GEODESIC

10th April, 2014

To, The Manager Listing Department National Stock Exchange of India Limited `Exchange Plaza' C-1, Block G Bandra - Kurla Complex, Bandra (E) Mumbai – 400 051 Company Scrip Code: **GEODESIC**	To, Bombay Stock Exchange Limited Corporate Relationship Department 1st Floor, New Trading Ring Phiroze Jeejeebhoy Tower Dalal Street, Fort Mumbai – 400001 Company Scrip Code: **503699**

Sub: Announcement of court order

Dear Sir,

Please find enclosed herewith the court's order for the Suit filed by Citibank N. A. against the Company in accordance with clause 36 of the Listing Agreement.

We are evaluating the order in consultation with our Legal team and discussing further steps to be taken in this regards.

You are requested to take the above on record and oblige.

Thanking You,

Yours faithfully,
For **Geodesic Limited**

Authorised Signatory
Encl: a/a

Agk

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY APPLICATION (L) NO. 153 OF 2014

IN

COMPANY PETITION NO. 471 OF 2013

Citibank N.A. London Branch …Applicants

Versus

Geodesic Limited …Respondents

Mr. Janak Dwarkadas, Senior Advocate, *with Mr. Rohaan Cama, Mr. Adlip Iyer, Mr. Divij Kishore, i/by AZB and Partners*, *for the Applicants.*

Mr. Mayur Khandeparkar, *with Mr. Aditya Khandeparkar i/by M/s. Rajani & Associates, for the Respondents.*

CORAM: G.S. PATEL, J
DATED: 7th April 2014

PC:-

1. On 3rd April 2014, on instructions, a statement was made that was recorded in paragraph 5 :

> "5. Leaving aside the issue of inspection for the moment, the more pressing concern is whether the Company actually has retained the amounts that it was required to do. Mr. Khandeparkar states that his clients will place complete information on affidavit by tomorrow, i.e., 4th April 2014 and furnish a copy of that affidavit to

the applicant / petitioner. In the meantime, on instructions from Mr. Prashant Mulekar and Mr. Kiran Kulkarni, Executive Directors of the Company, who are personally present in Court, he makes the following statement :

(a) In the account of Emiloto Associated Inc, with HSBC Zurich, there is an amount of US $ 29.056 million;

(b) In the account of Zomo Technologies Limited with Credit Suisse Zurich, there is an amount of US $ 92.597 million; and

(c) In the account of Geodesic Technology Solutions Limited, with Clariden Leu Zurich, there is an amount of US $ 82.01 million.

All these amounts, Mr. Khandeparkar says, are held not in cash, but in investment accounts with the Bank's named above. Mr. Khandeparkar undertakes to fully and adequately explain these investments on affidavit in detail including as to when these investments were made, from what sources, and whether the amounts in these accounts are realizable or encashable, and if so, by when. It goes without saying that Mr. Khandeparkar's clent would also state on affidavit whether there are any other claims in respect of these investments."

2. Pursuant to that order, an affidavit has been filed today. That affidavit makes for the most unfortunate reading. In paragraph 3 of the affidavit, there is a tabulation. This reveals that the amount of US$ 29.06 million earlier stated on instructions to be in an investment account with HSBC Zurich, was actually given on a loan to one Audrain Commercial Corp, Belize. This was also not recent. This loan was, it seems, given in July 2012. There is absolutely no possibility that the gentleman who was present in Court giving instructions on 3rd April 2014, and who is also present today, could have been unaware of this fact.

3. Paragraph 6 of the affidavit now filed only makes matter worse. It says that this loan was placed at a interest rate of 4.75% per annum, to mature in July 2014. Given the dire financial straits in which this respondent-company seems now to flounder, the affidavit raises distressing questions. Who is this Audrain Commercial Corp of Belize? Why was it thought to be worthy of such a loan and at this rate of interest in 2012? The second sentence of paragraph 6 only exacerbates matters:

> "6. … Say that the said loan was given in respect of certain projects which may generate business worth approximately 50-60 million US$ and this was purely by way of a strategic investment made by Emiloto".

4. There are so many problems with this statement that it is hard to know where to begin. Which projects these might be we are not told. Has any business at all been generated, and if so in what volumes? This, too, is left to our imagination. This so-called strategic investment must surely have been known to the deponent of this affidavit as also the person who gave instructions on 3rd April 2014. Yet, this Court was told that the amount was in **an investment account** with HSBC Zurich.

5. This is not the first time that this has happened. The order of 19th December 2013, annexed at Exhibit "2" to Company Application (L) No. 153 of 2013, too shows that even at that time the Court was specifically told that an amount in the accounts of the respondent-company's three overseas subsidiaries, of about Rs. 1000 crores, was "still being kept in deposit". A deposit does not mean a loan to a third party.

6. It does not end there. The latter portion of the 19th December 2013 order says:

> "The respondent will also inform the applicant in case the respondent proposes to pay the ICICI Bank Limited its dues and the **said amounts deposited in the accounts of its overseas subsidiaries will remain untouched till the next date of hearing**".

