

CANADA

Class Actions Division
SUPERIOR COURT

PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL
No.: 500-06-001113-204

H [REDACTED] **D** [REDACTED] residing and domiciled at
[REDACTED] in the city of
[REDACTED] province of Ontario, [REDACTED] (...);

Applicant

-and-

TURQUOISE HILL RESOURCES LTD.;

-and-

ULF QUELLMANN;

-and-

LUKE COLTON;

-and-

BRENDAN LANE;

-and-

RIO TINTO PLC;

-and-

RIO TINTO LIMITED;

-and-

**RIO TINTO INTERNATIONAL HOLDINGS
LIMITED;**

-and-

JEAN-SÉBASTIEN JACQUES;

-and-

ARNAUD SOIRAT;

Respondents

RE-RE-RE-AMENDED APPLICATION FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION AND FOR AUTHORIZATION TO BRING AN ACTION PURSUANT TO SECTION 225.4 OF THE QUÉBEC SECURITIES ACT

TO THE HONOURABLE JUSTICE MARTIN F. SHEEHAN OF THE SUPERIOR COURT OF QUÉBEC, DESIGNATED TO PRESIDE OVER THE PRESENT MATTER, SITTING IN AND FOR THE DISTRICT OF MONTREAL, IN SUPPORT OF HIS RE-RE-RE-AMENDED APPLICATION FOR AUTHORIZATION, THE APPLICANT RESPECTFULLY SUBMITS AS FOLLOWS:

I. DEFINITIONS

1. In this document, in addition to the terms that are defined elsewhere herein or in the *Québec Securities Act*, the following terms have the following meanings:
 - a. “**AIF**” means Annual Information Form;
 - b. “**Applicant**” means Mr. H [REDACTED] D [REDACTED] (...);
 - c. “**Board**” means the board of directors of **TRQ**;
 - d. “**Bowley**” means whistleblower Richard Bowley;
 - d.1. “**Brinkmann**” means Grant Brinkmann, who was **Rio Tinto’s** Senior Area Manager of Shafts at **Oyu Tolgoi** from June 2016 through May 2018 and the senior-most manager with direct responsibility for **Shaft 2**;
 - e. “**CCP**” means the *Code of Civil Procedure*, CQLR c C-25.01;
 - f. “**CCQ**” means the *Civil Code of Quebec*;
 - f.1. “**CDO**” means Chief Development Officer;
 - g. “**CEO**” means Chief Executive Officer;
 - h. “**CFO**” means Chief Financial Officer;
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- i. **“Class” and “Class Members”** refer to the following group, other than the **Excluded Persons**:
 - all persons and entities wherever they may reside or may be domiciled who during the **Class Period** purchased or otherwise acquired **TRQ’s securities in non-U.S. transactions or on an exchange outside of the United States, and held all or some of those securities until after one or both of the Corrective Disclosures** (...);
 - j. **“Class Period”** means the period from July 31, 2018 to July 31, 2019, inclusive;
 - k. **“Company”** means **TRQ**;
 - l. **“Corporate Disclosure Policy”** means **TRQ’s** Corporate Disclosure, Confidentiality and Securities Trading Policy;
 - m. **“Corrective Disclosures”** (each set being a **“Corrective Disclosure”**) means collectively: (1) the news release released by TRQ on July 15, 2019 and corresponding Material Change Report released by **TRQ** on July 24, 2019 communicated herewith as **Exhibits P-1 and P-2** respectively; and (2) the interim financial statements, **MD&A** and corresponding news release released by **TRQ** on July 31, 2019 communicated herewith as **Exhibits P-3, P-4, and P-5** respectively;
 - n. **“CSA”** means the Canadian Securities Administrators;
 - o. **“DC&P”** means Disclosure Controls and Procedures;
 - p. **“Disclosure Committee”** means the committee comprised of certain members of **TRQ’s** management that was responsible for overseeing **TRQ’s** disclosure practices;
 - q. **“Drawbells” or “Draw Bells”** (each being a **“Drawbell” or “Draw Bell”**) means the large rock funnels underneath the undercut that are created by blasting upwards from the upward sloping tunnels or “raises” leading to the haulage level underneath the main ore body, and which catch the crushed ore which is returned to the surface to be processed. The blasting of drawbells commences initial production at the underground **Mine**;
 - r. **“Duffy”** means whistleblower Dr. Maurice Duffy;
 - s. **“Equivalent Securities Acts”** means, collectively, the *Securities Act*, R.S.A. 2000, c. S-4, as amended; the *Securities Act*, R.S.B.C. 1996, c 418, as amended; *The Securities Act*, C.C.S.M. c. S50, as amended; the *Securities Act*, S.N.B. 2004, c. S-5.5, as amended; the *Securities Act*, R.S.N.L. 1990, c S-13, as amended; the *Securities Act*, S.N.W.T. 2008, c. 10, as amended; the *Securities Act*, R.S.N.S. 1989, c. 418, as amended; the *Securities Act*, S Nu 2008, c. 12, as amended; the *Securities Act*, R.S.P.E.I. 1988, c S-3.1, as amended; *Securities Act*, R.S.O. 1990, c. S.5, as amended; *The Securities Act*, 1988, S.S. 1988-89, c. S-42.2, as amended; and the *Securities Act*, S.Y. 2007, c. 16, as amended;
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- t. **“Excluded Persons”** means the **Respondents**, members of the immediate families of the **Individual Respondents**, any entity in which the **Individual Respondents** hold a controlling interest, the directors, officers, subsidiaries, affiliates of **TRQ** and its subsidiaries, and **Rio Tinto** and its directors, officers, subsidiaries and affiliates and entity in which **Rio Tinto’s** directors or officers held a controlling interest;
 - t.1. **“Fields”** means Greg Fields, who served as both **Rio Tinto’s** General Manager of Underground at **Oyu Tolgoi** from May 2015 to December 2018 and General Manager of Project Execution from May 2013 to December 2018, and who was Grant **Brinkmann’s** direct superior;
 - u. **“ICFR”** means internal control over financial reporting;
 - u.1 **“ICG”** means Independent Consulting Group, which is a group of independent consultants hired by the **OT Special Committee** to investigate and report on the causes of cost overruns and delays to the underground development of the **Mine**;
 - u.2 **“ICG Report”** means the final report of **ICG** concerning its investigation titled “Independent Technical Review Oyu Tolgoi Underground Expansion Project” and dated July 31, 2021;
 - v. **“Impugned Documents”** (each being an **“Impugned Document”**) means the documents published by **TRQ** at the following times:
 - i. on July 31, 2018 on **SEDAR**, the interim financial statements for the three and six-month period ended June 30, 2018, communicated herewith as **Exhibit P-6**;
 - ii. on July 31, 2018 on **SEDAR**, the **MD&A** for the three and six-month period ended June 30, 2018, communicated herewith as **Exhibit P-7**;
 - iii. on July 31, 2018 on **SEDAR**, the **CEO** and **CFO** certifications on Form 52-109F2, communicated herewith as **Exhibits P-8** and **P-9** respectively;
 - iv. on July 31, 2018 on **SEDAR**, the news released titled “Turquoise Hill announces financial results and review of operations for the second quarter of 2018”, communicated herewith as **Exhibit P-10**;
 - v. on October 15, 2018 on **SEDAR**, the news released titled “Turquoise Hill announces third quarter 2018 production and provides underground development update”, communicated herewith as **Exhibit P-11**;
 - vi. on November 1, 2018 on **SEDAR**, the interim financial statements for the three and nine-month period ended September 30, 2018, communicated herewith as **Exhibit P-12**;
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- vii. on November 1, 2018 on **SEDAR**, the **MD&A** for the three and nine-month period ended September 30, 2018, communicated herewith as **Exhibit P-13**;
 - viii. on November 1, 2018 on **SEDAR**, the **CEO** and **CFO** certifications on Form 52-109F2, communicated herewith as **Exhibits P-14** and **P-15** respectively;
 - ix. on November 1, 2018 on **SEDAR**, the news released titled “Turquoise Hill announces financial results and review of operations for the third quarter of 2018”, communicated herewith as **Exhibit P-16**;
 - x. on or about November 2, 2018 on **TRQ’s** website, the presentation titled “Turquoise Hill: A Compelling Value Proposition”, communicated herewith as **Exhibit P-17**;
 - xi. on January 17, 2019 on **SEDAR**, the news released titled “Turquoise Hill announces fourth quarter 2018 production and 2019 operational guidance”, communicated herewith as **Exhibit P-18**;
 - xii. on or about January 17, 2019 on **TRQ’s** website, the presentation titled “A Leading Copper and Gold Producer, Developing the Next Tier-1 Copper Asset” given at the TD Securities Mining Conference held on January 16 to 17, 2019 by Ulf Quellmann, communicated herewith as **Exhibit P-19**;
 - xiii. on February 27, 2019 on **SEDAR**, the news release dated February 26, 2019 titled “Turquoise Hill announces 2019 financial guidance and provides underground development update”, communicated herewith as **Exhibit P-20**;
 - xiv. on March 14, 2019 on **SEDAR**, the **AIF** for the year ended December 31, 2018, communicated herewith as **Exhibit P-21**;
 - xv. on March 14, 2019, on **SEDAR**, the audited annual financial statements for the three and twelve-month period ended December 31, 2018, communicated herewith as **Exhibit P-22**;
 - xvi. on March 14, 2019 on **SEDAR**, the **MD&A** for the three and twelve-month period ended December 31, 2018, communicated herewith as **Exhibit P-23**;
 - xvii. on March 14, 2019 on **SEDAR**, the **CEO** certifications pursuant to 18 U.S.C. Section 1350 and the *Securities Exchange Act of 1934*, communicated herewith as **Exhibits P-24** and **P-25** respectively;
 - xviii. on March 14, 2019 on **SEDAR**, the **CFO** certifications pursuant to 18 U.S.C. Section 1350 and the *Securities Exchange Act of 1934*, communicated herewith as **Exhibits P-26** and **P-27** respectively;
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- xix. on March 14, 2019 on **SEDAR**, the news released titled “Turquoise Hill announces financial results and review of operations for 2018”, communicated herewith as **Exhibit P-28**;
 - xx. on March 14, 2019 on **SEDAR**, the management information circular dated March 13, 2019, communicated herewith as **Exhibit P-29**;
 - xxi. on April 15, 2019 on **SEDAR**, the news release titled “Turquoise Hill announces first quarter 2019 production and provides underground development update”, communicated herewith as **Exhibit P-30**;
 - xxii. on May 15, 2019, on **SEDAR**, the unaudited Interim Financial Statements for First Quarter 2019, communicated herewith as **Exhibit P-123**;
 - xxiii. on May 15, 2019, on **SEDAR**, the MD&A for First Quarter 2019, communicated herewith as **Exhibit P-124**;
 - xxiv. on May 15, 2019, on **SEDAR**, the Form 52-109F2 signed by Ulf Quellmann, communicated herewith as **Exhibit P-125**;
 - xxv. on May 15, 2019, on **SEDAR**, the Form 52-109F2 signed by Luke Colton, communicated herewith as **Exhibit P-126**;
 - xxvi. on May 15, 2019, on **SEDAR**, the news release titled “Turquoise Hill announces first quarter 2019 production and provides underground development update, communicated herewith as **Exhibit P-127**; and
 - xxvii. on or around May 16, 2019, on **TRQ’s** website, the transcript of TRQ’s Earnings Call for First Quarter 2019, communicated herewith as **Exhibit P-128**;
- v.1 **“Impugned Rio Documents/Statements”** (each being an **“Impugned Rio Document/Statement”**) means collectively:
- i. **Rio Tinto’s** Presentation titled “Delivering Superior Returns” delivered at the Bernstein Pan European Strategic Decisions Conference, dated September 26, 2018, communicated herewith as **Exhibit P-97**;
 - ii. **Rio Tinto’s** Presentation titled “Copper & Diamonds” delivered at the US Roadshow 2018, dated October 2, 2018, communicated herewith as **Exhibit P-50**;
 - iii. **Rio Tinto’s** News Release titled “Rio Tinto Releases Third Quarter Production Results”, dated October 16, 2018, communicated herewith as **Exhibit P-101**;
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- iv. **Rio Tinto's** Third Quarter 2018 Operations Review for the three and nine-month period ended September 30, 2018, released on October 16, 2018, communicated herewith as **Exhibit P-102**;
 - v. **Rio Tinto's** Presentation titled "Delivering Superior Returns" delivered at the UBS Australasia Conference, dated November 12, 2018, communicated herewith as **Exhibit P-104**;
 - vi. **Rio Tinto's** Operations Review for Fourth Quarter 2018, dated January 18, 2019, communicated herewith as **Exhibit P-108**;
 - vii. **Rio Tinto's** 2018 Annual Report, released on February 27, 2019, communicated herewith as **Exhibit P-51**;
 - viii. The speech and question-and-answer session about **Rio Tinto's** 2018 Annual Report, conducted on February 27, 2019 by certain **Rio Tinto** executives including **Jacques**, communicated herewith as **Exhibit P-110**;
 - ix. **Rio Tinto's** news release titled "Rio Tinto releases first quarter production results", released on April 16, 2019; communicated herewith as **Exhibit P-118**; and
 - x. **Rio Tinto's** First Quarter 2019 Operations Review for the three month period ended March 31, 2019, released on April 16, 2019, communicated herewith as **Exhibit P-119**;
- w. "**Impugned Statements**" (each being an "**Impugned Statement**") means collectively:
- i. the **TRQ** conference call conducted on August 1, 2018, a transcript of which is communicated herewith as **Exhibit P-31**;
 - ii. the **TRQ** conference call conducted on November 2, 2018, a transcript of which is communicated herewith as **Exhibit P-32**; and
 - iii. the **TRQ** conference call conducted on March 15, 2019, a transcript of which is communicated herewith as **Exhibit P-33**;
- x. "**Individual Respondents**" (each being an "**Individual Respondent**") means collectively Ulf Quellmann (individually, "**Quellmann**"), Luke Colton (individually, "**Colton**"), Brendan Lane (individually, "**Lane**"), **Jacques** and Arnaud Soirat (individually, "**Soirat**");
- x.1. "**Jacques**" means Respondent Jean-Sébastien Jacques, who was the **CEO** of **Rio Tinto** from July 1, 2016 to January 1, 2021;
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- x.2. “**Jacobs**” means Jacobs Engineering Group Inc., which was **Rio Tinto’s** main contractor that was given the principal engineering, procurement and construction management contract for the underground expansion project at **Oyu Tolgoi**;
 - x.3. “**Kinnell**” means Craig Kinnell, who was simultaneously a member on **Oyu Tolgoi LLC’s** board of directors as well as the **CDO** of Rio Tinto’s Copper & Diamonds division in charge of the **Oyu Tolgoi** project from December 2014 to March 2018, when he was replaced as **CDO** by **Sayed**;
 - y. “**MD&A**” means Management’s Discussion and Analysis;
 - z. “**Mine**” means **Oyu Tolgoi**;
 - aa. “**NEO**” means named executive officer;
 - bb. “**NI 43-101**” means the CSA’s National Instrument 43-101—*Standards of Disclosure for Mineral Projects*, as amended;
 - cc. “**NI 51-102**” means the CSA’s National Instrument 51-102—*Continuous Disclosure Obligations*, as amended;
 - dd. “**NI 52-109**” means the CSA’s National Instrument 52-109—*Certification of Disclosure in Issuers’ Annual and Interim Filings*, as amended;
 - ee. “**NYSE**” means the New York Stock Exchange;
 - ff. “**Operating Committee**” means the joint committee established by **Rio Tinto** and **TRQ** which gives the three directors each company nominates to the board of **Oyu Tolgoi LLC** their voting instructions. The **Operating Committee** is comprised of two nominees from each of **TRQ** and **Rio Tinto**, with a **Rio Tinto** nominee serving as chairperson of the **Operating Committee** and casting a vote in the case of a tie (effectively giving **Rio Tinto** final say over the decisions of the **Operating Committee**);
 - ff.1 “**OT Special Committee**” means a special committee of the board of directors of **Oyu Tolgoi LLC** comprised of two representatives of **TRQ** and two representatives of a Mongolian state-owned company on behalf of the Government of Mongolia, which was established to investigate the causes of cost overruns and delays to the underground development of the **Mine**;
 - gg. “**Oyu Tolgoi**” means the copper-gold mine in the South Gobi region of Mongolia in which **TRQ** indirectly holds a majority interest through its ownership of **Oyu Tolgoi LLC**, and which is managed by **Rio Tinto** on behalf of **Oyu Tolgoi LLC**;
 - hh. “**Oyu Tolgoi LLC**” means the Mongolian company that owns and manages the **Oyu Tolgoi Mine**, which is a joint venture that is 66% owned by **TRQ** and 34%
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owned by a Mongolian state-owned company on behalf of the Government of Mongolia;

- hh.1 **"Peer Review"** means the peer review of the **ICG Report** dated July 28, 2021, prepared for the **OT Special Committee** by Allan Moss and John Barber;
 - ii. **"Project Finance Facility"** means the \$4.4 billion credit facility entered into by **Oyu Tolgoi LLC** to fund the underground development of the **Oyu Tolgoi Mine**;
 - jj. **"Q1", "Q2", "Q3" and "Q4"** means the three-month interim period ended March 31, June 30, September 30, and December 31, respectively;
 - kk. **"QSA"** means the Québec *Securities Act*, CQLR C V-1.1, as amended;
 - ll. **"Respondents"** (each being a **"Respondent"**) refers to all defending parties collectively;
 - mm. **"Rio Tinto"** means collectively, Respondents Rio Tinto Plc and Rio Tinto Limited, which are two companies managed as a single economic unit, and which are collectively **TRQ's** largest shareholder, holding a 50.8% ownership interest in the **Company**;
 - nn. **"SailingStone"** means SailingStone Capital Partners, a significant **TRQ** shareholder that repeatedly raised concerns about **TRQ's** corporate governance and the lack of independence of **TRQ's** Board and senior management from **Rio Tinto**;
 - nn.1. **"Sayed"** means Arshad Sayed, who replaced **Kinnell** as the **CDO** for **Rio Tinto's** Copper & Diamonds division in March 2018;
 - oo. **"SEC"** means the United States Securities and Exchange Commission, the agency of the U.S. federal government tasked with *inter alia* regulating U.S. capital markets and protecting investors;
 - pp. **"SEDAR"** means the system for electronic document analysis and retrieval of the **CSA**;
 - qq. **"Shaft 2"** means the 10m diameter shaft sunk to a depth of nearly 1.3km under the surface of the ground at **Oyu Tolgoi** to accelerate the underground development project at the **Mine**, which was partly attributable for the delays with the project;
 - rr. **"Soirat"** means Arnaud Soirat, the **CEO** of **Rio Tinto's** Copper & Diamonds Division during the Class Period, and a member of the board of directors of **Oyu Tolgoi LLC** alongside **Quellmann** and **Colton**;
 - ss. **"Technical Committee"** means the joint committee established by **Rio Tinto** and **TRQ** to oversee and approve the underground development, operation and management of **Oyu Tolgoi**. Each of **Rio Tinto** and **TRQ** appoint two members to the **Technical Committee**, with the chair (who gets a casting vote only in case of
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a tie) being appointed by **Rio Tinto**, effectively giving **Rio Tinto** final say over the decisions of the **Technical Committee**;

tt. **"TRQ"** refers to Turquoise Hill Resources Ltd.;

tt.1 **"TRQ Respondents"** means collectively, Respondents TRQ, Ulf Quellmann, Luke Colton and Brendan Lane; and

uu. **"TSX"** means the Toronto Stock Exchange.

