patents and has filed sixty international patents addressing the various stages of waste- to-ethanol production in order to protect the core OxyNol Process. The Company and its core process have successfully "passed" substantial due diligence by numerous third parties,

including environmental agencies, U.S. and Swiss engineering consultants, bond underwriters, EPC contractors, major equipment vendors and potential insurance providers.

7. ***Sales and marketing risk:*** Qualified and capable local partners and quality energy products mitigate this risk. The ethanol and diesel fuels are produced close to urban markets where it is needed, thereby eliminating the costs and need for transporting these products to market. Additional comments are provided below under the paragraph titled, “Fuel pricing risk”.
8. ***Competition risk:*** The Company’s extensive infrastructure design, investment and development experience, together with its global marketing approach and worldwide project development strategy, have produced a sustained competitive advantage in the waste-to-energy marketplace. The Company advances and protects this sustained competitive advantage by: (a) offering multiple conversion processes and a large pipeline of projects, (b) controlling or licensing other renewable energy/cleantech technologies to enhance long-term value and (c) focusing on emerging markets which offer (i) little or no competition and urgent needs, (ii) fast-track permitting and (iii) long-term waste concessions (20-99 years).
9. ***Litigation risk:*** Masada has experienced less than five instances of litigation (inclusive of two arbitration proceedings and the pending SEC non-public inquiry) since the current CEO took control of the company in

2005. Litigation risk is perceived to be miniscule compared to the industry norm for a global company. The CEO's extensive litigation background further minimizes this risk.

10. **International risk:** Masada principals have developed extensive infrastructure operations with over 300 local government entities, including environmental services, cable television, telecommunications and electronic home security. Over the past 35 years, Masada's management team has built and operated over \$1.5 billion in assets in 18 states and seven major cities in the United Kingdom. Masada's extensive experience in the international marketplace mitigates this risk category.

11. **Reputational risk:** Masada enjoys a stellar reputation in the international waste-to-energy industry. This reputation is evidenced in a feature article on Masada and its waste-to-energy work in Sub-Saharan Africa in the July 2014 edition of the London-based *International Finance and Legal Review*, a prestigious subscription publication for European and African business leaders. Additionally, two Masada executives were invited this year to join the World Bio Markets Advisory Board in Amsterdam.

12. **Fuel pricing risk:** The recent fluctuation of oil prices from \$115 per barrel in June 2014 to \$38 per barrel in December 2015 will create a competitive product pricing risk if oil prices continue to plummet. Masada's business model is predicated on a targeted average production cost per gallon is \$0.82 per gallon (inclusive of CapEx). Masada's targeted

international markets use the liter as a unit of measurement for its fuel products. There are 3.7 liters per gallon. Market prices for Masada's fuel products are expected to trend below the average retail price of petroleum-based fuel products on a consistent basis. As long as oil prices remain above \$35 per barrel, Masada's fuel pricing will be competitive to oil. The likelihood of oil prices dropping below \$35 per barrel is extremely remote. If oil prices drop to this level or below, Masada will shift its primary focus to those international markets where the main revenue drivers are very high front-end tipping fees. For example, gate fees in the United Kingdom are now £60 to £100 per ton and, in Germany and Scandinavia, they can exceed €200 per ton.

XII. Risk Mitigation Program and Products

Masada offers the highest form of risk mitigation protection and performance assurances for the company's proposed facilities, including:

1. The selection of a well-capitalized engineering, procurement, and construction firm ("EPC") with demonstrated experience in constructing large-scale industrial facilities in the region;
2. The use of a design-build approach with the EPC firm, which requires the EPC firm to execute a maximum guaranteed price construction contract and a performance bond;
3. The selection of major equipment vendors who guarantee the performance of their specialty equipment for commercial use for a defined period of time;

4. The development of a pipeline of project opportunities and partnerships spanning forty-seven markets to secure long-term, creditworthy waste feedstock supplies and to arrange preferred ethanol and diesel off-take agreements. The primary revenue streams are independent (non-correlated) and generally have low volatility. Additionally, the company's commercial viability is not tied to a single project or a particular geographic region.
5. Where required, Masada or the Licensee can purchase of customized insurance products to maximize the assurance of the facility's waste-to-ethanol performance, including
 - a. System performance insurance (SPI) binder – Masada is the first and only clean technology company to secure SPI in the amount of \$225 million for one of its proposed waste-to-ethanol facilities;
 - b. Revenue floor or gap insurance;
 - c. Catastrophic event insurance;
 - d. Terrorism and war risk insurance;
 - e. Political risk insurance;
 - f. Mechanical and equipment failure insurance; and,
 - g. Business disruption and general commercial insurance.

Furthermore, Masada also has a comprehensive and sensible compliance program with the U.S. Foreign Corrupt Practices Act, as amended, and the Patriot Act. The program was borne out of Masada's international business experience in the cellular and electronic home security industries.