7. Taken together these statements can only mean one thing: that an amount in excess of Rs. 1000 crores was available **deposited** in the accounts of the respondent–Company's subsidiaries in three banks overseas. At no point, either in December 2013, nor on 3rd April 2014, was the Court ever informed that any portion of these "deposits" was in the nature of "a strategic investment" made by one of the subsidiaries. The words strategic investment are, of course, a euphemism to camouflage what seems to be nothing but a low-interest bearing loan to an entity carefully kept in the shadows, with neither its credentials nor its background specified at any point.

8. All this makes the respondent-company's resistance to secure the petitioners claim all the more inexcusable. The petitioner has not brought this petition as a lender. As paragraph 9 of the petition makes clear, the petitioner comes to this court *qua* the trustee for and on behalf of the holders of certain foreign currency convertible bonds issued by the respondent-company. These bonds were due in 2013. They have not been paid. The amount claimed by the petitioner is now the subject of a summary judgment dated 7th February 2014 of the Commercial Court of the

Queen's Bench Division of the Royal Court's of Justice. The amount decreed is in excess of US$ 171 million.

9. What the petitioner seeks in this Company Application is that the interests of these bond holders be secured so that they are not left twisting in the wind. One would ordinarily expect that a company serious about meeting its commitments to bond holders would readily agree to a reasonable proposal for securing its debts. Instead, all I find is obfuscation and obstruction at every turn. When the petitioner demanded that its financial consultants and advisors be allowed inspection in terms of a specific provision of the Trust Deed, the respondent-company objected, saying it would hamper the consolidation of accounts. To resist that application, and the alternative application for the appointment of a Provisional Liquidator, it caused a statement to be made about the availability of funds. What the court was told, and told repeatedly, no matter how worded was simply this: that the bond-holders need not worry as there interests were fully secured by amounts 'deposited' in the accounts held in different banks by the respondent-company's three overseas subsidiaries. That those accounts then turned out not to be bank accounts but 'investment' accounts is perhaps trivial casuistry, for it today seems that there is neither a deposit nor an investment properly so called at least as regards one of those subsidiaries: there is, instead, this loan to another company that is still kept in the shadows.

10. It is in this background that Mr. Dwarkadas, learned senior counsel for the petitioner, has pressed his application for a mandatory order for disclosure and inspection of the company's

books and, alternatively, for the appointment of a provisional liquidator.

11. Mr. Khandeparkar, on instructions, says inspection cannot be given nor any further disclosure made till after the company has completed its exercise of consolidation of accounts. This is nothing but what I was told previously, on 3rd April 2014. I took the company at its word. I gave it some elbow room, on its making a statement that those amounts lying to the credit of the company's three overseas subsidiaries were available and realizable. This has turned out to be incorrect.

12. The Company must be held to its word, not once but twice given to this Court. It cannot be permitted to play ducks and drakes with the Court in this manner. Nor it can be allowed to do so with its bond-holders.

13. In the operative part of this order, I propose to allow the Company some time to place the aggregate amount earlier stated to be available with the three subsidiaries in a no-lien account with Citibank, subject to certain conditions. There must also be an order that provides for the event of default. I must note that prayer (b) of the present Company Application is far too widely cast, in that it seeks drastic order against the Company's subsidiaries although these subsidiaries are not parties to this petition or to this application.

14. I must, in fairness, note Mr. Khandeparkar's submission that compliance with the deposit order will not be possible without

affecting the rights of other creditors (he mentions Axis Bank). To my mind, that is wholly irrelevant. I am not concerned here with these other creditors. Nor can that be a valid consideration. This is a situation of the respondent-company's own making. The order I have made may seem drastic, but I believe that is necessary for two reasons. The first, of course, is to protect the interests of bond-holders. But that could and might have been achieved in other, less stringent terms, had the company been more straightforward with this court. The second reason is, I believe, one of paramount importance and that is to ensure the sanctity and integrity of orders of this court, and of statements made to and recorded by it in those orders. Our orders will be respected. They will be treated with sanctity. Statements made to this court, and accepted by it, will bind. And all transgressions will be met with swiftest and most unyielding corrective action. For if this is not done, and if parties before this court are allowed to make assurances to this court only to later renege on them, then all is lost.

15. In that view of the matter, the respondent–company shall before closing of business hours Zurich time on 28th April 2014 deposit a sum of US$ 162 million in a no-lien account with a Citibank branch in London or Hong Kong as nominated by the petitioner. The petitioner will on or before 10th April 2014 inform the respondent–company where that amount should be transferred.

16. Upon transfer, that amount will be held by the petitioner at the most optimal available rate of interest. It shall not be disbursed nor used for any purpose till further orders of this Court. The

respondent–company shall be sent fortnightly statements of the amounts lying to the credit of that account.

17. In the event that the respondent–company fails to make deposit as aforesaid, the Official Liquidator, High Court, Bombay shall stand appointed as provisional liquidator of the respondent-company as also all its assets and properties. He shall, forthwith, upon the occurrence of such default proceed to take charge of the assets and properties of the Company, including physical possession of its assets and properties. A compliance report will be made to this Court within two weeks of the date of the provisional liquidator standing so appointed.

(G. S. PATEL, J.)