II. INTRODUCTION

1) Overview of Proposed Action

2. This securities class proceeding concerns reporting issuer TRQ, its majority shareholder, Rio Tinto, and their management publishing documents (the "Impugned Documents") and making public oral statements (the "Impugned Statements") containing misrepresentations and omissions of material facts, as well as failing to make timely disclosure of material changes, all pertaining to the underground development project at TRQ's Oyu Tolgoi Mine. This action also concerns Rio Tinto and its management, which TRQ concedes exerts significant control and influence over TRQ, knowingly influencing TRQ and its representatives to release documents and make public oral statements containing misrepresentation as well as in the failure to make timely disclosure;
 3. Specifically, the Respondents misrepresented and failed to make timely disclosure that the underground development project at Oyu Tolgoi would take years longer and cost over a billion dollars more than represented, and thus the net present value of the Mine was overstated and required an impairment. The TRQ Respondents further misrepresented that TRQ and its board of directors (the "Board") and senior management were committed to the interests of TRQ and to transparency and robust corporate governance that mitigated any conflicts with TRQ's majority shareholder, Rio Tinto;
 - 3.1 At all times during the Class Period, TRQ represented that it was actively involved, "well plugged-in" and well aware of what was occurring with the underground development of Oyu Tolgoi, including receiving adequate data and updates from Rio Tinto and the external consultants who were working at the Mine, and being well informed about the cost and schedule of the Mine expansion project;
 - 3.2 Rio Tinto, which is the entity hired by TRQ to manage the development of the underground development at Oyu Tolgoi, throughout the Class Period misrepresented the progress of and cost of the underground development of the Mine – which it had been repeatedly told would take substantially longer and cost materially more than what it was publicly representing – including significantly downplaying the known delays and cost overruns in monthly reports to the TRQ Respondents. Rather, Rio Tinto would engage in misleading annual re-forecasts of the schedule to make it appear as if the underground development was more closely adhering (and even surpassing) schedule, when it knew that it was behind in the critical path areas for the project.
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- 3.3 TRQ, which was contractually obligated to make disclosure which was consistent with the information provided by Rio Tinto and which Rio Tinto was permitted to review and comment upon, simply repeated the false information being provided by Rio Tinto, in violation of its disclosure obligations under applicable securities laws and despite its repeated insistences that it was well plugged in and knowledgeable of the true facts concerning the underground development at Oyu Tolgoi. An independent expert report of the delays and cost overruns at the Mine conducted after the Class Period, as well as a peer review of the report, also found that Rio Tinto was downplaying and misrepresenting the problems it knew to exist.
 4. TRQ is a Canadian mining company focused on the operation and development of the Oyu Tolgoi copper-gold mine in Southern Mongolia, which at all relevant times was (and remains) the Company's principal and only material mineral resource property;
 5. The Oyu Tolgoi Mine was initially developed as an open-pit mining operation. Over 80% of the Mine's reserve value however, is located deep underground and accessible only by underground mining methods. Work on drilling the underground mine began in 2010, but was suspended in 2013 due to ongoing disputes between Rio Tinto and the Government of Mongolia (which is 34% owner of the Mine);
 - 5.1 As part of the agreement process with the Government of Mongolia to resume work on the underground expansion, feasibility studies were presented to the Mongolian Government which would greatly increase the annual production at Oyu Tolgoi;
 6. At all times during the Class Period, TRQ represented that the expansion and development of the underground mine at Oyu Tolgoi was the Company's main focus and "the key to unlocking Oyu Tolgoi's full value";
 7. TRQ's controlling shareholder during the Class Period was Rio Tinto, which owned roughly 51% of the Company. Accordingly, Rio Tinto appointed 3 of the 7 members of TRQ's Board (including approving the hiring of TRQ's CEO) and hired all of TRQ's named executive officers ("NEOs") apart from the Company's CEO. Furthermore, Rio Tinto is also the manager of the Oyu Tolgoi Mine as well as the contractor for the underground construction, and as such is responsible for the day-to-day operational management and development of Oyu Tolgoi). Subsequent to the end of the Class Period, Rio Tinto acquired the remaining interest in TRQ which it did not own;
 8. This relationship between TRQ and its controlling shareholder has consistently given other significant shareholders of TRQ cause for concern, as TRQ is wholly reliant on Rio Tinto for up-to-date technical information about the Oyu Tolgoi expansion, which is material to TRQ's other shareholders. To assuage the concerns of these minority shareholders, TRQ repeatedly represented that it was committed to transparency and had effective corporate governance, and that TRQ's Board and management had timely and adequate access to all technical information about the Oyu Tolgoi expansion and were providing accurate and complete disclosure about the project;
 9. In 2016, TRQ completed a feasibility study (from which it would quote, but which was not publicly released), and subsequently a technical report study pursuant to NI 43-101 for the Oyu Tolgoi Project (the "2016 Technical Report"), which it publicly released,
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communicated herewith as **Exhibit P-34**. In quoting from the feasibility study and in the 2016 Technical Report, the Company represented to the investing public that:

- a. the total cost to complete development of the underground project at Oyu Tolgoi would be USD \$5.3 billion;
 - b. initial production from the underground Mine would occur in mid-2020;
 - c. sustainable production would be achieved in the first quarter of 2021;
 - d. production ramp up would commence in early-2021;
 - e. construction of the underground development project would be completed by early-2022;
 - f. full production would be achieved in early-2027;
 - g. the net present value of Oyu Tolgoi, after taxes, using a discount rate of 8% for all years was U.S \$6.94 billion; and
 - h. the payback period for the mine would take until January 2025;
10. TRQ and Rio Tinto continued to make these same representations for the next three years, including throughout the Class Period;
11. However unbeknownst to the Class and the general investing public, as soon as work on the underground expansion resumed in 2016, there were significant problems, including with the most critical mine shaft at Oyu Tolgoi, Shaft 2.
- 11.0.1 Both the ICG report (a report jointly commissioned by the Government of Mongolia and TRQ via an independent investigation into the causes of the delay and cost overruns at Oyu Tolgoi) ("**ICG Report**"), and the peer review of that report ("**Peer Review**", communicated herewith as **Exhibits P-72** and **P-73** respectively), found that the delays and cost overruns occurred from the very beginning of the project restart in 2016 (two years before the start of the Class Period), that senior managers at the Mine knew about the problems, including with Shaft 2, since at least 2016, and that geotechnical issues "were not a significant contributor to the schedule delays and cost overruns";
- 11.1 Work on Shaft 2 had begun in 2007 and further work had been conducted in 2010-2013 when the shaft was sunk to a depth of 1,167 metres, but as described by numerous former Oyu Tolgoi managers, the initial construction work on Shaft 2 was so deficient and dangerous that in 2016 when work on the underground expansion resumed, all work was stopped on the sinking of Shaft 2 until it could be fixed;
- 11.2 As reported in the *Australian Financial Review* on March 5, 2021 (communicated herewith as **Exhibit P-64**), Oyu Tolgoi managers were effectively forced to rebuild much of Shaft 2 from scratch—a project that required workers to replace more than 40,000 bolts and approximately 95% of the steel in the shaft's headframe—and predictably caused costs and schedule delays to greatly exceed what the Respondents were publicly representing. Rio Tinto's "Senior Area Manager of Shafts" who worked at Oyu Tolgoi from June 2016
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through May 2018 has stated in the companion U.S. class action, that by May 2018 (before the Class Period began), Shaft 2 was 14 months behind schedule and that Rio Tinto's senior management knew about the delays and cost overruns before the Class Period had even commenced;

11.2.1 As unequivocally summarized in the Peer Review of the ICG Report:

The project began to fall behind schedule almost from the beginning. The sinking (and commissioning) of Shafts #2 & #5 was critical to completing [Hugo North Lift 1 underground mine] on schedule. Shaft #2, critical to support development and construction activities for the project, was completed 461 days behind schedule. This caused a delay in the mobilization of development crews, which is the fundamental reason that mine development is behind schedule. The project team never recovered from this delay.

- 11.3 As recounted by whistleblower Dr. Maurice Duffy, as of 2017, Rio Tinto's top management, including its CEO, Jean-Sébastien Jacques, "knew without a doubt" that there were serious problems and setbacks with the Oyu Tolgoi underground expansion that would make achieving the above representations regarding schedule and cost impossible. Nonetheless the Respondents continued to repeat these misrepresentations until 2019;
- 11.4 In fact, Dr. Duffy set up a meeting with the head of human resources for Rio Tinto, who served as the intermediary for Jacques, on September 6, 2017 (nearly 11 months prior to the start of the Class Period), where he reported the problems he knew about Oyu Tolgoi. According to Dr. Duffy, when Jacques made a surprise visit to Oyu Tolgoi in January 2018, it was because by that time, he knew the "wheels were coming off" of the project;
- 11.4.1 This was corroborated by Mark Adams, who was a Rio Tinto Employee from October 2016 to May 2017 who worked in Contracts and Procurement Management, and who recounts that the lack of progress was obvious to any of the senior TRQ or Rio Tinto leadership who toured the site, and that the delays were obvious to anyone who saw Shaft 2 (more than a year before the start of the Class Period when he was at the site).
- 11.5 Clearly recognizing that there were major problems with the expansion, in late 2017 Rio Tinto hired a veteran contractor who had years of prior experience with the Oyu Tolgoi expansion, Richard Bowley, to examine the problems with the project and come up with a plan to address them. Mr. Bowley would not have been hired if the problems with the Mine were not evident by 2017;
- 11.6 The problems were so prevalent at Oyu Tolgoi that Mr. Bowley immediately identified hundreds of millions of dollars in cost overruns, and it was obvious to him the expansion was already months behind schedule. As of February 2018, Mr. Bowley began repeatedly alerting senior executives of Rio Tinto, including the Chief Development Officer ("CDO") as well as the VP for Human Resources of Rio Tinto's Copper & Diamonds Division, about the significant cost overruns and expected delays on the underground expansion of the Mine (as reported in the *Financial Times* on March 23, 2020, communicated herewith as **Exhibit P-35**);
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12. On July 19, 2018, Mr. Bowley wrote to Rio Tinto's VP of Human Resources (Copper & Diamonds) warning that the project was USD \$300 million over budget and twelve months behind schedule, and notifying her to "[e]xpect this to rapidly escalate" (as reported in the *Australian Financial Review* on November 12, 2019, communicated herewith as **Exhibit P-36**). At the time, Ulf Quellmann, who was even then a director on TRQ's Board, was also simultaneously VP, Strategic Projects (Copper & Diamonds) for Rio Tinto (i.e. the same business division of Rio Tinto as the VP and the CDO who Mr. Bowley contacted about the problems at Oyu Tolgoi);
 13. Not only did TRQ not release a material change report disclosing this material change to its principal and only significant resource property as it was required to, instead on July 31, 2018, TRQ publicly doubled down on its misleading disclosure, stating to the investing public that June 2018 had achieved a "record level" of underground development at Oyu Tolgoi and representing that:
 - a. initial production remained planned for mid-2020;
 - b. sustainable production remained planned for 2021;
 - c. construction at Oyu Tolgoi was expected to complete in 2022;
 - d. full production would be achieved by 2027;
 - e. the net book value of Oyu Tolgoi as at June 30, 2018 was USD \$8.05 billion;
 14. Possibly most egregious, despite the very specific warnings about delays and cost overruns with the underground expansion at Oyu Tolgoi being conveyed to Rio Tinto by Bowley just days prior, in this July 31, 2018 Impugned Document (communicated herewith as Exhibit P-7), TRQ explicitly stated that during the fourth quarter of 2017, Rio Tinto had undertaken a schedule and cost review and provided TRQ "with a high-level overview of the review's outcomes, in which Rio Tinto concluded there were no material changes in project scope, cost or schedule. Following analysis of [Rio Tinto's] review's conclusions, Turquoise Hill is in agreement with the findings." [emphasis added];
 15. Mr. Bowley continued to express concerns about the development and cost of the Oyu Tolgoi Project, sending another email in October 2018 to Rio Tinto's VP of Human Resources (Copper and Diamonds) who forwarded his email to the CEO of the division, Soirat, that that there would be a "12-18 month delay in the underground project, with substantial cost implications" [emphasis added] (as reported in the *Financial Times* on February 16, 2020, communicated herewith as **Exhibit P-37**). He also outlined these concerns to the board of directors of Rio Tinto, who appoints TRQ's CEO and nearly half of TRQ's Board, and which employs all of TRQ's NEOs apart from its CEO (including Respondents Colton and Lane).
 16. Despite the repeated and very specific warnings from Mr. Bowley, throughout the Class Period the Respondents continued to represent that the projections made in the 2016 Technical Report remained accurate. The Respondents did not at any point during the Class Period disclose that they knew or should have known that their repeated representations about the cost and schedule for the Oyu Tolgoi underground expansion
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were false and the project would cost over a billion dollars more and take years longer than the Respondents were publicly representing;

17. Specifically, at all relevant times during the Class Period, the Respondents made misrepresentations of material facts through affirmative false and/or misleading statements and omissions, as well as failed to make timely disclosure that could be broken down into three categories: (1) Misrepresentations about the status and timing for completion of the underground expansion project; (2) Misrepresentations about the cost of the underground expansion project; and (3) Misrepresentations about corporate governance, transparency and serving the interests of all TRQ shareholders, as explicated below:
 - a.1 Misrepresentations about the status and timing for completion of the underground expansion project included:
 - i. misrepresentations about the status of progress and completion of the underground development project, including specifically but not limited to updates about “Shaft 2”;
 - ii. misrepresentations about the Mine design and that the key risks facing the underground development at Oyu Tolgoi were well understood and managed;
 - iii. misrepresentations that initial production at Oyu Tolgoi would occur in mid-2020;
 - iv. misrepresentations that sustainable production at Oyu Tolgoi would occur by the end of March 2021 (which was subsequently delayed in the middle of the Class Period to by the end of September 2021);
 - v. misrepresentations that construction of the underground development project would be completed by 2022; and
 - vi. misrepresentations that full production at the Mine would be achieved in 2027;
 - b.1 Misrepresentations about the cost of the underground expansion project included:
 - i. misrepresentations that the cost for the underground development project would be USD \$5.3 billion;
 - ii. misrepresentations about how much the net present value of the Oyu Tolgoi Mine was, and that the net present value was based on management’s best estimates of expected future revenues and costs and no impairment was required;
 - iii. misrepresentations that the payback period for the underground expansion of the Mine would be achieved by January 2025;
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- iv. misrepresentations that TRQ would fund the development and financing of the underground project using the funds drawn down from the Project Finance Facility and would not need additional/incremental financing to sustain its underground development program; and
 - v. misrepresentations that the management of TRQ had increased direct participation in matters pertaining to Oyu Tolgoi underground expansion cost and scheduling, and had adequate technical information and updates about the underground expansion project of the Oyu Tolgoi Mine, including Board members periodically visiting the Mine;
- c.1 Misrepresentations about corporate governance, transparency and serving the interests of all TRQ shareholders included:
- i. Misrepresentations that TRQ had effective corporate governance and that the Board and senior management of TRQ (much of whom were employees of Rio Tinto who were “seconded” to TRQ) were committed to transparency and robust corporate governance that mitigated any conflicts between TRQ and Rio Tinto, and were committed to serve the interests of TRQ and its shareholders (as opposed to the interests of Rio Tinto and its shareholders);
 - ii. that TRQ had a *Corporate Disclosure, Confidentiality and Securities Trading Policy* which contained measures to avoid selective disclosure, as well a *Code of Business Conduct* that was applicable to all employees, officers and directors and that required them to uphold their commitment to a culture of honesty, integrity, accountability, and the highest standards of professional and ethical conduct; and
 - iii. that the Respondents had designed internal controls over financial reporting (“**ICFR**”) and disclosure controls and procedures (**DC&P**) that were effective and provided reasonable assurances that material information was made known and reported, and that TRQ’s disclosures were reliable, fairly presented in all material respects the financial condition, results of operations and cash flows of TRQ, and did not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statement made not misleading;
18. Mr. Bowley continued to warn senior executives of Rio Tinto of problems at the Project and that Rio Tinto’s public statements (echoed by TRQ) “watered down the truth”, were “inconsistent with the truth (a lie)”, and “suicidal”, until January 2019, at which point Rio Tinto retained independent counsel Baker McKenzie to investigate his concerns.
- 18.1 In February 2019, two days after Rio Tinto finished an internal compliance investigation into Bowley’s whistleblowing, the Respondents began to admit that the Oyu Tolgoi underground expansion was in trouble. A month later, Mr. Bowley’s employment contract with Rio Tinto was terminated with “immediate effect”, and Mr. Bowley filed an “unfair dismissal” claim against Rio Tinto with the UK Employment Tribunal.
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- 18.2 Once Dr. Duffy learned of Baker McKenzie's investigation into Bowley's claims, he attempted to get Rio Tinto's board to reconsider its findings as the investigation "excluded information" reported to Rio Tinto by his firm since 2017, but to no avail. Instead, Baker McKenzie sought the destruction of the data that Dr. Duffy's firm had collected, and was successful at doing so after the end of the Class Period.
19. After roughly sixteen months of misrepresenting the development schedule and cost of the Oyu Tolgoi underground development while its controlling shareholder and the entity it paid to manage Oyu Tolgoi was in actual knowledge to the contrary, on July 15, 2019 TRQ publicly issued a news release, communicated herewith as Exhibit P-1, that announced *inter alia* that:
- a. there were stability risks with the existing Mine design and the Mine design would need to be changed;
 - b. sustainable production would be delayed by 16 to 30 months and was now expected between May 2022 and June 2023 (rather than March 2021 as previously represented);
 - c. the reasons for the delay were the unexpected and challenging geotechnical issues and complexities in the construction of Shaft 2 (despite the Company's past repeated representation that "[k]ey risks [of Oyu Tolgoi] were well understood and managed", despite the Company explicitly acknowledging it was aware of the "challenging ground conditions" in its press release of October 15, 2018 and despite Shaft 2 being largely excavated at the beginning of the Class Period);
 - d. the cost for the underground development project was expected to be USD \$1.2 to \$1.9 billion more than the USD \$5.3 billion that had been represented since 2016 (an increase in cost of between 23% to 36%);
 - e. the issues with the Mine design were so uncertain that that it would take until the second half of 2020 to develop a revised design for the Mine; and
 - f. although further work was necessary to reach definitive conclusions, TRQ was assessing the net book value of its investment in Oyu Tolgoi and would announce any changes, along with any adjustments to deferred tax in its results for Q2 2020 released at the end of July, 2019;
20. The next day after the release of this partial Corrective Disclosure, the price of TRQ's common shares on the TSX dropped 43.2%, going from CAD \$1.39 to \$0.79 per share in one single day on more than 32-times the trading-volume of the prior day;
21. Then a couple weeks later on July 31, 2019, TRQ released its financial statements, MD&A and a corresponding news release for Q2 2019 (i.e. collectively, the final Corrective Disclosure), which are communicated herewith as Exhibits P-3, P-4 and P-5 respectively. This Corrective Disclosure repeated the corrections released on July 15, 2019 as well as making further disclosure about the status of the project, including that:
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- a. initial production was now expected between October 2021 and September 2022 (as opposed to mid-2020 as previously represented – a delay of 16 to 30 months);
 - b. although not expressly disclosed, the aforementioned delays made it apparent that construction at Oyu Tolgoi would not be completed in 2022 nor would full production be achieved by 2027 as previously represented;
 - c. TRQ was taking a USD \$600 million impairment charge and a USD \$400 million difference in deferred tax asset recognition (relative to the same quarter a year prior) due to the delays and increased costs with the Oyu Tolgoi underground development project;
 - d. the Net Book Value of Oyu Tolgoi was USD \$9.04 Billion (rather than the expected USD \$9.64 that it would have been absent the impairment);
 - e. the Company was recording a net loss of USD \$736.7 million in Q2 2019 compared to a net profit of \$204.4 million in Q2 2018, with the principal reason being the aforementioned \$600 million impairment charge and the other reason being the aforementioned \$400 million difference in deferred tax asset recognition, both of which “were impacted by the Company’s update on the Oyu Tolgoi underground project”;
 - f. TRQ was taking a “deferred tax de-recognition adjustment” of \$252.8 million in the quarter, which “was primarily due to updated operating assumptions in mine planning during the period, resulting primarily from timing of sustainable first production noted above as well as the revised estimates of underground development capital”; and
 - g. given the estimated impacts of the increases to underground development costs as well as delays to first sustainable production, TRQ no longer had enough funds on hand to complete the underground expansion project expects to now need incremental financing to sustain its underground development beyond 2020.
22. The next day after the release of this final Corrective Disclosure, the price of TRQ’s common shares on the TSX dropped another 8.0%, going from CAD \$0.75 to \$0.69 per share. Overall between July 15 to August 1, 2019, the stock price of TRQ dropped by over 50% due to the correction of the previously released misrepresentations, eliminating roughly CAD \$1.41 billion of market capitalization for TRQ’s shareholders in just thirteen trading days;
- 22.1 Even at this time however, the Respondents were not fully honest. The delays and cost overruns with the Oyu Tolgoi expansion were partly blamed on “unexpected and challenging geotechnical issues” and “complexities in the construction of Shaft 2.” This assertion was expressly refuted by the ICG report;
23. In truth, the problems with Shaft 2 – which had been worked on for years, sunk to a depth of 1,167m by 2013, and largely excavated before the beginning of the Class Period – (as announced by TRQ itself in January of 2018) – were internally documented, well known, and had been the subject of at least two whistleblower complaints, including from Bowley
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who sent numerous emails to Rio Tinto's management that Rio Tinto's public statements were false. Yet the Respondents did not disclose the severe mine design issues and up to USD \$1.9 billion in additional project costs until the end of the Class Period;