XIII. Watkins Has a History of De-Risking Stakeholder Exposure to Financial Losses

Watkins has a documented history of going beyond contract requirements to de-risk the exposure of his business stakeholders to financial losses. For example, in 2008, Watkins' stakeholders in Watkins Aviation lost their economic value in TradeWinds Airlines because Watkins refused to participate in an illegal pay-to-play scheme involving Detroit Pension Fund trustees and, in retaliation, these trustees caused the collapse of TradeWinds by prematurely calling due the company's \$30 million investment loan. Watkins immediately and voluntarily rolled these stakeholders into Watkins Pencor at no cost to them. This proactive move severed to protect and advance the economic interests of these stakeholders. This action is important to Watkins because all of these stakeholders are close friends of Watkins.

In 2009, Watkins voluntarily reported these pay-to-play requests to a federal grand jury in Detroit. To date, the key trustees involved, as well as the Pension Funds former general counsel at the time, have been charged, tried, convicted, and sentenced for operating a widespread pay-to-play scheme that snared many individuals and project sponsors seeking investment funds/loans from the Detroit Pension Funds. To our knowledge, Watkins was the only businessman who was approached with pay-to-play demands by Pension Fund Trustees, who refused to participate in this scheme, and who voluntarily reported these demands to the grand jury.

In 2009, Watkins began developing market opportunities for Masada on the African continent. As Masada pursued such opportunities in Namibia, Watkins

initiated steps to further re-risk his and his Watkins Pencor stakeholders exposure to financial losses by forming an independently owned company to explore oil and gas opportunities in the country and extract the economic value from these natural resources. Even though the Watkins Pencor purchase agreements do not provide for economic participation in any independently owned energy production companies in the hydrocarbon fuels industry, Watkins has used his success in the oil and gas industry as a resource to further de-risk the remote possibility that Watkins Pencor will experience any loss of their purchase money.

On November 5, 2015, Watkins' petroleum and gas exploration company received an analytical report interpreting the 2D seismic results for the Oil Block surveyed. The report revealed six Leads with total Pmean unrisks recoverable resources of 522 million barrels of oil ("MMBO") and 583 billion cubic feet ("BCF") of unrisks carbane methane gas. Stratigraphic Lead #5 is the largest and of principal interest, with a Pmean of around 231 MMBO and 240 BCF of unrisks carbane methane gas. Lead #6 is slightly smaller and exceeds 229 MMBO and 283 BCF of carbane methane gas. A chart depicting the analytical results of the 2D seismic survey is attached as **Exhibit. 13**.

Equity in this Oil Block is currently split between Watkins' company (90% + Selected Operator) and NAMCOR, the Namibian national petroleum company (10%). Watkins owns a 21% equity stake in this oil and gas company.

Under no circumstance, or theory of the Government's case against Watkins, has any Watkins Pencor purchaser experienced a loss of his/her/its purchase money. Even if market conditions and economic factors adversely impact Masada's

timely liquidation efforts, Watkins has the ability by virtue of his equity holdings in the Namibian petroleum and gas company to completely backstop any potential loss of the purchase money for his family members and friends in Watkins Pencor, if he chooses to do so.

In 42 years of business, no stakeholder in Watkins' businesses has ever experienced a financial loss of his/her economic participation purchase money or investment capital.

XIV. Targeted Masada Exit Date

Watkins has established December 31, 2016, as the target date for closing a Watkins Pencor/Masada orderly fair market value exit via a global licensing deal. The financial beneficiaries of the exit transaction will be the Harms and Johnson Parties, the Masada executives with equity participation agreements, the Watkins Pencor economic participants, certain Class B members of various Masada entities, strategic partners in selected international markets, certain legacy external vendors, and Watkins.

Watkins reserves his rights under Sections 14.1 and 14.2 of the Masada Operating Agreement to determine whether he will allow TGG to benefit from a Masada liquidation event. TGG's failure to adhere to the contractual requirements of the applicable Masada Operating Agreements: (a) resulted in the expenditure of time, energy and resources litigating a federal court lawsuit that was required to be arbitrated; (b) caused negative publicity for Watkins Pencor and Masada; (c) violated the terms of TGG's confidentiality agreement; (d) contributed to the instigation of a SEC inquiry against Watkins Pencor; and (e) caused Watkins and

Watkins Pencor to defend themselves in an unwarranted New Jersey federal grand jury investigation.

Watkins understands that Bryan Thomas is a local NFL celebrity in New Jersey. Thomas has apparently used his celebrity status to access the federal law enforcement establishment in New Jersey in an effort to criminalize what is clearly a private contractual dispute between TGG and Watkins Pencor. TGG's complete and consistent failure to avail itself of access to Watkins Pencor/Masada data room documents that contradict every theory of civil liability asserted by TGG against Watkins signals that all of TGG's actions are malicious in nature and are conducted in a reckless disregard for the truth. Furthermore, TGG has tried to destroy Watkins' hard earned business reputation and deprive Watkins of his liberty by falsely portraying him as a "crook" who supposedly operates a "Ponzi" scheme. When the AAA arbitration proceedings between Watkins and TGG resume, Watkins will decide whether to seek damages from TGG under Section 12.02 of the Masada Operating Agreement and what these damages should be.

For now, the focus of Watkins' efforts are to: (a) continue the implementation of Masada's business plan; (b) minimize any collateral damage to the other Watkins Pencor/Masada stakeholders from TGG's malicious actions; (c) educate the New Jersey federal grand jury on the nature and scope of Watkins Pencor and Masada; and (d) defend his personal and business reputations using all lawful means available.

Respectfully submitted,

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