- 23.0.1 This was corroborated by Rio Tinto's former Senior Geotechnical Engineer at Oyu Tolgoi, Mohammad Khishvand, who said that the ground conditions were known, but that Rio Tinto wanted its geotechnical engineers and outside consultants to keep it a secret, and encouraged them to discuss their concerns only "face to face, never email or in writing", because Rio Tinto did not want there to be proof of its knowledge of ground conditions that would require it to spend significant amounts of money. However, none of the reasons for the delay were "unexpected" as asserted by the Respondents.
- 23.1 Either TRQ was actively involved and "well plugged-in" and aware of the progress and cost of the underground development of the Mine as the TRQ Respondents repeatedly represented throughout the Class Period and the TRQ Respondents chose to omit the setbacks and cost overruns that were evident since before the start of the Class Period, or the TRQ Respondents misrepresented that they were aware of the true state of affairs of TRQ's Mine. Either way, the disclosures provided by the TRQ Respondents throughout the Class Period were misrepresentations;
24. In fact, near the end of the Class Period on March 15, 2019 after the Respondents had just announced a minor delay to sustainable first production, Quellmann even stated that the Company had "identified some higher level of risks to the schedule" months prior, but inexplicably had simply chose to omit disclosure of those risks (as communicated herewith in Exhibit P-33);
25. Despite initially publicly representing that Mr. Bowley's claim with the UK Employment Tribunal was without merit and that Rio Tinto would "vigorously defend" against the claim, on September 30, 2020 Rio Tinto settled with Mr. Bowley for an undisclosed amount as reported in the *Australian Financial Review* on September 29, 2020, communicated herewith as **Exhibit P-38**);
26. Only after the end of the Class Period did it come to light that whistleblower Dr. Maurice Duffy had also repeatedly warned the board of directors of Rio Tinto of reporting and ethical issues pertaining to the Oyu Tolgoi project, and that the the independent so-called investigation commenced in January 2019 by Rio Tinto's outside counsel Baker McKenzie into the problems raised by Mr. Bowley, "excluded information known by [Dr. Duffy's consulting firm] about Mongolia since 2017" (as reported in the *Australian Financial Review* on July 27, 2020 and in the *Financial Times* on November 10, 2020 communicated herewith as **Exhibits P-39** and **P-40** respectively). Instead of considering that information, Baker McKenzie successfully secured the destruction of Dr. Duffy's records;
- 26.1 Instead of disclosing the delays and cost overruns known to Rio Tinto during the Class Period and as reported by Bowley, Duffy, and a number of others, Rio Tinto sought to victimize and financially ruin the two whistleblowers. Subsequent to the Class Period, and after Respondent Jacques was replaced as Rio Tinto's CEO, Rio Tinto's new CEO held a personal meeting with Mr. Bowley and Dr. Duffy and delivered a tearful apology "for the mental, economic and reputation pain that [Rio Tinto] had caused them" during Jacques tenure "for telling the truth". Rio Tinto's head of human resources, James Martin, also
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apologized to Duffy for these acts and offered Dr. Duffy more work with Rio Tinto, but Dr. Duffy rejected this offer (as reported in the *Daily Mail* on August 9, 2023, communicated herewith as **Exhibit P-82**), In mid-August of 2023, Mr. Bowley posted this *Daily Mail* article himself on his personal LinkedIn and confirmed the meetings and events described therein, stating that it was “pleasing” that “the Rio Tinto CEO made a full apology” for these events, and disclosing that him and Dr. Duffy had been working on a report for the government (communicated herewith as **Exhibit P-83**);

- 26.2 This article also stated that Mr. Duffy and Mr. Bowley had drafted a confidential report submitted to the Mongolian government about the issues at the Mine called “Bad Minds Make Bad Miners”;
- 26.3 In a Twitter posting dated August 11, 2023, Mr. Bowley further confirmed the events described in the article, indicating that he was “there in the room” to receive “[a]n unreserved apology for everything that happened in Mongolia” (communicated herewith as **Exhibit P-84**);

2) The Parties

a. The Applicant

27. Mr. (...) H [REDACTED] D [REDACTED] is an individual who resides in [REDACTED] Ontario;
28. In reliance on the information contained in some or all of the Impugned Documents and/ or the Impugned Statements, as well as his belief that TRQ was making timely disclosure of all material changes in its affairs, (...) during the Class Period, Mr. D [REDACTED] acquired 60,199 common shares of TRQ over the TSX for a total cost of CAD \$81,358.25 including transaction fees, equating to a cost of roughly CAD \$1.35 per share. He also acquired 15,000 common shares of TRQ over the NYSE for a total cost of USD \$9,823.76 including transactions fees, equating to a cost of roughly USD \$0.65 per share, the whole as appears from the record of his transactions and holdings, a copy of which is communicated herewith as **Exhibit P-142**;
29. (...) Mr. D [REDACTED] continued to hold all of these shares until after the end of the Class Period, thereby suffering damages when the release of the Corrective Disclosures removed the artificial inflation in TRQ’s stock price;

b. Respondent TRQ

30. TRQ is a corporation formed under the laws of the Yukon Territory, which is headquartered in Montreal, Québec. At all relevant times, TRQ was a reporting issuer in Québec and all other provinces and territories of Canada. TRQ’s principal regulator was the Autorité des marchés financiers (“AMF”). At all times relevant to this action, TRQ’s majority shareholder was Rio Tinto, which held a 50.8% equity ownership interest in TRQ;
31. TRQ’s common shares were publicly-listed for trading on the TSX and the NYSE under the ticker symbol “TRQ”, as well as on other secondary market trading venues elsewhere;
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- 31.1 Subsequent to the end of the Class Period, in December 2022, Rio Tinto completed the acquisition of the remaining 49% interest in TRQ, which it did not own, for approximately \$4.24 billion. Accordingly, TRQ became a wholly owned subsidiary of Rio Tinto and delisted from the TSX and NYSE.
32. TRQ holds itself out as “an international mining company focused on the operation and further development of the Oyu Tolgoi copper-gold mine in southern Mongolia, which is the Corporation’s principal and only material mineral resource property.” At all times relevant to this action, the Oyu Tolgoi Mine was TRQ’s only material asset. As such all material developments regarding the Mine were material to TRQ’s overall business and operations;
33. As a reporting issuer in Québec, TRQ was required during the Class Period to issue and file with the AMF and on SEDAR:
- a. interim and annual financial statements;
 - b. MD&As coinciding with the financial statements explaining how the company performed during the period covered by the financial statements, and of the company's financial condition and future prospects;
 - c. AIFs, which are annual disclosure documents intended to provide material information about the Company and its business at a point in time in the context of its historical and future development and which must describe the Company, its operations and prospects, risks, and other external factors that impact the Company specifically; and
 - d. CEO and CFO certifications attesting that the aforementioned disclosure documents fairly and accurately disclosed the business and operations of the Company and were free from misrepresentations or omissions that would make the documents misleading;
34. TRQ was also a registrant with the United States SEC and filed its disclosure documents through the SEC’s filing system, “EDGAR”;

c. Individual Respondent Quellmann

35. Ulf Quellmann was TRQ’s CEO from August 1, 2018 and a director on its Board from May 12, 2017 until he was forced by Rio Tinto to resign both of those positions effective March 3, 2021 (as reported in *MINING.COM* on March 4, 2021, communicated herewith as **Exhibit P-61**);
- 35.1 Quellmann was also a director of Oyu Tolgoi LLC from September 2018 through to the end of the Class period alongside the CEO of the Copper & Diamond Division at Rio Tinto, Arnaud Soirat, who also served as a director of Oyu Tolgoi LLC from September 2018 through to the end of the Class Period;
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36. In his capacity as TRQ's CEO, Quellmann certified each of the Impugned Documents that are quarterly and annual disclosures of TRQ that were released after July 31, 2018, and signed the AIF released on March 14, 2019;
37. Prior to being appointed CEO on August 1, 2018, Quellmann was simultaneously a director on TRQ's Board and part of the management of Rio Tinto's Copper & Diamond Division (acting as the Division's CFO from August 2016 to February 2018 and then a Vice President in the Division until August 1, 2018), where he reported to Respondent Soirat. Rio Tinto's Copper & Diamonds division was one of two divisions responsible for overseeing Oyu Tolgoi;
38. Quellmann was simultaneously both a director on TRQ's Board and a VP of Rio Tinto's Copper & Diamond Division during February to July of 2018 when whistleblower Richard Bowley was notifying the management of the Copper & Diamond Division of the delays and cost overruns at Oyu Tolgoi;
39. As of August 1, 2018 until after the end of the Class Period, Quellmann was a member of TRQ's Disclosure Committee, which was responsible for overseeing TRQ's disclosure practices;
- 39.1 From October 2018 when he replaced Respondent Colton, until the end of the Class Period, Quellmann was a member of the Technical Committee. The Technical Committee also included Respondents Soirat and Lane.
- 39.2 From September 2018 until the end of the Class Period, Quellmann was a member of the Operating Committee, alongside Respondents Soirat (who was the Chair of the committee) and Colton.
40. At all times relevant to this action, Quellmann was not "independent" from Rio Tinto, as defined under applicable securities regulations, due to acting as an officer of Rio Tinto;

d. Individual Respondent Colton

41. Luke Colton was seconded by Rio Tinto to act as TRQ's CFO from October 9, 2017 until after the end of the Class Period, and also served as the Company's interim-CEO from July 1, 2018 until August 1, 2018 when he was replaced by Quellmann. Colton was also a director of Oyu Tolgoi LLC as of April 2018, where he was subsequently joined by Quellmann and Soirat in September 2018;
 42. In his capacity either as CFO or interim-CEO (or both), Colton certified every single Impugned Document that was a quarterly or annual disclosure of TRQ, and signed the AIF released on March 14, 2019;
 43. At all times relevant to this action, Colton was a member of TRQ's Disclosure Committee, which was responsible for overseeing TRQ's disclosure practices;
 - 43.1 Colton also served on the Technical Committee until October 2018 (when he was replaced by Quellmann, and served on the Operating Committee throughout the Class Period alongside Quellmann and Soirat.
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44. Prior to being seconded to TRQ, Colton was employed at Rio Tinto from 2004 until September 2017. At all times relevant to this action, Colton was not “independent” from Rio Tinto, as defined under applicable securities regulations, due to acting as an officer of Rio Tinto;

e. Individual Respondent Lane

45. Brendan Lane was seconded by Rio Tinto to act TRQ’s Vice-President, Operations and Development from February 1, 2016 until his departure in or about June of 2019. As Vice-President, Operations and Development of TRQ, Lane was responsible for monitoring and reviewing the underground development of Oyu Tolgoi. At all times relevant to this action, Lane was a NEO of TRQ;
46. In his capacity as Vice-President, Operations and Development, Lane made statements alleged to contain misrepresentations on TRQ’s conference calls held on August 1, 2018 and November 2, 2018;
47. At all times relevant to this action, Lane was a member of TRQ’s Disclosure Committee, which was responsible for overseeing TRQ’s disclosure practices;
- 47.1 From before the start of the Class Period until his departure, Lane was a member of the Technical Committee, which also included Quellmann and Soirat.
48. From 2013 to January 2017, Lane was the Minera Escondida Limiteada and Grasberg Finance Director at Rio Tinto (Copper & Diamonds), and he previously held other positions at Rio Tinto. At all times relevant to this action, Colton was not “independent” from Rio Tinto, as defined under applicable securities regulations;

f. Rio Tinto Corporate Respondents

- 48.1 Rio Tinto plc is a United Kingdom company. Rio Tinto Limited is an Australian company. Together, the two companies are managed as a single economic unit (referred to herein collectively as “Rio Tinto”). Rio Tinto has joint head offices in London, United Kingdom, and Melbourne, Australia;
 - 48.2 Rio Tinto is one of the largest metals and mining companies in the world. Through its subsidiaries and affiliates, during the Class Period Rio Tinto held a 50.8% ownership stake in TRQ, making it a “control person” and an “influential person” of TRQ pursuant to the QSA;
 - 48.3 At all times relevant to this action, Rio Tinto listed TRQ as one of its principal subsidiaries, and consolidated TRQ’s financials in its own financial statements;
 - 48.4 Rio Tinto is the entity that manages the Oyu Tolgoi Mine, including the construction and development of the underground mine that is at issue in this action. The Oyu Tolgoi project was jointly overseen by Rio Tinto’s Copper and Diamonds division (of which Respondent Soirat was the chief executive), and Rio Tinto’s Growth and Innovations division;
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- 48.5 Further, before and during the Class Period, Rio Tinto and TRQ had an agreement, where all public disclosures regarding Oyu Tolgoi made by TRQ were required to be consistent with the information provided by Rio Tinto; As such, all of TRQ's disclosures about Oyu Tolgoi were first provided to Rio Tinto for review, comment and approval;
- 48.6 Respondent Rio Tinto International Holdings Limited ("RTIH"), is a wholly-owned subsidiary of Rio Tinto which is incorporated in England and Wales;
- 48.7 RTIH is the entity through which Rio Tinto held the majority of its shares of TRQ, and Rio Tinto exercised its control of TRQ through RTIH. TRQ in disclosure documents, including its MD&A for the fiscal year ended December 31, 2018 (i.e. Exhibit P-23), expressly states that RTIH "has the ability to exert a significant degree of control" over TRQ, including its management, development and operations;

g. Individual Respondent Jacques

- 48.8 Jean-Sébastien Jacques was Rio Tinto's CEO from July 1, 2016 until January 1, 2021. Since at least 2017, Jacques was aware of the significant cost overruns and schedule delays to the underground expansion of the Oyu Tolgoi Mine;

h. Individual Respondent Soirat

- 48.9 Arnaud Soirat was the chief executive of Rio Tinto's Copper & Diamonds division from 2016 until December 2020. Soirat also served on the board of Oyu Tolgoi LLC throughout the Class Period alongside Respondents Quellmann and Colton. Soirat was also a member of the Technical Committee (alongside Respondents Quellmann and Lane), and was also the chair of the Operating Committee (alongside Respondents Quellmann and Colton);
- 48.10 Since at least 2017, Soirat was aware of the significant cost overruns and schedule delays to the underground expansion of the Oyu Tolgoi Mine. In fact, in late 2017, Soirat and another member of Rio Tinto's Copper and Diamonds division, Craig Kinnell, hired mining expert Richard Bowley specifically to examine these known problems with the underground development and come up with a plan to address them;

III. THE FACTS AND EVENTS OUT OF WHICH THIS ACTION ARISES

1) The Relationship Between TRQ and Rio Tinto

49. On or about July 30, 2012, Rio Tinto, which was already Ivanhoe Mines' (as TRQ's was then-named) largest shareholder and already appointed 7 of the 14 directors on Ivanhoe Mines' Board, purchased another USD \$935 million worth of Ivanhoe Mines' shares, increasing its total interest in the company to roughly 51%. As part of the conditions to provide the additional funding, Rio Tinto required that Ivanhoe Mines change its name (which it did in August of 2012, to "Turquoise Hill Resources Ltd."), and its founder step down as the Company's CEO (which he did);
50. Rio Tinto has anti-dilution rights that permit it to acquire additional securities of TRQ so as to maintain Rio Tinto's controlling proportionate equity interest in TRQ. Consequently at
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all times relevant to this action, Rio Tinto beneficially owned approximately 50.8% of all of the issued and outstanding common shares of TRQ, giving it control over the Company;

51. As 50.8% owner of TRQ's equity, Rio Tinto had control over the selection of TRQ's Board of Directors and could block any nomination to the Board or force any resignation. At all times relevant to this Action, three out of the seven directors on TRQ's Board, including TRQ's CEOs (first Colton, then Quellmann), were not "independent" from Rio Tinto, as defined under applicable securities regulations;
52. At all relevant times, all of the NEOs of TRQ apart from Quellmann were "secondees" of Rio Tinto. This means that all NEOs aside from Quellmann were employed by Rio Tinto and then appointed by TRQ to their respective executive officer positions at TRQ. As such, the base salary, incentive award opportunities, awards based on reaching certain objectives and milestones, employee benefits, and all other remuneration of all of the NEOs of TRQ aside from Quellmann were established by Rio Tinto in "secondment agreements" reached between each NEO and Rio Tinto directly (and not TRQ). Rio Tinto would then charge the cost of such salaries and benefits back to TRQ;
 - 52.1 Before Quellmann became CEO of TRQ on August 1, 2018, all of the NEOs of TRQ (including the interim-CEO, Colton), were seconded to TRQ by Rio Tinto. After the end of the Class Period, Rio Tinto intervened to force the resignation of Quellmann, who was the sole NEO who was not a Rio Tinto employee during the Class Period, after he took actions in support of TRQ's minority shareholders that were contrary to Rio Tinto's interests (as communicated herewith in Exhibit P-61);
53. Rio Tinto and TRQ had established a joint committee (the "Technical Committee") to oversee and approve the underground development, operation and management of Oyu Tolgoi. The Technical Committee consisted of two members appointed by Rio Tinto, two members appointed by TRQ, and a chair appointed by Rio Tinto. The chair of the Technical Committee had a casting vote in the case of a tie (effectively giving Rio Tinto final say over the decisions of the Technical Committee). For the majority of the Class Period, the Technical Committee included as members Respondents Quellmann (who replaced Respondent Colton), Lane and Soirat;
54. Rio Tinto and TRQ had also established another joint committee (the "Operating Committee") which gave the three directors that each company nominated to the board of Oyu Tolgoi LLC their voting instructions. The Operating Committee was comprised of two nominees from each of TRQ and Rio Tinto, with a Rio Tinto nominee serving as chairperson of the Operating Committee. All decisions of the Operating Committee, other than decisions in respect of certain defined "special matters", required a majority vote of the members, with the chairperson casting a vote in the case of a tie (once again effectively giving Rio Tinto final say over the decisions of the Operating Committee);
 - 54.1 In its annual MD&A for the years ended December 31, 2017 and December 31, 2018 (Exhibit P-23), TRQ described Rio Tinto's control over its operations and over the Oyu Tolgoi development project, through its wholly owned subsidiary RTIH, as such:

RTIH, as the holder of a majority of [TRQ's] Common Shares, as manager of Oyu Tolgoi, and as manager of a substantial portion of Turquoise Hill's

receivables and liquid asset deposits, has the ability to exert a significant degree of control over [TRQ], Oyu Tolgoi LLC and Oyu Tolgoi.

RTIH, a wholly-owned subsidiary of Rio Tinto, together with other Rio Tinto affiliates, owns a majority of the outstanding [TRQ] Common Shares and can exercise its voting power to elect all of the members of the Board of Directors, subject to applicable securities legislation. RTIH can also exercise its majority voting power to unilaterally pass any ordinary resolution submitted to a vote of [TRQ]'s shareholders, except for resolutions in respect of which RTIH is an interested party and for which disinterested shareholder approval is required. In addition, under the HoA [i.e., the December 2010 Heads of Agreement between Turquoise Hill and RTIH], RTIH was appointed as manager of Oyu Tolgoi which provides RTIH with responsibility for the management of Oyu Tolgoi.

RTIH is also able to exert a significant degree of control over the management, development and operation of Oyu Tolgoi, as well as [TRQ], through a series of governance mechanisms and restrictive covenants established under the Private Placement Agreement, the HoA and other agreements entered into with Rio Tinto. These include the Technical Committee established under the Private Placement Agreement and the Operating Committee established under the HoA, through which RTIH is able to control decisions respecting the business of Oyu Tolgoi LLC subject to a veto of [TRQ] in respect of certain special matters.

2) The Project Finance Facility

55. In December of 2015, Oyu Tolgoi LLC entered into a \$4.4 billion credit facility to fund the underground development of the Oyu Tolgoi Mine (the "Project Finance Facility"). The Project Finance Facility was provided by a syndicate of international financial institutions and export credit agencies representing the governments of Canada, the U.S. and Australia, along with fifteen commercial banks;
 56. In order to facilitate the \$4.4 billion Project Finance Facility, Rio Tinto provided "completion support", which allocated risk based on capabilities. The sovereign risk is absorbed by the international lending syndicate, while Rio Tinto accepts the risk of Mine development;
 57. In consideration for providing completion support, Rio Tinto is compensated an annual fee equal to 2.5% of the amounts drawn under the Project Finance Facility by TRQ. This is in addition to the hundreds of millions of dollars that Rio Tinto has charged TRQ for management service payments for managing the Oyu Tolgoi Mine;
 58. As even further compensation for the Project Finance facility and the completion support provided by Rio Tinto, TRQ signed a financing support agreement with Rio Tinto dated December 15, 2015 (the "Financing Support Agreement", communicated herewith as **Exhibit P-41** and described in a Material Change Report communicated herewith as **Exhibit P-42**). Among other rights, this Financing Support Agreement gives Rio Tinto the
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right to force TRQ to engage in an equity offering (thereby diluting TRQ's other shareholders apart from Rio Tinto itself) if circumstances occur which:

- a. affects or could reasonably be expected to affect TRQ's ability to meet its obligations under the guarantees it provided to guarantee certain debts owed by Oyu Tolgoi LLC; or
 - b. gives rise to an event of default or completion default under the agreements entered into in connection with the Project Finance Facility;
59. Essentially, the Financing Support Agreement gives Rio Tinto the ability to dilute and punish all TRQ shareholders for delays and cost overruns caused by its own mismanagement at the Oyu Tolgoi Mine. In such a circumstance, TRQ has the right to propose an alternative financing proposal to Rio Tinto, but that proposal requires Rio Tinto's consent to implement;

3) The Oyu Tolgoi Mine

60. Oyu Tolgoi, which means "Turquoise Hill" in Mongolian, is a copper-gold mining project in Mongolia, located roughly 50 miles north of Mongolia's border with China. Once it achieves full capacity, the mine is expected to be the third largest copper mine in the world, estimated to be able to produce more than 500,000 tonnes of copper (worth over CAD \$5.5 billion at July 2021 prices) each year;
61. The Oyu Tolgoi Mine is owned by Oyu Tolgoi LLC, which is a joint venture between TRQ and the Government of Mongolia. TRQ owns 66% of Oyu Tolgoi LLC (and thereby the Mine), with the other 34% owned by a Mongolian state-owned company on behalf of the Mongolian Government. TRQ has agreed to fund the Mongolian Government's equity stake and pro-rata share of development capital for the Oyu Tolgoi Mine, which is to be repaid from future cash flows once the underground mine is commissioned;
62. Rio Tinto manages the operation at the Oyu Tolgoi Mine on behalf of TRQ and the Mine's other owner (the government of Mongolia), and is also the underground construction contractor for Oyu Tolgoi. As such, Rio Tinto has the timeliest, most "on-the-ground" details about the operations at Oyu Tolgoi, and is the party most directly responsible for the USD \$1.2 to \$1.9 billion cost overrun at Oyu Tolgoi;
63. Despite being the party with the greatest ownership interest in Oyu Tolgoi with a 66% stake, at all relevant times TRQ had only five employees and no permanent presence at the Oyu Tolgoi Mine. Rio Tinto exercised near-total control over the Oyu Tolgoi expansion, including control over TRQ's public statements about the Mine. In fact, TRQ and Rio Tinto explicitly agreed (as documented in an April 2012 memorandum of agreement) that "any and all public disclosure regarding the OT [Oyu Tolgoi] project" or "OT Disclosures", would be "consistent with the information provided by the Rio Tinto Manager" and that TRQ "would not file or issue any OT Disclosure without providing the Rio Tinto Manager with a reasonable opportunity to review and comment thereon.";
64. (...)
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64.1 Rio Tinto had a contractual right to review and comment on any TRQ public disclosures concerning Oyu Tolgoi, and required TRQ's public disclosures concerning the Oyu Tolgoi mine to be consistent with information provided by Rio Tinto. Despite Respondent Quellmann's public statements at the beginning of the Class Period that TRQ had "good visibility" and was "well plugged-in" to the costs and developments at the Oyu Tolgoi expansion, TRQ admitted after the Class Period in its motion to dismiss the parallel U.S. class action about these same matters (communicated herewith as **Exhibit P-62**) that:

TRQ's disclosures consisted essentially entirely of information that the project manager [Rio Tinto] provided ... With no physical presence or office in Mongolia, and no operational employees, TRQ did not have the on-site access to progress at Oyu Tolgoi and is wholly reliant on the project manager in this regard.

64.2 Work on a large-diameter concrete-lined critical mine shaft called Shaft 2 – which was by far the most important of the five planned mine shafts at Oyu Tolgoi as it was to serve as the main logistics hub for the transportation of personnel and equipment to build the remaining Mine infrastructure, for ventilation underground, and to transport ore to the surface – began in 2007. Work on Shaft 2 was conducted in 2007 and again in 2010-2013, when the sinking reached a depth of 1,167 meters;

65. In August of 2013, development of the underground mine at Oyu Tolgoi was halted due to certain disputes between TRQ, Rio Tinto and the Government of Mongolia including approval of a feasibility study for the project by the Mongolia Minerals Council and agreement of a comprehensive funding plan for the underground development project;

66. By May of 2015, the significant issues between TRQ, Rio Tinto and the Government of Mongolia were largely resolved, and in May of 2016 TRQ announced that Oyu Tolgoi LLC had received formal notice of approval to proceed from the Board of TRQ, and each of the boards of Rio Tinto and Oyu Tolgoi LLC, which was the final requirement for the re-start of the underground development project, and as part of that process, the 2016 Feasibility Study had been completed. The public 2016 Technical Study was based on that feasibility study;

67. Construction of the underground development project began in mid-2016 and was estimated to result in sustainable first production (when the Mine would begin generating cash flows) in the first quarter of 2021. The key to achieving the estimated timetable for the underground expansion, and thus the profitability of the Mine, was the construction of Shaft 2;

67.0.1 There was an original exploration shaft, known as Shaft 1, which predated Shaft 2 and was sunk in 2007 to access the underground ore-body. However, Shaft 1 was much smaller and moved far more slowly than Shaft 2, thereby severely limiting the capacity for hoisting rock and moving workers and materials. Whereas Shaft 2 was capable of moving 300 people at a time into the underground Mine in just 2.5 minutes, Shaft 1 could only move 60 people at a time and at much slower speeds;

67.0.2 As recounted in the ICG Report, it was well known and forecasted in the 2016 feasibility study and the Underground Development Plan for Oyu Tolgoi "that mining progress was

dependent upon the ability to mobilise underground mining crews and their associated equipment.” However, despite this importance, the enabling infrastructure for Shaft 1, the Shaft 1 crusher and systems, were delayed for months. For example, the ICG Report found that the 2016 feasibility study “indicated that the Shaft #1 ore bin and jaw crusher system would be commissioned in March 2017, but this did not occur until the end of September 2017. This only served to increase the crushing capacity to match the shaft hoisting capability, which still limited the number of crews that could be utilised efficiently.”

- 67.0.3 Further, it was known and reported in both a 2014 feasibility study (OTFS 14) for the Mine and the 2016 feasibility study (OTFS 16) that even once the enabling infrastructure of Shaft 1 (termed critical facilities) were completed, it would still not suffice as adequate and required the completion of Shaft 2. As reported by the ICG:

The OTFS14 study and subsequently OTFS16 both showed that as ... the number of mining crews and construction crews increased, Shaft #1 would become the bottleneck until such time as Shaft #2 was commissioned fully. With over 350 people underground the shift change was taking up to 3 hours thus reducing the effective time at the work face, particularly in the construction areas. At times only 6 hours of effective work per day was achieved.

- 67.1 As former TRQ CEO Jeff Tygesen explained on a November 2017 investor call (communicated herewith as **Exhibit P-63**), TRQ and Rio Tinto were intently focused on “Shaft 2 development including further mass excavation and final sinking before 2018 fit-out” because “Shaft 2 is key to future increases in lateral development.” Tygesen assured investors that the “sinking of Shafts 2 and 5 continue to move deeper” and that TRQ “maintain[ed] our expectation of first draw bell around mid-2020 and first sustainable production in early 2021”;
- 67.2 Despite these assurances however, it was known to senior Rio Tinto and Oyu Tolgoi management even before construction restarted on the underground expansion in 2016 that there were numerous potentially catastrophic issues with the engineering and construction of Shaft 2 that presented “immediate safety concerns” and that caused and would contribute to substantial delays and cost overruns;
- 67.3 During the shutdown of the underground expansion project at Oyu Tolgoi from 2013-2016, inspections of the headframes for Shafts 2 and 5 identified multiple significant issues with the work that had previously been done by a Chinese contractor. Specifically, engineers found multiple potentially catastrophic problems on the Shaft 2 headframe, including structural steel not properly installed, bolts not tightened, bolts missing, extremely poor welds, missing welds, as well as significant steel fabrication issues. According to the project manager for Red Path Mining, which was the main contracting company responsible for sinking Shafts 2 and 5, the initial Shaft 2 headframe construction would have been considered “illegal” if built in North America and not addressed, and the work required to fix it was extensive. While Oyu Tolgoi managers had originally decided to fix these problems while the underground expansion was on pause from 2013-2016 due to the issues with the Mongolian government, the work only began once the underground expansion restarted in 2016;
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- 67.3.1 An independent external review commissioned by Rio Tinto itself in 2021 and released on or about February 1, 2022 (as communicated herewith as **Exhibit P-80**) found that there was a pervasive culture at Rio Tinto to cover up such known safety defects and for management to discourage their reporting for fear of blame and professional loss, rather than disclosing them and addressing them. This was also corroborated by Rio Tinto's Senior Geotechnical Engineer at the Mine during the relevant time, Mohammad Khishvand, who has stated that Rio Tinto wanted their people at the mine to only discuss their concerns face to face and never in email or in writing so that they could keep these known problems hidden;
- 67.4 These problems were so extensive that the Respondents were required to perform a massive amount of work to address the safety concerns before construction could even restart in 2016. The problems were so severe and presented such a clear safety risk that all work was stopped on the sinking of Shaft 2 until a team led by Red Path Mining was able to restore the headframe to a functional condition. Because of the need to fix the headframe, by the summer of 2016 (i.e., two years before the Class Period even began), Shaft 2 was already delayed by at least 8 months more than what the Respondents were publicly representing. Further, the headframe issues required over USD \$30 million in additional costs, meaning the amount required to fix the headframe just so that Shaft 2 construction could begin ended up costing 10% of the initial Shaft 2 budget of \$300 million;
- 67.5 The aforementioned project manager for Red Path Mining would provide daily, weekly and monthly progress reports on this work to his supervisors, who would sign off on them and provide them to senior Oyu Tolgoi executives including Armando Torres, Oyu Tolgoi LLC's CEO since May 2017 who during the Class Period reported to and served on Oyu Tolgoi LLC's board of directors with Respondents Quellmann, Colton and Soirat;
- 67.6 In addition to the problems with the Shaft 2 headframe, the steel supplied for Shaft 2 from January 2016 right through to after the end of the Class Period was consistently subpar, had structural defects and issues with fabrication (including steel parts not being made to specifications), had poor joints, and was otherwise unusable and dangerous. As a result, approximately 95% of the steel in Shaft 2 had to be worked on before being installed. This was confirmed by the ICG Report which found that "[t]he delays included multiple rework of fabricated steel; late ordering and delivery of steel; [and] drilling and epoxy grouting for brackets in the lower reaches of the shaft", among other issues. In order to address the deficiencies, Oyu Tolgoi workers had to ultimately replace significant amounts of steel in the headframes, working underneath the defective steel while slowly replacing it over time;
- 67.7 These issues raised by Red Path Mining were known to and confirmed by Rio Tinto's management on the ground at Oyu Tolgoi as well. As reported herewith in Exhibit P-64, Grant Brinkmann, who was Rio Tinto's Senior Area Manager of Shafts at Oyu Tolgoi from June 2016 through May 2018 and who was the senior-most manager with direct responsibility for Shaft 2, confirmed that they had to go through and replace every bolt in the Shaft 2 headframe because they were not the right grade, that a significant portion of the structural steel had to be replaced because it was wrong and defective and compromised the safety of the design, and that the steel quality problems presented such safety concerns that Oyu Tolgoi LLC was required to redesign how the shafts were roped up because the infrastructure was simply not strong enough. The ICG Report also confirms that steelwork issues contributed significantly to cost overruns at the Mine. In its
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description of commodity increases of USD \$351 million, the ICG Report found that “[t]he problem areas were again steelwork, piping and electrical disciplines. It is a trend that seems to carry throughout this area.” Brinkmann estimated that by May 2018 (more than 2 months prior to the start of the Class Period), Shaft 2 was already 14 months behind its scheduled commissioning deadline;

67.7.1 Unsurprisingly, after the Class Period, the ICG Report concluded that the delays related to Shaft 1’s “critical facilities” and Shaft 2 was estimated to be on the order of 21.4 months – i.e., the vast majority of the delay that the Respondents eventually disclosed.

67.8 Just as one example to illustrate the magnitude of the critical delays, the central heating plant for the mine, which is required by law to ensure that underground work can be done at safe temperatures and was critical to getting the underground development progressing, was scheduled to have been fully operational by Christmas 2017, but did not come online until nearly two years later in September 2019. Russell Brenchley, who was Jacobs’ Health Safety and Engineering Superintendent who worked at the Mine from August 2018 through February 2020 and whose primary responsibility was the central heating plan, confirms that as soon as he arrived (i.e., at the beginning of the Class Period), “[i]t was very apparent [the project] was delayed” and that the “targets they were talking about publicly were **obviously** not going to be met.” (as described in Exhibit P-65, emphasis added);

67.8.1 Additionally, the mishandling of the construction and completion of primary crusher 1 (“PC1”) greatly contributed to the delays and cost overruns, and these delays were evident from before the start of the Class Period;

67.8.2 PC1 was the first of two primary gyratory crushers that are needed to reduce the size of the ore to bring it to the Mine surface. The 2016 feasibility study had indicated a 30% design review of the PC1 system would occur in August 2016 followed by issue of the design envelope needed to size the actual excavation that was required in September 2016. However, the ICG Report noted that “[f]or reasons the ICG were unable to discern, the 30% Design Review was not carried out until April 2017, some 8 months later than planned, with the design envelopes completed in May/June 2017.” Work on the PC1 chamber commenced after that in August 2017 (nearly a year before the start of the Class Period);

67.8.3 Excavation of the crusher chamber for PC1 was scheduled to be completed by July 8, 2018 (i.e., before the start of the Class Period). However, the excavation for the PC1 crusher chamber was not complete until April 26, 2019. The ICG Report revealed that the excavation for PC1 took 23 months, instead of the planned 15 months, because “[d]espite the long delay in issuing drawings, it appears that there were major issues with the excavations as detailed not being designed large enough to cater for construction” (in other words, the failure to dig a large enough hole). The ICG Report expressly noted “that this is not a ‘geotechnical’ issue as it was driven by a design change to the chamber size” (i.e., an active decision that Rio Tinto was aware of and that TRQ was or should have been aware of). The ICG report found that the delay to the construction and installation work on PC1 was “one of the key drivers of the overall delay to First Drawbell and Sustainable Production”;

- 67.9 After Brinkmann was fired in May 2018, the senior Oyu Tolgoi manager who took over some of Brinkmann’s responsibilities held weekly integration meetings with the leadership from Rio Tinto, Jacobs (Rio Tinto’s principal contractor at Oyu Tolgo) and Red Path Mining, where he identified over 60 remediation actions that were needed to address the delays at Oyu Tolgoi and in his words get things “back to being remotely on schedule”. However, not one of the remediation actions was taken, and the meetings were cancelled six months after they began;
- 67.10 The schedule and cost overruns resulting from the faulty construction and steel quality problems were well known to Rio Tinto’s and Oyu Tolgoi LLC’s senior management **from well before the beginning of the Class Period**, and should have also been known to TRQ, if it was as “well plugged-in” as the TRQ Respondents represented. The dangers posed by these construction defects were repeatedly discussed in meetings with senior leadership, including Oyu Tolgoi LLC’s CEO Torres. Additionally, according to Brinkmann, Rio Tinto senior management, including Rio Tinto’s Oyu Tolgoi Managing Director, Michael Charron, and Rio Tinto’s Global Head of Projects, David Joyce (who reported directly to Rio Tinto’s CEO Jacques) knew the underground expansion was delayed beyond what they were representing by 2017 at the latest (as communicated herewith in Exhibit P-64). Brinkmann also confirmed that senior Rio Tinto management were aware of the problems with the Shaft 2 headframe in 2016 and could have – but did not address them – prior to the restart of the underground expansion in 2016.
- 67.10.1 The fact that these delays and associated cost overruns were evident and that fact that it was “inconceivable” that they were not known by senior management before the start of the Class Period was confirmed by the ICG Report and Peer Review of the ICG Report;

4) ICG Report and Peer Review

- 67.10.2 In December of 2020, TRQ Announced that a special committee of the board of directors of Oyu Tolgoi LLC has been created comprised of two representatives from TRQ and two from the Government of Mongolia (“**OT Special Committee**”) to investigate the delays and cost overruns at the Mine. The OT Special Committee hired a group of independent consultants, referred to as the Independent Consulting Group, or ICG, to conduct a review of the causes of the cost overruns and schedule delays to the underground development of the Mine, and whether these problems were caused by geotechnical issues or controllable factors. The ICG was composed of eight highly experienced and qualified mining professionals, five of whom had previously worked directly on the Oyu Tolgoi project for TRQ and/or Rio Tinto. The ICG created a report on its investigation that was submitted to OT Special Committee (which included representatives of TRQ) on or about August 3, 2021;

- 67.10.3 As summarized in the ICG Report itself:

The Purpose of the Review was for the ICG to determine, based on the information from the Definitive Estimate 2020 (DE2020), the reasons and causes that have contributed to the schedule delays and cost overruns when compared to the Baseline Budget and Schedule from the Oyu Tolgoi Feasibility Study 2016 (OTFS16).

Further elements of the review include a study of the geotechnical data for the mine to determine what is the real impact, if any, of major changes that have occurred post the feasibility study and what the cost and schedule impacts of these changes has been.

67.10.4 Additionally, a Peer Review of the ICG Report was conducted “by two world-renowned experts” (as described in the ICG Report itself) with extensive experience in building and operating large block caves (such as the Oyu Tolgoi underground mine). In fact, one of these two peer reviewers was Rio Tinto’s own former block caving expert. The Peer Review was submitted to the OT Special Committee alongside the ICG Report;

67.10.5 The ICG Report found and the Peer Review confirmed that:

- **At project restart in 2016**, Shaft #5 and Shaft #2, which were critical to the project schedule, **fell behind schedule from the very beginning, and the project never recovered from these delays** [emphasis added];
 - “The end result was a project falling behind schedule within the first six months and continuing to fall further and further behind as time progressed. In addition to this, **the reporting of overall progress was misleading (at best)... It did not provide a clear understanding of progress (or lack thereof)**” [emphasis added];
 - Oyu Tolgoi senior managers knew of the problems with Shaft 2’s headframe for years before the start of the Class Period, these deficiencies and others were documented in a May 2015 audit, and although Redpath was awarded a contract to complete the rectification work by June 2016, “the critical remedial works were not completed in time and permits to commence sinking [of Shaft 2] were delayed” as a result;
 - **“It became obvious to most people on the ground that the Project was falling further and further behind schedule.** The split between the construction and mining teams became more pronounced to the point that people were working in silos with one group blaming the other for any failings. **This apparently reached the top of the organisation with Senior Executives also trying to apportion blame**, unable to agree on how the Project should move forward” [emphasis added];
 - It was **“inconceivable that the Senior Management both on the Project site and in the higher-level committees were not aware of these shortcomings**, as reports were generated on a regular basis by the schedulers who were working in the Project Controls section and by the relevant area managers” [emphasis added];
 - The schedule delays resulted in significant increases in costs;
 - Geotechnical issues were not a significant contributor to the schedule delays and cost overruns, no evidence was found that ground conditions were different than anticipated, no evidence was found that the rock quality was significantly different to that forecast in the 2016 Technical Report, and in fact there was evidence that in some instances the rock quality “was better than anticipated”;
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- “ICG does not consider ground support variances due to design changes Key Geotechnical Parameter changes. The Rio Tinto statement that these isolated poorer than expected ground conditions significantly impacted the schedule is misleading and not supported in the documents reviewed”;

67.11 These problems were only further confirmed by whistleblower Richard Bowley, who Rio Tinto brought in specifically to investigate and address the issues with the Oyu Tolgoi underground expansion project.

(5) Whistleblower Richard Bowley

68. (...)

69. (...)

70. (...)

70.1 As described above, by 2017 senior Rio Tinto management knew that the Oyu Tolgoi underground expansion was significantly behind schedule and over budget. Accordingly, two senior Rio Tinto executives – Respondent Arnaud Soirat who had been the CEO of Rio Tinto’s Copper & Diamonds division since July 2016, and Craig Kinnell who was the CDO of Rio Tinto’s Copper & Diamonds division in charge of the Oyu Tolgoi Project from December 2014 to July 2018 – hired experienced mining executive, Richard Bowley, specifically in order to examine the problems at Oyu Tolgoi and come up with a plan to address them;

70.2 Bowley had extensive knowledge about Oyu Tolgoi as he had previously worked at the Mine from 2011 through 2015 as an employee of the mining company that was engaged to develop the underground study, value, and detailed engineering for the Oyu Tolgoi underground expansion, and hence was extremely qualified to come up with a plan to address the problems with the Oyu Tolgoi expansion;

70.3 In fact, before Bowley had even been officially hired by Rio, on July 3, 2017 he wrote to Rio Tinto (Copper & Diamonds) CDO, Craig Kinnell, that “two out of three of your senior guys on the project have told me Jacobs are failing badly ... We both know that mess will lead straight to OTs door in the shape of schedule overruns and cost.” Kinnell immediately responded, agreeing that “the project was in trouble” and that “it is all getting messy Richard and needs intervention to stop it from getting significantly worse.” In this email Kinnell explicitly acknowledged that the “problem was with scheduling work and potential capital expenditure” (as described in Exhibit P-65);

70.4 Bowley also identified that the concrete sets that were to be placed in Shaft 2 and secured with steel bolts in precast holes in the concrete were misaligned, and the steel work was badly engineered, making it necessary to redo all the steel bolts. This faulty design of the sets led to over 40,000 steel bolts that were installed in Shaft 2 having to be removed and reinstalled, which caused significant delay and added considerable cost. Bowley also investigated and identified substantial procurement problems at Oyu Tolgoi and found that the wrong types of steel and other supplies for fitting out the shaft were procured, and that those issues alone caused at least three to six months of additional delay;

- 70.5 Further, in addition to the engineering and procurement problems, Bowley identified that the construction phase of Shaft 2 also encountered serious setbacks. During the construction phase of building a shaft, the drilling of the shaft and the construction of the built elements in the shaft have to be done seamlessly and concurrently. However, Bowley found that there was no synchronization of mining and construction at the Oyu Tolgoi project. The shaft was inadequate for moving the necessary people and equipment for both mining and construction up and down, and there were conflicts between the mining personnel and the construction personnel over-use of the shaft. These problems caused additional delays and cost overruns;
- 70.6 In or about November 2017, Bowley was hired by Rio Tinto's Copper & Diamonds division (the division of which Respondent Soirat was chief executive) as general manager for strategic projects and chief advisor for the Oyu Tolgoi project. In an hour-long interview with Respondent Soirat in November 2017, Bowley told Soirat about the serious problems with the underground development and that it was clear that Rio Tinto's principal contractor, Jacobs, was failing. Within a few months he was able to confirm the concerns with the Oyu Tolgoi underground expansion, and as reported in Exhibit P-35, by February of 2018, Bowley definitively informed Kinnell, Soirat, and other Rio Tinto executives that Rio Tinto could neither complete the underground project for \$5.3 billion nor achieve sustainable first production in the first quarter of 2021;
- 70.7 On February 1, 2018, Bowley provided a presentation at Rio Tinto's London headquarters where he went over the cost overruns, schedule delays and Shaft 2 problems to Kinnell and a direct subordinate of Soirat, Rosemary Fagen (who relayed the contents of the presentation to Soirat);
71. As reported by the *Financial Times* at Exhibit P-37, Bowley's warnings that it was not possible for the Oyu Tolgoi expansion to be completed at the cost and on the schedule that was being represented to investors continued throughout 2018, including a March 6, 2018 email, a phone call and email in May 2018, and at least 3 emails in July 2018 – the last one on July 19, 2018 bluntly stating: "Latest update. 12 months behind schedule. \$300mill capital over budget. Expect this to rapidly escalate" (as reported in Exhibit P-66 and detailed in Exhibit P-65);
- 71.1 In other words, by the start of the proposed Class Period on July 31, 2018, Rio Tinto had received written confirmation just days prior from the very expert it had hired to investigate and fix the scheduling delays and cost overruns at Oyu Tolgoi, that the project was 12 months behind schedule and USD \$300 million over budget, and that these amounts and delays were expected to escalate rapidly;
72. Bowley continued to press the issues at Oyu Tolgoi with Rio Tinto executives – including sending multiple very explicit emails to senior management in August, October and November of 2018 and expressly raising his concerns with the board of directors of Rio Tinto (which appoint TRQ's CEO and nearly half of its Board) – until January 2019 when Rio Tinto finally retained independent counsel, Baker Mckenzie, to launch an investigation into Mr. Bowley's warnings;
73. Mr. Bowley alleges that Rio Tinto intentionally delayed for over a year after he first alerted the company of the cost overruns and delays to disclose these facts to the public, and
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during this time Rio Tinto intentionally misled investors. In a public statement reported on by the *Financial Times* at Exhibit P-35, Mr. Bowley revealed that:

I indicated [delay] to the schedule in the early part of 2018, which would lead to serious risk related to capital required to complete the project. This risk only grew throughout 2018, but was not disclosed to investors ... Clear evidence exists through the project reporting, email correspondence and other documents [that] Rio Tinto were fully aware of the delays to the project and the effects these would cause.

74. In March of 2019, Mr. Bowley was fired by Rio Tinto, which he claims was retaliation for pressing the issues pertaining to the underground development of Oyu Tolgoi internally at Rio Tinto. He filed an unfair dismissal claim against Rio Tinto with the U.K. Employment Tribunal;
 - 74.1 In connection with that proceeding, on March 16, 2020 Mr. Bowley filed a 62-page witness statement (the "Witness Statement") which was signed under penalty of contempt of court. Under the U.K. Employment Tribunal's rules, Mr. Bowley's Witness Statement would remain non-public unless and until a public hearing was held on his claims, at which point the Witness Statement and other evidence in his case would become publicly available;
 - 74.2 Although Rio Tinto issued a statement that Mr. Bowley's claim before the U.K. Employment Tribunal was without merit and that Rio Tinto would vigorously defend against the claim, Rio Tinto reached a settlement with Mr. Bowley of his unfair dismissal claim the very day before Mr. Bowley's hearing before the U.K. Employment Tribunal was set to begin (as reported in the *Australian Financial Review* communicated herewith as Exhibit P-38), thereby keeping the Witness Statement and other evidence in his case from becoming made public. While Mr. Bowley's Witness Statement has not been made public, its contents have partially been reproduced in the Amended Consolidated Complaint filed on March 17, 2021 in the corresponding U.S. Class Action pertaining to the same events at issue as in this proceeding, communicated herewith as **Exhibit P-65**. In addition, a portion of Mr. Bowley's Witness Statement has now been publicly filed, communicated herewith as **Exhibit P-81**;
 75. In March of 2020, it was reported by numerous news outlets including the *Financial Times*, communicated herewith as P-35, that Mr. Bowley had filed whistleblower complaints with financial regulators in several countries, including the SEC in the United States and the U.K. Serious Fraud Office;
 76. (...)
 77. In September of 2020, it was reported by various news outlets (including the *Financial Times* and the *Whistleblower News Network*, communicated herewith as **Exhibits P-43** and **P-44** respectively) that the SEC was examining Rio Tinto stemming from Mr. Bowley's claims, and were examining the allegations that Rio Tinto was aware of the problems with the underground development project at Oyu Tolgoi months before publicly acknowledging that the project was delayed and substantially over budget;
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6) Whistleblower Dr. Maurice Duffy

- 77.1 At the same time that Rio Tinto's senior management hired Bowley to investigate the delays and cost overruns with the Oyu Tolgoi expansion, Rio Tinto's long-time executive consulting firm, headed by Dr. Maurice Duffy, was also identifying problems at Oyu Tolgoi it had learned through its work in Mongolia.
78. Dr. Duffy is a performance coach for executives, who has coached leading executives for large corporations around the world. His company, GFI Blackswan had a decade-long relationship with Rio Tinto, and Dr. Duffy personally provided leadership development services to Rio Tinto's senior leadership – including to every CEO and every member of Rio Tinto's executive committee – from 2007 until 2017, when GFI Blackswan terminated its contract with Rio Tinto. Dr. Duffy oversaw executive coaching services for Rio Tinto's CEO, Jacques and the CEO of Rio Tinto's Copper & Diamonds Division, Soirat, for several years;
- 78.1 Blackswan began performing executive coaching services in Mongolia in or about 2015, providing those services to around 50 of Rio Tinto's senior management stationed there and in London. In connection with that work, Dr. Duffy said that he began to hear reports and concerns from senior leaders in Mongolia about unethical behaviour and “potential overstatements” at OT in around 2016;
- 78.2 Blackswan had always provided monthly and quarterly reports about its work and interactions with senior Rio Tinto leaders in Mongolia to the head of Rio Tinto's human resources department who delivered those reports to Rio Tinto's CEO and the chair of Rio Tinto's board of directors. Dr. Duffy knew that Rio Tinto's Executive Committee, which included Respondents Jacques and Soirat, was briefed on these reports because the Executive Committee provided feedback on them to Blackswan. However, in mid-2017, Dr. Duffy was expressly instructed to discontinue providing these reports, which substantiated the same cost overruns and schedule delays at Oyu Tolgoi that Bowley had reported. Dr. Duffy was instructed to discontinue this reporting at around the same time that the ICG Report found reporting of other critical aspects of the underground development also inexplicably stopped;
- 78.3 These developments were so troubling to Duffy that he felt compelled to bring his concerns — including concerns about the cost overruns and schedule delays at Oyu Tolgoi — to the attention of Rio Tinto's senior leadership in London. He did so by specifically raising them with Rio Tinto's Head of Human Resources, who was an intermediary for Rio Tinto's CEO Jacques, at a meeting on September 6, 2017. These included comments from senior parties involved in the underground development expressly stating that Soirat and Jacques knew about the delays and cost-overruns being understated and that Jacques was behind the effort to conceal the reality at the Mine. He was told in response to drop and disregard his concerns, that Jacques would not appreciate hearing the concerns about Mongolia, and that Duffy “will regret it” if he continues to report concerns about Rio Tinto's conduct in Mongolia. Nonetheless, Duffy understood that this Rio Tinto executive would pass along what he had told her to Jacques;
- 78.4 Uncomfortable with this response, and with other “serious misgivings” after reporting “multiple, unprofessional [and] unethical behaviours” by Rio's most senior executives
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since Respondent Jacques took over as CEO to Rio's Board and chairman—who “took no action” in response—Duffy resigned and terminated his firm's contract with Rio in December 2017 (as communicated herewith in Exhibits P-39 and P-40). Duffy explicitly communicated to Rio Tinto's senior leadership that concerns about unethical behaviour in Mongolia was a reason for him terminating his contract;

- 78.5 According to Dr. Duffy, Rio Tinto's CEO Jacques “knew without a doubt” about the problems at Oyu Tolgoi by 2017. Dr. Duffy has stated that it was clear Jacques knew the “wheels were coming off” the underground expansion at Oyu Tolgoi in January 2018, when Jacques personally traveled to Mongolia to meet with the Mongolian prime minister.
79. After hearing about the investigation by Rio Tinto's external counsel, Baker McKenzie had conducted into Mr. Bowley's allegations, Duffy contacted Rio Tinto's board of directors and its counsel to request they reconsider their findings, as the investigation “excluded information” reported to Rio Tinto since 2017. As reported in the *Australian Financial Review* and the *Financial Times* at Exhibits P-39 and P-40 respectively, in a November 26, 2019 letter emailed by Dr. Duffy to Rio Tinto's board of directors, its CEO, its entire executive committee, its external counsel Baker McKenzie, and some of its large institutional shareholders, Dr. Duffy revealed that GFI Blackswan had terminated its £1m-a-year consultancy contract with Rio Tinto because of “serious misgivings about unethical behaviour”. The contract with Rio Tinto was Blackswan's largest contract, and represented about 70% of its business;
80. (...)
81. In this same November 2019 email, Dr. Duffy further revealed that the independent so-called investigation commenced in January 2019 by Rio Tinto's outside counsel Baker McKenzie into the problems raised by Mr. Bowley, “excluded information known by [Blackswan] about Mongolia since 2017”;
82. Dr. Duffy also revealed that prior to ending the consultancy agreement, he had reported “the potential overstatements that [Blackswan] were informed of in Mongolia and Mozambique, which we first informed [Rio Tinto] of in 2017.” For context, in October of 2017, Rio Tinto's then-CEO and CFO were charged with fraud by the SEC “for inflating the value of coal assets” in Mozambique;
83. In another email sent to Rio Tinto's board of directors in January 2019, Dr. Duffy complained that “[w]e have informed your organisation many times since 2017 that we have information that might be pertinent on some legal and ethical grounds”;
- 83.1 Rather than consider this information, Baker McKenzie pursued Dr. Duffy through the Class period seeking to destroy the data his firm had collected from Rio Tinto executives – including data about Oyu Tolgoi – and successfully did so after end of the Class Period;
84. Dr. Duffy subsequently submitted his allegations to various financial regulators, including the SEC, which have been examining his claims. It was reported in the companion U.S. class action (communicated herewith as Exhibit P-65) that at least certain of the data collected by Dr. Duffy's firm was provided to regulators in the U.K. before Rio Tinto was
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able to secure the destruction of the data in his possession, but that data is not publicly available;

85. It was first reported in July of 2020 that Rio Tinto had reached a confidential settlement with Dr. Duffy, which included a non-disclosure clause;
- 85.1 In the summer of 2022, Rio Tinto's new CEO who replaced Jacques met with Bowley and Duffy twice, and in these meetings, he is quoted as apologizing to Bowley and Duffy for taking actions to financially ruin the pair "**for telling the truth**", in retaliation to their whistleblowing (as reported by the *Daily Mail* who confirmed the events with Duffy, communicated herewith as **Exhibit P-82** emphasis added). In mid-August of 2023, Mr. Bowley also expressly posted this article on his LinkedIn and confirmed the events as described therein (see Exhibit P-83);

7) The Material Events and Disclosures

a. Prior to the Start of the Class Period

86. On **May 6, 2016** prior to the commencement of the proposed Class Period, TRQ filed a news release on SEDAR dated May 5, 2016 (communicated herewith as **Exhibit P-45**), announcing that a feasibility study had been completed for the Oyu Tolgoi mine (the "Feasibility Study") and disclosed select "highlights" from the Feasibility Study. Among these highlights, it was represented that:
 - a. the cost to complete the development of the underground project at Oyu Tolgoi would be USD \$5.3 billion; and
 - b. construction was to take five years, with first underground production in 2021 and a five to seven year ramp up period to full production;
 87. Construction of the underground development project began in mid-2016.
 88. On **October 21, 2016**, TRQ publicly released the 2016 Technical Report pursuant to NI 43-101 for the Oyu Tolgoi Project, communicated herewith as Exhibit P-34. The 2016 Technical Report actually made slightly more optimistic representations regarding the construction timeline for Oyu Tolgoi, representing among other things that:
 - a. the total cost to complete development of the underground project at Oyu Tolgoi would be USD \$5.3 billion;
 - b. the "First Drawbell" would be blasted (resulting in initial production) in mid-2020;
 - c. production ramp up (after initial production) would commence in early-2021;
 - d. sustainable production would be achieved in the first quarter of 2021;
 - e. the conveyor to surface system would be commissioned (and thus construction of the underground development project would be completed) by early-2022;
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- f. that full production of 95,000 tonnes per day would be achieved in early-2027;
 - g. the net present value of Oyu Tolgoi, after taxes, using a discount rate of 8% for all years was U.S \$6.94 billion; and
 - h. the payback period for the mine would be eight-years from the start of 2017 (or until 2025);
- 88.1 Unbeknownst until the ICG Report was revealed in August of 2021, a third-party advisory firm, Broadleaf, was engaged to undertake an analysis of a project re-forecast undertaken in **September 2017** (referred to as FC1). Broadleaf concluded there was a mere 2% chance that the Oyu Tolgoi schedule would be achieved;
- 88.2 On **November 29, 2017**, more than eight months before the start of the Class Period, Marco Pires, who was a Rio Tinto employee who had been seconded to Oyu Tolgoi LLC to act as the Chief Development Officer of Oyu Tolgoi LLC, gave the board of Oyu Tolgoi LLC, which included Respondents Colton and Soirat (who had officially hired Bowley that month because of the significant setbacks with the underground expansion), a presentation regarding FC1 (communicated herewith as **Exhibit P-85**). This presentation disclosed that the project was already significantly behind schedule with regards to critical facilities, shaft 5, shaft 2, commencing undercut and the primary crusher #1 system, and that “readiness challenges” had caused a five-month delay on project commencement and ramp-up. This presentation further disclosed that including contingency, first drawbell could supposedly be achieved in the middle of Q3 2020, and such a schedule was “tight but credible”. Despite these significant delays in critical areas however, this report represented that as of the end of October 2017, cumulative progress of 17.4% was actually ahead of what was forecast in FC1 of 16.7% (highlighting how this metric and the corresponding re-forecasts were manipulated to make it appear as if the project was more closely adhering to schedule)
- 88.3 By at latest **December 22, 2017**, TRQ’s management received a report from Oyu Tolgoi LLC’s management providing an update on the underground development (communicated herewith as **Exhibit P-86**). This report once again disclosed that shaft 1, shaft 2, shaft 5, primary crusher #1 system, the conveyor to surface works and the mine dry facility were significantly behind the 2016 feasibility study schedule, and that “assuming no further delays”, a first draw bell of August 2020 (including contingency) was “considered tight but achievable”, but that a “slower project restart driven by Shaft 2 and 5 legacy issues and a longer mobilisation period impacted by a higher proportion of local employment has consumed up to five months of schedule contingency.”
89. On **January 22, 2018**, TRQ announced the completion of the sinking of Shaft 2, including reaching final depth, shaft bottom, mass excavation and concrete floor installation, supposedly “marking an early milestone in the development progress” (communicated herewith as **Exhibit P-46**);
90. On **February 1, 2018**, well before the proposed Class Period began, significant TRQ shareholder SailingStone Capital Partners (“SailingStone”) released a public letter raising concerns about the corporate governance issues that existed at TRQ in relation to Rio Tinto and the fact that TRQ’s shareholders received all technical information through Rio
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Tinto, a copy of which letter is communicated herewith as **Exhibit P-47**. This letter prophetically raised warnings about the harm that could befall TRQ's shareholders due to TRQ's unreasonable deferral to Rio Tinto to provide technical updates about the underground development project to TRQ's shareholders:

... we remain concerned about corporate governance, given the potential for conflicts of interest which exist between Rio Tinto ("Rio"), your majority shareholder and the operator of Oyu Tolgoi, and the minority shareholders of Turquoise Hill. Specifically, we believe that basic corporate governance standards require an independent and informed management team and board of directors. ...

... The current management team is comprised of seconded Rio Tinto executives, who operate without employment contracts from TRQ. ...

In terms of being informed, TRQ independent directors and management are solely reliant on Rio Tinto for information. By extension, this means that anyone who is interested in learning about OT [Oyu Tolgoi] or TRQ is also solely reliant on what Rio Tinto will provide. The last four technical reports, which are the basis for publicly available data on the project, have been prepared by the same firm working in close coordination with Rio Tinto management and operations teams. To our knowledge, there has been no attempt to independently verify either the assumptions being used or the outputs, beyond the detailed audit and benchmarking analysis which SailingStone previously provided to the board. In addition, TRQ is regularly excluded from technical updates, including the most recent cost and timing review conducted by Rio Tinto. As a result, there is no way to determine how the project is progressing versus plan and what the capital spending is, independent of Rio Tinto. ... Unfortunately, despite the existence of language in the 2010 Heads of Agreement (Schedule E, p 9) which specifically provides the minority shareholders with "reasonable access to the OT Project (including to all information, books, records and data) including for the purpose of...preparing technical reports; and carrying out such procedures as may be necessary in order for (Turquoise Hill) to comply fully with its disclosure and reporting obligations", **independent directors as well as TRQ management and staff often are not given full and unfettered access to data. As a result, it is difficult to provide the market with material updates unless the information is first pried from and then vetted by Rio Tinto internal processes. Rio is free to do what it likes with its own information, but should have no input on what is material to TRQ minority shareholders.** That is best determined by an independent, incentivized management team and the independent directors.

Lastly, we are concerned that Turquoise Hill has no on-the-ground representation and no direct dialogue with the government of Mongolia,

despite the fact that it is TRQ, and not Rio Tinto, that actually holds the license and permits to the project. The recent press release from Rio Tinto, highlighting the creation of its new office in Ulaanbaatar and announcing a re-commitment to Mongolia with no mention of or coordination with Turquoise Hill is explicit acknowledgement of Rio's attitude towards minority shareholders. They simply don't exist.

As a result of these concerns, and Rio Tinto's repeated refusal to speak with SailingStone representatives despite numerous requests for meetings, including offering to fly to their London headquarters at Rio's convenience, we ask that the board of directors consider the following:

1. **Conducting an independent technical report so that we can be certain that existing estimates of capital intensity and the development schedule are reasonable. Given the size and duration of this project, and the obvious potential conflicts of interest that exist between Rio Tinto and the minority shareholders, we believe that this decision is necessary** to protect our multi-billion dollar investment.
2. **Creating a fully-staffed TRQ technical team who will have complete access to the OT project and will report back regularly to TRQ management and the independent directors. This would provide management and directors with the information necessary to determine what and when material updates should be made to the market**, and could be the basis for more fruitful engagement with the host government.
3. **Implementing employment contracts for management and restructuring compensation plans to remove any real or perceived conflicts with Rio Tinto and to significantly improve alignment with TRQ shareholders**. This could include increasing available cash compensation opportunities towards industry median levels, an increase in equity grants available to be earned based on specific performance targets and improved disclosure of managements' and directors' vested and unvested exposure to TRQ's and Rio Tinto's stock price.

As Turquoise Hill is a publicly traded company, and is not a subsidiary of Rio Tinto, it is critical that the board of directors and management team of TRQ be independent, informed and incented exclusively to generate long-term value for all TRQ shareholders. ...

[emphasis added]

- 91.1 Also on **February 1, 2018**, Richard Bowley made a presentation at Rio Tinto's London headquarters where he went over the cost overruns, schedule delays and Shaft 2 problems with the Oyu Tolgoi expansion project. This presentation was made to Craig Kinnell, who was the CDO of Rio Tinto's Copper & Diamonds division in charge of the Oyu Tolgoi Project, and Rosemary Fagen, who was the Vice President for Human Resources for Rio Tinto's Copper & Diamonds group since July 2016 and for Rio Tinto Copper since September 2014, reported directly to Arnauld Soirat, participated in the meeting on behalf of Soirat, and reported the substance of the meeting to Soirat;
- 91.2 In this presentation, Bowley suggested a Project Integration and Implementation Group be established which would include experienced mining executives to attempt to reduce the cost overruns and schedule delays at the underground development. Bowley proposed several world-leading mining experts to serve in this proposed group, including Malcolm Brown and Chris Beaumont, who were later the lead consultants in the ICG retained in 2021 to investigate the cost overruns and delays. Rio Tinto did not establish the group proposed by Bowley or hire Brown or Beaumont.
- 91.3 On **March 6, 2018**, Bowley wrote an email again to Kinnell where he warned of "potential disaster" unless "we change strategy rather rapidly and someone gets a hold of this" and recounted a conversation that Bowley had with Respondent Soirat expressly warning him of the problems with the underground expansion project.
- 91.4 In **March of 2018**, Bowley met with Soirat in Bowley's office in Ulaanbaatar, Mongolia, where Soirat told him to stop looking into the problems with the underground development and with Jacobs. According to Bowley, this was because Soirat wanted to be able to claim denial about knowledge of the problems with the underground development. Such efforts to suppress information and not disclose it in writing so as to be able to deny knowledge is also confirmed by statements made by Rio Tinto's Senior Geotechnical Engineer, Mohammad Khishvand);
92. On **March 14, 2018** explicitly in response to the February 1, 2018 letter from SailingStone (Exhibit P-47), the TRQ Board issued a news release which contained a public letter to TRQ's shareholders, communicated herewith as **Exhibit P-48**. In this letter, the Company represented that the Board and senior management of TRQ:
- a. recognized that their responsibility is to serve the interests of TRQ and its shareholders (as opposed to the interests of Rio Tinto and its shareholders);
 - b. were committed to the principles of transparency and good governance;
 - c. were committed to robust and effective corporate governance that appropriate mitigated any conflicts that may arise between TRQ and Rio Tinto;
 - d. had improved the alignment of TRQ's senior management with the interests of TRQ's shareholders; and
 - e. were always open to enhancing transparency and the effectiveness of TRQ's corporate governance;
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- 92.1 During a monthly progress report during **the first week of April 2018**, Rio Tinto's Senior Construction Manager at Oyu Tolgoi, Andrew Duff, told Rio Tinto's Global Head of Projects, David Joyce, that Shaft 2 was, by that time, at least five months behind schedule. The five-month delay in April 2018, forecasted out, meant that the commissioning of Shaft 2 was approximately 14 months behind schedule—a fact that was known and reported internally to senior Rio Tinto management;
- 92.2 A short while after this meeting still in **April of 2018**, Joyce asked Andrew Duff's boss, Grant Brinkmann – who was Rio Tinto's senior-most manager with direct responsibility for Shaft 2 – to get documentation evidencing his efforts to get Jacobs back on schedule because the delays reported by Duff had been reported to Rio Tinto's CEO, Jacques, as well as to Rio Tinto's leadership in London, UK;
- 92.2.1 The data for the underground expansion project collected by Rio Tinto current to the end of April 2018, which was provided to TRQ's management in **May 2018** (communicated herewith as **Exhibits P-87 and P-88**), expressly stated that the project was “falling behind in some of the critical work fronts of the Project such as Shaft #2 Equipping and Central Heating Plant”. This April report disclosed that shaft 1, shaft 2, shaft 5 and the central heating plant were all months (and in the case of shaft 1, a full year) behind the schedule in the 2016 Feasibility study, and that shaft 1, shaft 2 and the conveyor to surface were even behind the more recent FC1 reforecast which had extended the schedule. Despite these delays in critical areas however, this report represented that overall cumulative progress of 28.5% was actually ahead of the FC1 forecast of 27.7% (once again demonstrating the misleading nature of this manipulated metric).
- 92.3 In **May 2018** in the face of escalating costs and delays, Rio Tinto terminated Grant Brinkmann, who had been Rio Tinto's Area Manager of Shafts at the Oyu Tolgoi project since June 2016 and who had repeatedly warned senior management about Jacobs' poor performance and about steel-quality issues. Mr. Brinkmann's termination provides clear evidence that Rio Tinto knew that there were material setbacks with Shaft 2 and the Oyu Tolgoi expansion in general, and indicates that Rio Tinto was aware that the Respondents' public statements about the schedule and cost of the Oyu Tolgoi expansion were false;
93. On **May 3, 2018**, TRQ released a news release, again explicitly responding to the concerns raised by SailingStone (communicated herewith as **Exhibit P-49**). In this news release TRQ expressly represented that both it and Rio Tinto recognized that TRQ's independence and its participation in all material and relevant Oyu Tolgoi matters were important to facilitating the maximization of Oyu Tolgoi's value for all Turquoise Hill shareholders. TRQ further represented that the Company was “appropriately informed” about Oyu Tolgoi matters, but nonetheless its Board had met with Rio Tinto and were taking specific actions to enhance their working relationship on relevant Oyu Tolgoi matters, including:
- a. increasing direct participation by TRQ's management on Oyu Tolgoi matters, including in the upcoming Oyu Tolgoi cost and schedule reviews;
 - b. Enhancing the independence of Turquoise Hill's technical personnel; and
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- c. Establishing a project management office at Oyu Tolgoi as an additional mechanism to facilitate the sharing of information;
- 93.0.1 In **May 2018**, Bowley spoke with Soirat for an hour and again discussed the major setbacks being faced in the underground development. Bowley wrote an email to Fagen on **May 28, 2018**, recounting that “what I tried to engrain in him [Soirat] was the factors around strategy, exposure to schedule risk, and how changing path in terms of timing and where we may be in terms of the project, will cause us massive risk, and what that risk looks like to Arnaud [Soirat] and the business.” (as described in Exhibit P-65);
 - 93.0.2 On **June 6, 2018**, Marco Pires gave the board of Oyu Tolgoi LLC, which included Respondents Soirat and Colton, a presentation which expressly stated progress was “behind in some of the critical work fronts of the Project (Shaft #2 Equipping and Central Heating Plant)” (as communicated herewith as **Exhibit P-89**). Despite this however, this report again misleadingly represented that as of the end of April 2018, cumulative progress of 28.6% was ahead of the FC1 forecast of 27.7%.
 - 93.0.3 By latest **June 18, 2018**, TRQ’s management team gave to Quellmann a monthly report for May 2018 based on information provided to them by Rio Tinto and Oyu Tolgoi LLC (communicated herewith as **Exhibit P-90**). This report stated that as of information current to May 2018, the ever-critical “Shaft 2 is still currently tracking behind the new FC1 schedule”. Notably, FC1 was itself a re-forecast of the schedule in the 2016 Feasibility Study which extended timelines, meaning that Shaft 2 was even further behind the original schedule. This report also disclosed that the progress on the conveyor to surface system “continued to be challenged”. Despite this however, this report represented that as of the end of May 2018, overall cumulative progress of 30.0% was ahead of the FC1 forecast of 29.7% (once again displaying how this metric was manipulated to make it appear as if progress was actually in line with or ahead of schedule).
 - 93.0.4 By latest **June 27, 2018**, TRQ’s management, including Respondent Colton, was provided with the monthly report for May 2018 (communicated herewith as Exhibit P-88). This report disclosed that work on shaft 1, shaft 2, shaft 5, the conveyor to surface system and the central heating plant had significantly fallen behind the schedule in the 2016 Feasibility Study, and that shaft 1, shaft 2 equipping and service hoist commissioning, the conveyor to surface system and the central heating plan had fallen substantially behind even the laxer schedule in the more recent re-forecast, FC1. Specifically, shaft 2 equipping was 11.9% completed when FC1 required 44.4% completion (i.e., 73.2% behind schedule), the conveyor to surface decline was at 3,595 equivalent metres when FC1 required 4,397 equivalent metres (i.e., 18.2% behind schedule), and the central heating plant was 22.2% completed when FC1 required 44.8% completion (i.e., 50.4% behind schedule). Despite these major setbacks in critical areas however, this May report represented that the project’s cumulative progress as of month end was 30%, which was slightly ahead of the 29.7% forecast in FC1 (again highlighting the misleading nature of this metric).
- 93.1 On **July 3, 2018**, Bowley emailed Soirat’s immediate subordinate, Fagen, reporting (as detailed in Exhibit P-65) that he had been informed by Rio Tinto’s main contractor, Jacobs, which was primarily responsible for the engineering, procurement and construction management (“EPCm”) work at Oyu Tolgoi, that due to the delays to Shaft 2, Jacobs was falling behind schedule because it was not getting sufficient cage space for moving people
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and equipment up and down the much smaller Shaft 1, and that it wanted to offset the increased costs against Rio Tinto. Jacobs EPCm contract provided for a target cost of USD \$240 million on a reimbursable cost basis for its management of the supply chain, construction companies, procurement, and other functions, but this money was going to run out in December 2018. Bowley further reported that it would cost at least an additional USD \$120 million for the EPCm work at current expectations, and that Rio Tinto's Growth & Innovation ("G&I") Division was panicking and considering firing Jacobs and doing the work themselves:

Budget for the EPCm runs out by Christmas

Entry for EPCm \$240mill / expected exit just on current expectations
\$360mill

Massively under performing

The kicker !!! G&I are considering binning Jacobs and "self managing/
performing.

A self performing operator trust me is more risk than an under performing
engineering group !!

I will get some exact detail on this but senior OT [Oyu Tolgoi] / G&I people
told me this last Sunday.

- 93.2 That same day, Bowley sent a second email to Fagen (also detailed in Exhibit P-65) stating in relevant part about the cost overruns about which he had previously warned:

I am not blowing my own trumpet, but this has been coming from day one
!! ... The realization and magnitude of what is happening is starting to dawn
I think on a few.

- 93.3 Fagen responded that same day, acknowledging the problems were well known to Rio Tinto, including Respondent Arnauld Soirat:

Oh don't worry, we've known it from the start, just haven't been able to do
anything about it. Arnauld has played a very card [sic] here, which is why
you now see 'things' surfacing.

- 93.4 The monthly reports for June 2018, which TRQ's management was provided on or about **July 5, 2018**, disclosed that work on shaft 1, shaft 2, the conveyor to surface system and the central heating plant continued to fall further behind even the more recent FC1 forecast (as communicated herewith as **Exhibits P-91** and **P-92**). Specifically, the shaft 1 permanent mine air heaters which were supposed to be complete in September 2017 in the 2016 feasibility study, and Q1 2018 and then August 2018 in FC1, was now delayed to October 2018 (i.e., more than a year behind the original schedule), shaft 2 equipping which was supposed to be 55.9% as forecast in FC1 was only 19.0% complete (66.0% behind schedule), progress on the conveyor to surface which was supposed to be 4,757
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equivalent metres as per FC1 was only 3,820 equivalent metres (i.e., 19.7% behind schedule) and the central heating plant which was forecast in FC1 to be 40.0% complete was only 25.3% complete (i.e., 36.8% behind schedule). This should have made it abundantly clear to TRQ that the schedule it was representing to the market, which it had been told was already “tight but achievable” and only “assuming no further delays”, was certainly no longer achievable. Rio Tinto already was well aware the schedule was not achievable thanks to the many warnings from Bowley. However, despite the clear setbacks in critical areas relative to even the recent re-forecast in FC1, the reports represented as of the end of June, overall construction progress of 32.2% was actually ahead of the forecast in FC1 of 31.8% (again highlighting the misleading nature of this metric).

94. On **July 19, 2018** (i.e., twelve days before the start of the Class Period), Bowley emailed Fagen again alerting her that the project was USD \$300 million over budget and twelve months behind schedule (as reported in the *Australian Financial Review* at Exhibit P-36, as well as in the *Global Investigations Review* on September 28, 2020 communicated herewith as **Exhibit P-66**):

From: Richard Bowley (OT)
Sent: 19 July 2018 05:20
To: Fagen, Rosemary (RTHQ) <Rosemary.Fagen@riotinto.com>
Subject: RE: Call

[Latest update.](#)

[12 months behind schedule.](#)

[\\$300mill capital over budget. Expect this to rapidly escalate.](#)

b. During the Class Period

95. Not only did TRQ not release a material change report disclosing the material change to its principal and only significant resource property brought to Rio Tinto’s attention by Bowley as it was required to under applicable securities regulations, instead on **July 31, 2018**, TRQ released its interim financial statements, MD&A, and corresponding CEO and CFO certifications on Form 52-109F2, as well as a news release, for the three and six-month period ended June 30, 2018 (i.e. Q2 2018, communicated herewith as Exhibits P-6 to P-10 respectively), which doubled-down on the Company’s prior misrepresentations. In these Impugned Documents and despite the very explicit warnings from Bowley less than two weeks prior, TRQ represented *inter alia* that:
- a. underground development continued to progress during the second quarter of 2018 “including the completion of the fully operational expanded Shaft 5 ventilation system”, and June 2018 had achieved a “record-level” of equivalent underground development;
 - a.1 during the second quarter of 2018, the primary crusher 1 chamber was excavated;
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- b. during the fourth quarter of 2017, Rio Tinto had undertaken a schedule and cost review and provided TRQ “with a high-level overview of the review’s outcomes, in which Rio Tinto concluded there were no material changes in project scope, cost or schedule. Following analysis of [Rio Tinto’s] review’s conclusions, Turquoise Hill is in agreement with the findings.” [emphasis added];
 - c. production from first Drawbell (i.e. initial production) remained planned for mid-2020;
 - d. sustainable first production remained planned for 2021;
 - e. construction at Oyu Tolgoi was expected to complete in 2022 (with the completion of the convey-to-surface system);
 - f. full production would be achieved by 2027;
 - g. the net book value of Oyu Tolgoi as at June 30, 2018 was USD \$8.05 billion; and
 - g.1 that the filings did not contain untrue statements of material fact or omit a material fact required to be stated, and that Respondent Colton was responsible for establishing and maintaining DC&P and ICFR, had designed DC&P or caused it to be designed to provide reasonable assurance that material information relating to TRQ was made known to him and information required to be disclosed was summarized and reported, had designed ICFR or caused it to be designed to provide reasonable assurance regarding the reliability of financial reporting in accordance with GAAP, and that there were no changes that occurred in the period that had materially affected TRQ’s ICFR (which had been represented as being effective as of the end of the previous fiscal year);
96. There was nothing in the July 31, 2018 MD&A to disclose the very specific warnings about delays and cost overruns at Oyu Tolgoi being given to Rio Tinto by Richard Bowley;
- 96.1 Also on **July 31, 2018**, Marco Pires gave a presentation to the TRQ Board, using slides which are communicated herewith as **Exhibit P-93**, which stated that shaft 2 equipping was months behind schedule and expressly disclosed under a slide titled “Key Risks to Project Execution in 2018/2019” that based on data current to the end of June 2018, “Shaft #2 system delay was impacting sustainable production commence [*sic*] date”, as well as that the ““Central Heating Plant upgrade delay impacting ventilation upgrade and limiting additional underground work”. This presentation expressly stated that the schedule “Target at Risk”. Despite these major delays and the fact that the schedule target was identified to be at risk however, this report represented that cumulative progress of 32.2% was actually ahead of FC1 forecast of 31.8%, that first drawbell would still occur in mid 2020 and sustainable production would commence in Q1 2021;
97. On **August 1, 2018**, TRQ conducted a conference call to discuss its earnings that were released the prior day (a transcript of which is communicated herewith as Exhibit P-31). On this call, Lane represented unequivocally that “we will remain on target for the first drill point blast in mid-2020 and sustainable production in early 2021.” Lane further represented that:
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- a. The convey-to-surface system would be ready for the continued ramp up in 2022 (i.e. when construction would be completed);
 - b. The Shaft 5 ventilation system was fully commissioned during the quarter and was now operational and adding additional air capacity to the mine; and
 - c. That Shaft 2 equipping was “well underway”;
98. Quellmann and Colton repeated Lane’s representations on this call, with Colton stating that the Shaft 5 ventilation system had become “fully operational” and both Individual Respondents reaffirming that initial production from first Drawbell would occur in mid-2020 and sustainable production in 2021;
- 98.1 These representations about Shaft 5 ventilation system being fully operational were false, because at the time when they were made, the central heating plant, which is required by Mongolian mine safety law to ensure that underground work can be done at safe temperatures and is critical to underground development, was in fact at least eight months behind schedule. Thus, it was not possible to properly perform Shaft 5’s ventilation function and it was a misrepresentation to claim that the Shaft 5 ventilation system was “fully operational”;
- 98.1.0 This undisclosed eight-month delay was highly material given Shaft 5’s role as the underground mine’s principal ventilation shaft. Until Shaft 5 and its ventilation systems were completed, temporary ventilation equipment was installed in Shaft 2, which slowed the movement of workers, equipment, rock and blasted ore up and down Shaft 2, and importantly, delayed completion of the permanent equipment that was meant to go in Shaft 2.
- 98.1.1 Additionally, the representation that Shaft 2 equipping was “well underway” was false as Shaft 2 was already facing significant challenges by July of 2018, including specifically regarding its equipping. This was made abundantly clear to TRQ in the monthly reports for May and June 2018 referenced above, which clearly reported that shaft 2 equipping was 73.2% behind schedule as of the end of May and 66.0% behind schedule as of the end of June, as well as in the presentations given by Pires in June as well as just the prior day that shaft 2 equipping was months behind schedule;
- 98.1.2 This was the same conclusion reached by the ICG in its investigation, The ICG Report expressly found that:

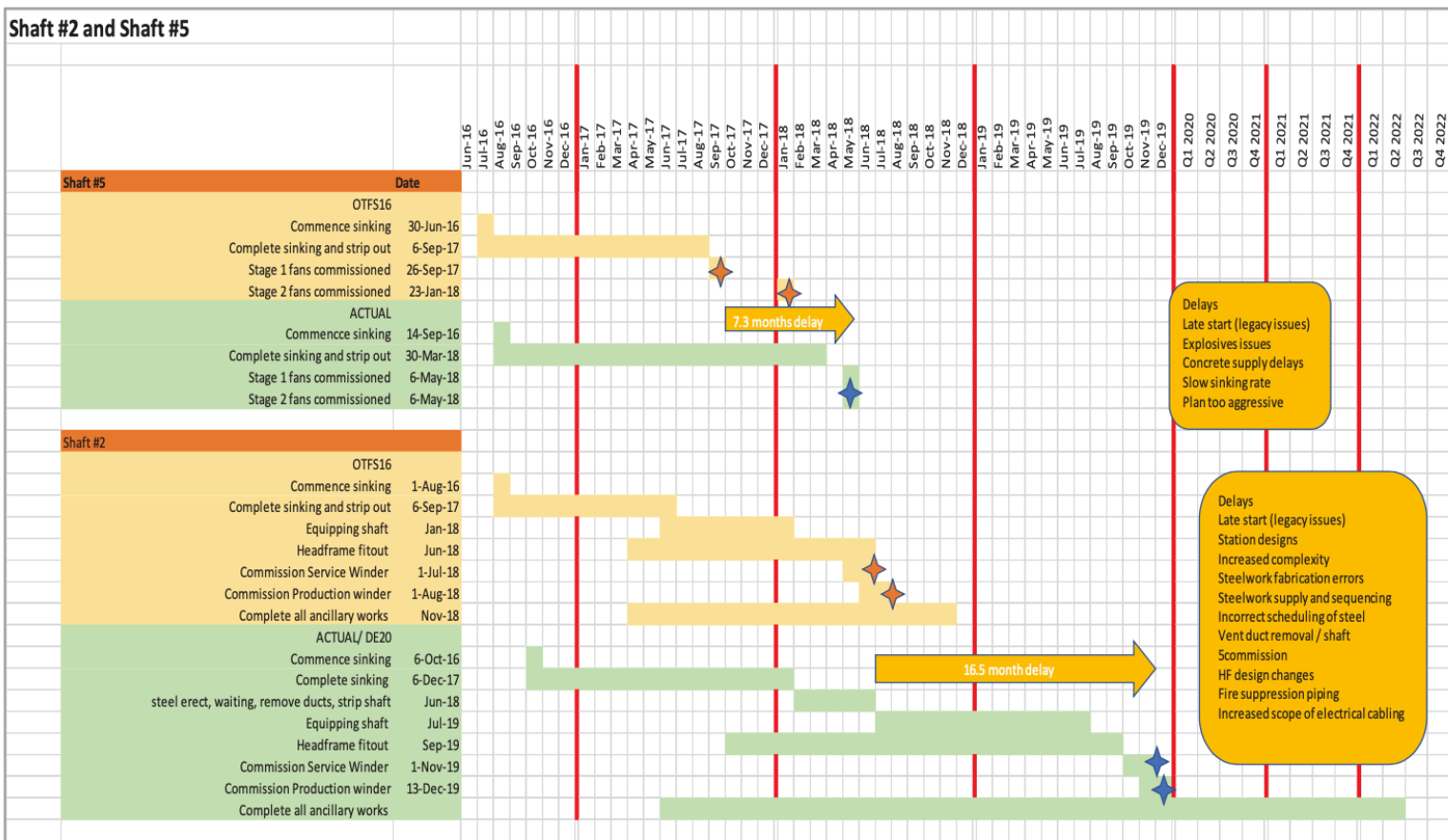
The delay to Shaft #5 had a major impact on Shaft #2. In order to increase ventilation to the underground mine two large ducts were installed in Shaft #2 and connected to exhaust fans at the 1148 level. These ducts needed to be kept in place until Shaft #5 and the main exhaust fans were fully commissioned, **which then delayed the start of equipping of Shaft 2.** ...

The plan was to strip out the entire shaft sinking equipment then commence shaft equipping from the top of the shaft downward. However, the temporary exhaust ducts in place above 1148 level could not be removed

until the completion and commissioning of Shaft #5, which as noted in the previous section, was late by 7.3 months. [emphasis added]

98.1.3 To provide additional context, Shaft 2 sinking was scheduled to commence on August 1, 2016 and to be completed by April 27, 2017. The ICG Report found that in reality, Shaft 2 sinking didn't even start until October 6, 2016 and took until December 6, 2017 or 7 months later than planned. The strip out of Shaft 2 which was supposed to be completed by September 6, 2017 (and before equipping would commence), in reality took until June of 2018. Further, the equipping of Shaft 2 mentioned above, which was scheduled to have been **completed** by January 2018, **didn't even start** in earnest until June of 2018, and as the ICG Report found, "[o]nce equipping could start in earnest there were several major delays". This meant that before the start of the Class Period, the vital Shaft 2 was already known to be months behind schedule, and given that it was essential for transporting mining crews and equipment underground, it was well known that the delays to completing Shaft 2 would cascade into exponentially greater delays for the rest of the underground expansion. A chart summarizing the delays to Shaft #2 and Shaft #5 and their impact from the ICG Report can be found below:

Chart 3.2.2.1 Shaft #2 and Shaft #5 Delays Impact



- 98.2 In direct response to analysts' questions regarding the reliability of TRQ's statements about the progress at Oyu Tolgoi and the concern that TRQ was somewhat on the "outside looking in", Quellmann reassured investors that he and TRQ had "good visibility" and were "well plugged-in" to the "various processes, cost reviews and the like," including with respect to the "the progression of the underground construction." On this call, Quellmann specifically committed to transparency and touted his and TRQ's intimate knowledge of the actual facts on the ground at Oyu Tolgoi: "where I am today, what I see, I think we're in a good place [and] we'll continue to monitor that, we'll make sure that we are set—well set up to provide good visibility to the board and to our shareholders." In a follow up to that question inquiring as to why the Respondents could remark that they were very plugged into the discussion at the Oyu Tolgoi Mine, Respondent Colton stated that "at an OT level we – there are definitely members of the TRQ senior leadership team that are directors on the OT board. So we definitely have visibility through our board representation. ... So we do have representation and we do get good visibility from O,T, not just in relation to the sort of day-to-day stuff but some of these more strategic issues as well";
- 98.3 On **August 15, 2018**, Respondent Soirat appeared on MNB World, a Mongolian news network, and discussed the Oyu Tolgoi underground expansion. During this interview, Soirat stated that he had recently visited the Mine and met with Mine employees, and that the underground project was "on plan and on budget" (as communicated herewith as **Exhibit P-94**).
- 98.4 On **August 31, 2018**, Bowley sent another email to Soirat's direct subordinate, Fagen, again explicitly warning about the material delays and cost overruns the Mine underground development. Specifically, Bowley forwarded a link to a news article regarding the development of the London Crossrail transit line, which had recently disclosed that the project would "come in a year late, and in the region of \$600mill over budget." As Bowley pointed out, "the uncanny relationship to the [Oyu Tolgoi] expansion is we are looking at the same schedule overrun and a very similar capital value," and he noted parallels between Defendants' false public statements about Oyu Tolgoi and the claims by Crossrail executives, who had similarly repeatedly and wrongly claimed that the Crossrail project was "on time and on budget" (as described in Exhibit P-65);
- 98.5 Fagen responded in agreement shortly after, stating "Yes I completely agree and now we're trying to be clever by doing 'forecast 2'!" This was in reference to the re-forecast that would be publicly disclosed in October, which was a "clever" way to conceal the true extent of the problems faced by the underground expansion. As Bowley explained in a response email a few hours later, the (...) re-forecast was:
- just another re-base line of the schedule that just makes the current position appear more tenable. All this does is makes us look good, pulls back aspects of schedule that are knackered, and makes people feel a little bit better about their inadequacies to deliver. The root cause why this happens will remain constant, and will not change.
- (as described in Exhibit P-65);
-

- 98.6 On **September 12, 2018**, Marco Pires gave an update on the underground development to the board of directors of Oyu Tolgoi LLC (which included Respondents Quellmann, Colton and Soirat), using a PowerPoint presentation communicated herewith as **Exhibit P-95**. This presentation under the heading “Key Risks to Project Execution in 2018/2019” disclosed that based on data current to the end of July 2018, “Shaft #2 system delay [was] impacting sustainable production commencement date” and also that “Central Heating Plant expansion delay potentially impacting ventilation and limiting underground work ramp up”. The presentation further revealed that based on data current to the end of July 2018:
- a. Shaft #2 Equipping continued to be months behind schedule and was 45% complete versus a forecast in FC1 of 64% complete, meaning it was 29.7% behind the schedule in FC1 (which was itself a reforecast of the schedule in the 2016 Feasibility Study that delayed the 2016 schedule projections, meaning it was even further behind the original schedule);
 - b. Shaft #2 Headframe Fitout was 59% completed as opposed to the 66% completion forecast in FC1, meaning it was 10.6% behind the schedule in FC1;
 - c. Central Heating Plant Expansion was 24% completed as opposed to the 96% completion forecast in FC1, meaning it was 75% behind the schedule in FC1; and
 - d. The schedule target was “at risk”.
- 98.7 However, despite these critical setbacks and the schedule target expressly being at risk, this report represented that cumulative progress (of 34.4%) was actually ahead of the FC1 forecast (of 33.9%), and that first drawbell would occur in Q2 2020 and sustainable production would commence in Q1 2021, once again demonstrating how the forecasts were being manipulated to appear as if the Mine was adhering to schedule.
- 98.8 In or about early **September of 2018**, Rio Tinto received a report from its third-party advisory firm, Broadleaf about the underground development (communicated herewith as **Exhibit P-96**). This report found there was a “0% likelihood” that cave readiness (i.e. the revised metric for first draw bell due to a change in cave sequencing strategy) would be achieved in May 2020 as per the original timeline, a “0% likelihood” that sustainable production would be achieved by the end of May 2021 as per the original timeline, and essentially no chance that the project would be on budget.
- 98.9 On **September 26, 2018**, Respondent Jacques gave a presentation on behalf of Rio Tinto at the Bernstein Pan European Strategic Decisions Conference in London, England. The accompanying presentation materials which were posted on Rio Tinto’s website (communicated herewith as **Exhibit P-97**) represented that Oyu Tolgoi would begin production according to the previously announced schedule, stating that the “\$5.3 billion Oyu Tolgoi underground first drawbell production” would take place in 2020.
- 98.10 Reports current to the end of **September 2018** (communicated herewith as **Exhibit P-98** and **P-99**) disclosed that:
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- a. Shaft 2 equipping which was supposed to be 85.1% complete was only 34.8% complete, or nearly 60% behind the FC1 schedule and “maintains a three month delay”, “to large volumes of non-compliance issues in the design and fabrication of steel and the subsequent requirement for steel rectification works”;
- b. The sinking of Shaft 2 Ore Bin 11 had just been completed, which was four months behind the schedule in FC1 and 10 months behind the schedule in the 2016 Feasibility Study, and as a result Ore Bin 11 was at least three months delayed from what was forecast in FC1 (which again due to the importance of Shaft 2 would mean exponentially increasing delays);
- c. Shaft 2 production hoist commissioning was at least three months behind the schedule forecast in FC1;
- d. development progress in the excavation of Primary Crusher #1 chamber (which was represented to have been completed before the start of the Class Period, and which was characterized in the report as a “critical work front”) was challenged and behind FC1 plan;
- e. the central heating plant which was supposed to be 100% complete was only 57.6% complete, or more than 42% behind the FC1 schedule, was at least 2 months behind the schedule in FC1, and had “Significant issues and/or impact to critical path”; and
- f. the conveyor to surface cumulative progress was roughly 1.1 equivalent kilometres (or 18.8%) behind where the 2016 Feasibility forecast it should be and more than 1.2 equivalent kilometres (or 21.0%) behind where even the more recent FC1 forecast it should be).

98.11 The FC1 schedule already increased the schedule for Shaft 2 equipping and the central heating plant from the 2016 Feasibility Study, meaning these tasks were even further behind the original schedule. However, despite the significant delays to critical path areas, these report represented that as “the end of September overall construction had progressed to 38.9% complete against a FC1 forecast of 38.4%” (again highlighting how this metric and the corresponding re-forecast were manipulated to make it appear as if the project was in line with or even ahead of schedule when it was drastically behind in key areas). These reports also continued to represent that despite facing major setbacks and material delays, first drawbell could still be achieved by Q2 2020 (but only by making changes in the caving initiation plan);

99. During the week of **October 2, 2018** in a presentation given to investors in New York and posted on Rio Tinto’s website (communicated herewith as **Exhibit P-50**), the CEO of Rio Tinto’s Copper & Diamonds division (the division to which Richard Bowley wrote his July 31, 2018 warning), Arnauld Soirat, who was Quellmann’s long-time boss until only eight weeks prior and a fellow member on the Oyu Tolgoi LLC board of directors alongside Quellmann and Colton, used a presentation that said that the underground development was “on budget and on schedule”, that “[f]irst drawbell production [was] expected mid 2020”, and that the project had maintained “\$5.3 billion development capex projected”, despite Rio Tinto being expressly and repeatedly told otherwise by Bowley, and despite

even Broadleaf completing a report stating there was low likelihood of meeting this schedule;

- 99.1 On **October 9, 2018**, Marco Pires gave a presentation to TRQ’s management regarding forecast 2 (FC2). Indicative of the misleading reporting provided by Rio Tinto and its manipulation of the metrics of the annual re-forecasts to mislead that the project was adhering to schedule, this presentation (communicated herewith as **Exhibit P-100**) indicated that the overall progress of the underground development had exceeded the FC1 forecast and was only 1% behind the 2016 Feasibility Study plan, despite simultaneously disclosing that there would be a nine-month delay to sustainable production. This report also disclosed that they would focus on mitigation measures for the Primary Crusher #1 system (which had been represented to be fully excavated in Q2 2018 before the start of the Class Period), because it was “critical for cave readiness” and that future delays would likely arise from *inter alia* scope growth and Shaft #2 production hoist delay, on which they were focused because the Shaft #2 production hoist system “is critical to unlocking hoisting constraints thereby enabling ramp up of [underground] development”.
100. On **October 15, 2018**, TRQ released a news release (Exhibit P-11) where it announced an underground development “update” and “re-forecast” (i.e., the “clever” forecast 2 referred to previously by Fagen). In this press release, TRQ disclosed for the first time that despite making significant progress in the underground development project, Rio Tinto, in its role as manager of Oyu Tolgoi and underground construction contractor had notified TRQ that there had been certain delays that were expected to result in sustainable production start being delayed from the first quarter of 2021 to late in the third quarter of 2021. This disclosure attributed the reason to be delays to “the completion of Shaft 2, which includes over four months of schedule contingency, and challenging ground conditions.” However, despite this roughly nine-month expected delay, the Company unequivocally represented that:
- ... capital costs remain in line with the overall [USD] \$5.3 billion budget ... lateral development has progressed well, [project] construction completion schedule remains on track for 2022 and the project is expected to be completed at the \$5.3 billion budget estimate disclosed in the 2016 Oyu Tolgoi Feasibility Study and the 2016 Oyu Tolgoi Technical Report. ... First draw bell remains on track for mid-2020, partly due to a change in the draw bell sequencing strategy.
- 100.1 The statements about the re-forecast were intentionally misleading, as acknowledged by Fagen six weeks prior. The Respondents developed and publicly reported this re-forecast of the project timeline to create the false impression that TRQ was only a bit behind schedule and still on budget, and reassured investors that the “re-forecast” included “over four months of schedule contingency”. However, the re-forecast was accomplished specifically by transferring costs and projects related to the major infrastructure of Shaft 2 to later phases — providing the Company with a false basis to claim a closer adherence to the original schedule, while slyly increasing costs and the ultimate length of schedule. The re-forecast involved reducing the scope of various projects such that if a task entails steps “A” through “I”, you reduce that to steps “A” to “D”, and make steps “E” to “I” a whole
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new project and push that project into a secondary phase. The re-forecasting simply delayed and defunded tasks, such as commissioning work, that would still need to be done eventually. It just moved the project to further down in the process and actually served to add costs (as contractors were essentially being paid twice for time and materials to do the work that was de-scoped from their original project, but for which they had been paid). However, it also made it appear as if TRQ was more closely adhering to the schedule;

- 100.1.1 This was the same conclusion reached by the ICG Report, which examined the re-forecast of the schedule and found that the effect of the re-forecast was to provide “misleading” reporting about the actual progress of the underground development. As stated in the ICG Report:

Progress was misleadingly reported. Areas such as the Oyut Camp (which was ahead of schedule) was used to balance the more critical areas such as the shafts that were falling further behind. Almost all the reporting focussed on overall monthly achieved targets against the latest targets. These target dates were changing throughout the first three years (OTFS16 to FC1 to FC2 plus numerous mining plan changes) to better align actual progress against “plan” without altering the final completion dates. This reporting was misleading.

- 100.2 The tasks that were being “de-scoped” however, were critical infrastructure tasks that had to be completed before the vital Shaft 2 could become active. The weekly progress reports generated by Jacobs for the underground expansion reflected that, before the re-forecast, by August of 2018 the total overall progress was at least 14% behind the original schedule (which over the life of the four-year project equates to months of delay and cost overruns of approximately USD \$750 million over budget). However, by replacing the original plan with this new re-forecasted schedule, the project’s delays were artificially lowered from 14% to only 5% instantaneously. Shaft 2 was repeatedly “de-scoped” throughout the Class Period, such that by the second quarter of 2019, 10% of the entire schedule for Shaft 2 had been de-scoped in this way;

- 100.2.1 This fact that Rio Tinto and TRQ were lying about the progress of the Project was also well known to the employees and contractors at the Mine. In fact, Russell Brenchley recalled that when Rio Tinto and TRQ first disclosed in October 2018 that there would be some delays to completing Shaft 2 (although they falsely continued to maintain that the Project was on budget), these employees/contractors “were all laughing and saying that wasn’t the truth. Just CHP, which was seven months behind schedule and that was critical to get the underground going” (as described in Exhibit P-65);

- 100.3 Not only were the representations about being on budget and only nine-months behind schedule false, the representations about lateral development progressing well were also false, as from the end of 2017 until June 2019, lateral expansion was consistently behind schedule by 100-200 meters per month (as the schedule required construction of 800 meters per month). Additionally, in this news release, TRQ represented that it had achieved lateral development of 2.3 kilometres during the third quarter of 2018, when in fact only approximately 1.8 to 2.1 kilometres had been completed because of lateral expansion being consistently behind schedule. TRQ was forced to later admit that the
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lateral expansion figure it reported for the third quarter of 2018 was false, overstated and had to be revised downwards;

- 100.4 The very next day (**October 16, 2018**), Bowley emailed Arnaud Soirat's direct subordinate, Rosemary Fagen (as detailed in Exhibit P-65), that TRQ had not disclosed "the real truth" even though Rio Tinto and Arnaud Soirat had known the true state of affairs for over a year (as Bowley had previously explicitly told Soirat that the project was 12-15 months behind schedule and at least USD \$500M over budget):

I see TRQ put out a very watered down statement of the truth regarding the Underground yesterday. **It's a good job the market does not know the real truth, and that Rio knew this was very likely over 12 months ago.** I think GoM [Government of Mongolia] and our other shareholders may want heads. Arnaud [Soirat] needs to be clever here. **He has consistently put out messages to the market the project was on schedule and budget. He may take some heat in terms of not seeing what was coming, even though he knew.** [emphasis added]

- 100.5 As Bowley subsequently recounted in his sworn Witness Statement submitted to the U.K. Employment Tribunal in connection with his unfair dismissal claim, which is partly reproduced herein at Exhibit P-81 and in the U.S. Complaint communicated herewith at Exhibit P-65:

Extraordinarily, in October 2018, Arnaud Soirat issued a press release which included a review of the OT project....At page 12 it states that OT is one of the world's highest quality developments with projected capital expenditures of US\$5.3bn. It states emphatically, "Underground project on budget and schedule" with productivity improvement across project and operations and an excellent safety performance. This was completely untrue and I raised this with Rosemary Fagen on 16 October 2018 in an email entitled "TRQ share price."

- 100.5.1 On or about **October 16, 2018**, Rio Tinto released a news release titled "Rio Tinto releases third quarter production results" and its Third Quarter 2018 Operations Review (attached hereto as **Exhibit P-101** and **P-102**, respectively). These Impugned Rio Documents/Statements represented that "[f]ollowing an annual re-forecast of the Oyu Tolgoi underground development schedule and costs, capital costs remain in line with the overall \$5.3 billion budget and construction of the first draw bell is still expected in mid-2020." This was despite the fact that it was well known that numerous crucial aspects of the underground development project that were required to maintain the represented schedule, such as Primary Crusher #1 and Shaft #2 were significantly behind schedule, and the fact that Richard Bowley had repeatedly told Rio Tinto representatives that the schedule and cost forecast could not be achieved.
- 100.5.2 At latest by **October 17, 2018**, TRQ's management, including Quellmann and Colton, received a draft MD&A for the third quarter of 2018 from Oyu Tolgoi LLC, providing updates on the underground project. This draft MD&A (attached hereto as Exhibit **P-103**) disclosed that as of the end of September 2018:
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- a. “Shaft 2 equipping completion maintains a three month delay”, and Ore Bin 11 (which is a part of Shaft 2) was also delayed by three months;
- b. the excavation of Primary Crusher #1 (which was expressly stated to be “the highest development priority”, and which TRQ had represented was completed prior to the start of the Class Period), continued to be behind schedule and was a concern;
- c. the conveyor to surface decline advancement was suspended, impacting its progress, due to “improper earthing design of electrical cabling”;
- d. the conveyor to surface cumulative progress was at 4,686 equivalent metres (roughly 1.1 equivalent kilometres (or 18.8%) behind where the 2016 Feasibility forecast it should be and almost 1.3 equivalent kilometres (or 21.1%) behind where even the more recent FC1 forecast it should be); and
- e. the only way that first drawbell could remain on schedule was due to changes in the caving initiation plan (i.e. the new drawbell sequencing strategy).

100.5.3 However, despite these setbacks and the project, including the ever-important Shaft 2 and Primary Crusher #1 being significantly behind schedule, this draft MD&A reported that overall cumulative progress was 38.9% and actually ahead of the FC1 forecast of 38.4% (highlighting the misleading nature of this metric).

100.6 On **October 26, 2018**, Bowley met Arshad Sayed, who had replaced Craig Kinell as the Chief Development Officer of Rio Tinto’s Copper & Diamonds division in charge of the Oyu Tolgoi Project, where Bowley again repeated that the project was currently 12 months behind schedule and that the representations made in Rio Tinto/and Arnaud Soirat’s October 2, 2018 presentation that the underground “project is on time to deliver mid-2020 and that “all material assumptions underpinning these production targets continuing to apply and not having changed materially” were not true;

101. On **October 29, 2018**, Bowley sent an email again to Sayed repeating that there would be a “12-18 month delay in the underground project, with substantial cost implications” [emphasis added] (as reported in the *Financial Times* at Exhibit P-37). Referencing the nine-month delay the Respondents had disclosed on October 15, Bowley told his manager that “stating this [delay] will have a limited impact on first drawbell again is a suicidal statement.”;

101.1 The next day on **October 30, 2018**, Bowley sent an email to Rosemary Fagen (as detailed in Exhibit P-65) regarding TRQ’s statement about the expected delay and the supposed “challenging ground conditions” that had been the purported cause of the setbacks to Shaft 2, which included in relevant part:

You and me both know the TRQ statement is a little light on the truth. Nine months is already twelve months, and if you don’t know commissioning being one of the biggest risks to any project may add a further three to six months. ... if the decline and the conveyors are not

commissioned, I am not sure how people think we get that ore to the surface ??? **The risks are only going to get bigger.**

I know in shaft 2 this month the target was [to install] 100 sets. Month to date I think its around 3 !!!!! You do the numbers ?? It's not rocket science, **and it's certainly not a Geo issue as TRQ stated, it's purely construction.** [emphasis added]

- 101.2 The ICG Report similarly concluded that the claims that the delays were due to "ground conditions" associated with construction of Shaft 2 and PC1 were "not substantiated in any way", and that the delays were the result of a "major construction oversight, not a 'ground condition worse than expected'" (as described in Exhibit P-72).
102. On **November 1, 2018**, TRQ released its interim financial statements, MD&A, and corresponding CEO and CFO certifications on Form 52-109F2, as well as a news release, for the three and nine-month period ended September 30, 2018 (i.e., Q3, communicated herewith as Exhibits P-12 to P-16 respectively). In these Impugned Documents and despite the very clear warnings from Bowley, TRQ represented *inter alia* that:
- a. during the third quarter of 2018, Oyu Tolgoi continued to maintain strong crew productivity and underground development;
 - b. Rio Tinto, in its role as manager of Oyu Tolgoi had undertaken its second annual schedule and cost-reforecast for the project; and TRQ had commenced its own review of the schedule and cost reforecast with the assistance of TRQ's own independent Qualified person;
 - c. first Drawbell remained on track for mid-2020 due to a change in the draw bell sequencing strategy;
 - d. sustainable first production would now occur by the end of the third quarter of 2021, instead of the first quarter of 2021 as previously and repeatedly represented;
 - e. lateral development had progressed well and construction at Oyu Tolgoi remained on track to be completed in 2022;
 - e.1 lateral development of 2.3 kilometres had been achieved in the third quarter of 2018
 - f. the underground development project remained on budget and was expected to be completed costing USD \$5.3 billion as disclosed in the 2016 Oyu Tolgoi Feasibility Study and the 2016 Oyu Tolgoi Technical Report;
 - g. the net book value of Oyu Tolgoi as at September 30, 2018 was USD \$8.40 billion;
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- h. Rio Tinto and TRQ would commence a definitive estimate review that would provide the next cost and schedule review for the underground development project and would be concluded early in the third quarter of 2019; and
 - h.1 that the filings did not contain untrue statements of material fact or omit a material fact required to be stated, and that Respondents Quellmann and Colton were responsible for establishing and maintaining DC&P and ICFR, had designed DC&P or caused it to be designed to provide reasonable assurance that material information relating to TRQ was made known to them and information required to be disclosed was summarized and reported, had designed ICFR or caused it to be designed to provide reasonable assurance regarding the reliability of financial reporting in accordance with GAAP, and that there were no changes that occurred in the period that had materially affected TRQ's ICFR (which had been represented as being effective as of the end of the previous fiscal year);
103. There was nothing in the November 1, 2018 Impugned Documents disclosing the very specific warnings about delays and cost overruns at Oyu Tolgoi being given to Rio Tinto by Bowley just a few weeks prior to the release of these Impugned Document, nor that such delays and cost overruns were indicators of an impairment in the net book value of Oyu Tolgoi;
104. On **November 2, 2018**, TRQ conducted a conference call to discuss its earnings that were released the prior day, a transcript of which is communicated herewith as Exhibit P-32). On that call, Colton once again reaffirmed that the total underground cost estimate of USD \$5.3 billion remained unchanged, that initial production from first Drawbell remained on track for mid-2020 and that construction completion remained on schedule for 2022. With regards to the need for additional funding due to the delay in revenue from underground production, Colton explicitly stated that TRQ “may have flexibility elsewhere to mitigate the impact of delaying revenue and minimize the need to source additional funding.” Quellmann also stated that “[o]ur financing plan is robust. We have \$3.8 billion of liquidity available, over 1/3 of the estimated underground development capital has already been deployed, and OT has the capacity to raise an additional \$1.7 billion in debt, which we call supplemental debt under the existing financing agreements”;
105. On this conference call, in response to an analyst's question as to why the 9-month delay would not cause the \$5.3 billion cost to increase, Quellmann also stated that:

[A] lot of the key data points that would've formed part of the re-forecast and preliminary conclusions actually confirmed the existing assumptions. So costs, as you just referred to, stay the same. We're referring to the final completion date as well as the first draw bell. It's really the first sustainable production which has been pushed out ... because some of the delays that are incorporated are ones that already happened, in particular, in relation to Shaft 2 ... So now, where we're with the information what we've provided, **we confirm the \$5.3 billion total budget** [emphasis added]

106. In response to an analyst on the conference call looking for help to “get comfortable that this [delay] doesn’t turn into something longer”, Quellmann responded in part that:

... We believe that we’ve got one of the best operators in the industry with Rio Tinto as the project manager of the open pit as well as constructing the underground mine ... And we think we've got one of the best world-class operators to be able to do this for us. We also think that the governance mechanisms are robust. ... In the big scheme of things, we think that the controls that are in place are strong.

107. Lane also made comments on this call that some of the ground condition problems and related problems with Shaft 2 that had caused the delay in sustainable production, had occurred in the past and were behind TRQ;

- 107.1 Additionally, on this call, Respondent Quellmann stated that “[b]oth [TRQ’s] management and the board were at site only a few weeks ago, and ... it is truly impressive to see the level of activity and the rate of progress that’s being achieved” and represented that “I’ve got extensive relationships with Rio [Tinto] and understand their approach to projects and operations. We will continue to work closely with them and we’ll be closely involved with key decisions and project reviews.” Quellmann further represented that there were numerous mechanisms that allowed TRQ to oversee and review the work at Oyu Tolgoi, and that TRQ worked alongside Rio Tinto to assess the costs and schedule of the underground development at the mine:

... I would say, the way -- **if you look at the way we manage, how we operate and how we govern and oversee Oyu Tolgoi from a TRQ perspective, there's obviously a number of mechanisms, bodies in place that allow TRQ, just from a management perspective, to review performance, improve budgets, and that'll be done at the board level, at the committee level and that's regularly the ordinary course of operating.** When you refer to independent studies, **what tends to happen is in relation to the underground costs and shape of the re-forecast we just talked about, of course, we, as the TRQ management team, review the work and are working with OT and Rio to do that together ...**
[emphasis added]

- 107.2 In fact, an analyst on the call expressly asked whether TRQ was kept informed and actively involved in the review of the schedule and costs of the Mine development or that was just within the knowledge and control of Rio Tinto, and Respondent Quellmann explicitly represented that TRQ was actively involved in Mongolia and informed of the underground development:

Orest Wowkodaw Scotiabank Global Banking and Markets, Research Division - Senior Equity Research Analyst of Base Metals:

Okay. And just wanted to clear, do you have a seat at the table with respect to this -- the new study and the review? Or is this something Rio is doing?

Ulf Quellmann *Turquoise Hill Resources Ltd. - CEO & Director:*

Well, so Rio is the manager of the project, but **TRQ certainly has a seat at the table. First of all, we have a seat at the table, we're on the OT LLC Board.** So that's really where the first round of work really happens and takes place **because the OT LLC Board of Directors obviously have to sign off on regular budgets, and certainly, that includes the underground.** And then there are a number of other committees ... **So those are bodies and mechanisms that we have to obtain information. So those are the formal arrangements that are there, that we avail ourselves of.** And then in addition, **I would say, we think that we have a very good and a very productive working relationship both with the project team at OT itself as well as the Rio team that's going to start the project work. And as I said before, that's why Brendan [Lane] is in Mongolia at the moment to go through the data, together with the external consultant to do that. So we're well positioned, Orest, to, as you said, have a seat at the table and to understand, review and provide input, and ultimately, sign off on the underground expansion.** [emphasis added]

108. In conjunction with the November 2, 2018, conference call, TRQ released a corresponding slideshow presentation, which it also posted on its website (communicated herewith as Exhibit P-17). Within this slideshow the company represented that the Oyu Tolgoi underground had “Robust Fundamentals Relative to Comparable Projects” which “Result[ed] In Low Capital Intensity”. Further, under a slide with the heading “Turquoise Hill” A Compelling Value Proposition”, the Company represented that:
- a. “TRQ’s market valuation is deeply discounted relative to its fundamental strengths”;
 - b. The Oyu Tolgoi project had “[r]obust project fundamentals”; and
 - c. The “[k]ey risks [were] well understood and managed”;
- 108.1 On **November 12, 2018**, Bowley sent another email to Sayed (described in Exhibit P-65) regarding the discrepancy between the Respondents’ public statements and the true facts, wherein he once again identified TRQ’s statements and the purported reasons given for the delay to Shaft 2 to be false:

[T]he October 15th TRQ news release, as I told you this was a very watered down version of what are actually the issues. Shaft 2 is behind schedule due to construction and procurement issues, and not geo issues as TRQ state. Our schedule issues are of our own making.

At the present my belief is we will be around 12 months behind schedule, but what no one will talk about and is always one of our biggest risks on any project is commissioning. Commissioning I believe will add

a further 3-6 months of schedule risk, which may entail we finally come in around 18 months behind schedule. [emphasis added]

108.1.1 That same day (**November 12, 2018**), Respondent Jacques gave a presentation at the UBS Australasia Conference in Sydney, Australia, which represented that “\$5.3 billion Oyu Tolgoi underground first drawbell production in 2020 ” (as communicated herewith as **Exhibit P-104**)(...);

108.2 On **November 26, 2018**, Bowley wrote to Fagen (as detailed in Exhibit P-65), stating in relevant part:

...**we are a country mile behind schedule on Shaft 2** which should of [sic] now been accommodating the additional 350 people a day we need underground to meet the staffing histogram for the project...If they do not want to listen Rosemary, **honestly the business in [sic] a bad place, and if our stakeholders and GOM [the Government of Mongolia] wake up, next year could be a nightmare for OT [Oyu Tolgoi] and Rio Tinto.** [emphasis added]

108.3 Fagen did not dispute Bowley’s assessment, but simply responded the next day, “Thank you Richard very thorough assessment, have you discussed with Arshad [Sayed]?”;

108.3.1 Data current to the end of November 2018, which was provided to TRQ at latest in **December of 2018**, indicated that if the previously announced new sequencing strategy was not pursued (which was the only way first drawbell could purportedly be achieved in mid 2020), then first drawbell could not be achieved until end of 2020. This clearly indicated that Rio Tinto was at the very least considering not pursuing the new sequencing strategy, if it had not already abandoned the idea;

108.3.2 The data in the November report (communicated herewith as **Exhibit P-105**) further showed that the central heating plant, which was initially supposed to be completed by Christmas of 2017, and which was reforecast in the first reforecast (FC1) to be finished by October of 2018 and in the second reforecast (FC2) to by December 2018, was now estimated to be completed sometime in 2019. This was confirmed by Russell Brenchley, whose primary responsibility for Jacobs at this very time was the central heating plant, and who said the targets Rio Tinto and TRQ were publicly disclosing were “obviously not going to be met”(...);

108.3.3 The data in the November report also indicated that Shaft 2 was falling further and further behind including even falling more than 9.3% behind the recently forecast FC2, and that the underground development was already behind even this new re-forecast which had been completed just a couple months prior. Specifically, this data showed that underground development was more than 1.66km behind what was forecast in the 2016 Feasibility Study and more than 500m behind even what was forecast in the recently completed FC2. The data further misleadingly reported that Primary Crusher #1 – which was crucial to the first drawbell milestone and the excavation of which was supposed to have been completed by July 8, 2018 prior to the start of the Class Period – “remains

behind plan but in line with re-forecast.” Such misleading reporting in the monthly reports was “surprising” to the ICG reviewers who also reviewed the monthly reports:

Surprisingly, the monthly reports provided to the ICG in response to RFI #109 indicate very few major problems in the crusher excavation and certainly did not flag this as being critical or urgent.

(as described in Exhibit P-72)

- 108.3.4 Once again, despite the significant setbacks in critical areas, the November report again misleadingly represented that overall cumulative progress of 44.2%, was right in line with the FC2 forecast of 44.8% and the 2016 Feasibility Study forecast of 44.3% (again showing the misleading nature of this metric).
- 108.4 On **December 10, 2018**, Bowley again wrote to Fagen, warning her of the severe implications for the business and reminding her that the delays had been known for a long time and that Rio Tinto could only ignore the truth for so long “before it will slap us in the face properly along with GOM [Government of Mongolia] and other TRQ shareholders....sorry to be honest.”;
- 108.5 Fagen replied on **December 13, 2018**, simply that “Hi Richard I hear you!!!! I will have a discussion with Arshad [Sayed] and Arnaud [Soirat] – again!” (indicating that Rio Tinto’s senior management, including Respondent Soirat, had already been informed of these issues before);
- 108.6 In **December of 2018**, and specifically because Rio Tinto’s primary contractor Jacobs could not meet its USD \$240 million contractual target cost for finishing its engineering, procurement and construction management work, the board of Oyu Tolgoi LLC – **which included Respondents Quellmann, Colton and Lane** (in addition to Soirat) – approved Jacobs’ request to substantially raise the target cost. Whistleblower Richard Bowley had raised this exact issue with Fagen just prior to the start of the Class Period, on July 3, 2018;
- 108.7 Monthly reports current to the end of December 2018 (communicated herewith as **Exhibit P-106** and **P-107**), which were provided to TRQ’s management at latest in **January of 2019** (and which Rio Tinto had access to even before TRQ), once again indicated that if the new sequencing strategy that had been repeatedly disclosed was not pursued, first drawbell could not be achieved until the end of 2020. In addition, these reports disclosed that:
- a. Shaft 2 construction was now more than 10.6% behind the forecast in FC2 (and significantly further behind the plan in the 2016 Feasibility Study), and one of these December reports explicitly warned of a “high risk” that Shaft 2 would not meet the deadlines set for its completion;
 - b. underground development continued to fall further behind every month, and was now roughly 2.6km (or 12.4%) behind what was forecast in the 2016 Feasibility Study and 770m (or 4.1%) behind what was forecast in the more recent FC2;
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- c. the excavation of the Primary Crush #1 chamber (which was represented to have been completed prior to the start of the Class Period and which was crucial to the first drawbell milestone) was significantly behind the FC2 forecast;
 - d. the central heating plant was 13.4% behind the forecast in FC2, which projected that it should have already been completed, and was now delayed at least a further two months; and
 - e. the conveyor to surface advancement was nearly 1.8 equivalent kilometres (or 25.2%) behind the forecast in the 2016 Feasibility Study and 457 equivalent metres (or 8.0%) behind even the more lenient FC2 forecast.
- 108.8 Incredibly however, despite these critical delays, the December Report misleadingly reported that “cumulative progress is 46.3% against FC2 forecast of 46.9% and is now ahead of FS16” (highlighting – as the ICG Report also found – that this metric was manipulated to make it seem as if the underground development was closely adhering to plan when it was significantly behind).
- 108.9 At latest in **January of 2019**, Rio Tinto definitively decided that the previously announced new drawbell sequencing strategy – which was the only way that the first drawbell milestone could even possibly be achieved in mid-2020 as had been repeatedly represented – would not be pursued. Multiple internal reports since November 2018 had repeatedly disclosed that if this new sequencing strategy was not pursued, first drawbell could not be achieved until the end of 2020 at the earliest, however no disclosure was made by either Rio Tinto or TRQ;
109. On **January 17, 2019**, TRQ released a news release providing operational guidance for 2019, communicated herewith as Exhibit P-18. Despite the explicit and very specific warnings from Bowley and the recent approval of a substantial increase in target EPCm costs, as well as the fact that first drawbell could definitively not be achieved before the very end of 2020, the only information disclosed about the underground development project was that underground lateral development was expected to advance 15 to 16 kilometres during 2019;
110. Also on or about **January 17, 2019**, TRQ posted on its website a presentation given at the TD Securities Mining Conference held on January 16 to 17, 2019 (communicated herewith as Exhibit P-19). In this presentation, TRQ represented *inter alia* that:
- a. TRQ was “well position to address key challenges”;
 - b. “Key risks [of Oyu Tolgoi] were well understood and managed”;
 - c. There was significant underground progress with first sustainable production expected in 2021;
 - d. First Drawbell would be blasted (commencing initial production) in the third quarter of 2020 (despite this definitively no longer being possible); and
 - e. The ramp-up of sustainable production would occur in the third quarter of 2021;
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110.0.1 On **January 18, 2019**, Rio Tinto issued its Fourth Quarter Operations Review (communicated herewith as **Exhibit P-108**) which represented *inter alia* that:

Work continues on the critical Shaft Two equipping activities, central heating plant, mine infrastructure, underground materials handling systems and on priority underground development. **Overall progress continues to track in-line with the re-forecast undertaken in the third quarter of 2018.** [emphasis added]

110.0.2 This was a blatant misrepresentation. Rio Tinto definitively knew that first drawbell could no longer be achieved according to the schedule the Respondents had repeatedly touted. While the misleading overall project cumulative progress metric may have been manipulated to represent that overall progress was essentially in line with FC2 forecast (and actually ahead of the 2016 Feasibility Study plan), which is also what the ICG Report concluded, the reports current to the end of December 2018 clearly showed that in the critical path areas that were necessary to stay on schedule – the very same topics that the Rio Tinto’s press release expressly mentioned – the project was significantly behind the re-forecast and the 2016 Feasibility study. Specifically:

- a. the Shaft 2 equipping activities were known to be months behind schedule;
- b. the central heating plant was at least 13.4% behind the FC2 forecast, which stated it should have been completed in 2018; and
- c. underground development was behind schedule and falling further behind schedule with each passing month.

110.0.3 In late 2018 and or early 2019, TRQ’s mining consultant, OreWin Pty Ltd. did an independent review of the FC2 re-forecast. The draft report of this review was delivered to Quellmann prior to or at latest by **February 12, 2019** (communicated herewith as **Exhibit P-109**). This report expressly disclosed that no written report had been made available to TRQ and OreWin as part of the review and only a summary presentation of the key findings of FC2 was provided, and “[w]hile it was noted an updated cost and schedule risk analysis was undertaken in October 2018, it is not evident that the results of this analysis have been incorporated into FC2.” With regards to cost, while the Oyu Tolgoi Underground Project Team (“OT UG Projects”) had told OreWin costs would be within budget,

It was advised by OT UG Projects that the project cost had not been re-estimated and that no detailed reforecast of completion cost had been undertaken ... Of the documents reviewed, no details could be found of the reported Preliminary Forecast FC2 value of \$5,533,704,195... No further details of the identified savings could be found and as such they could not be validated.

110.0.4 However, OreWin unequivocally disclosed in this report that it had been advised that the proposed new drawbell sequencing strategy was not being considered and had been rejected, and that first drawbell/cave readiness would occur in December 2020 (not mid-

2020 as repeatedly represented). OreWin also disclosed that its own scrutiny of the proposed new sequencing strategy indicated that it would not have resulted in any saving of time on the schedule. OreWin also reported that sufficient detail had not been provided about sustainable production being achieved in September 2021 and as such the forecast date could not be strenuously tested. However, OreWin unequivocally stated that even despite the lack of detail, it had concluded that the conveyor to surface, shaft 3 and shaft 4 would not be completed by the date reported for the sustainable production milestone. OreWin further reported certain “key risks” to include:

- a. delays to PC1 excavation (which was represented to have been completed prior to the start of the Class Period) had “fallen significantly behind [FC2] target rates. This is significantly increasing schedule risk on the PC1 system construction”;
- b. shaft 2 equipping delays meant shaft 2 would not be completed on schedule which impacted overall development rate; and
- c. “development in some critical areas including the footprint, the Primary Crusher 1(PC1) System, Shaft 2 and Shaft 5 have been impacted by delays. These areas have all been on the critical path for the project schedule”.

110.1 In **January 2019**, Rio Tinto told Bowley — who had repeatedly warned that Rio Tinto and TRQ’s statements about Oyu Tolgoi were false — that he was being terminated without reason. The following day, Bowley wrote a critical email to Sayed and Fagen stating that Rio Tinto’s compliance was deficient. Within three days of sending that letter, Bowley received a phone call from Rio Tinto’s compliance manager, Jason Landers, who said he was coming to Mongolia to investigate Bowley’s allegations.

110.2 Bowley provided Landers with a description of his communications with Rio Tinto’s senior management about the true costs and schedule at Oyu Tolgoi, including email dates and subjects, and identified the monthly reports that would detail the costs and budget problems. While Bowley had been cut off from Rio Tinto’s IT systems and no longer had access to email, he forwarded to Landers the communications he had from his personal Hotmail account. Those emails included an exchange Bowley had with Kinnell on July 3, 2017—a year before the Class Period began—in which he reported that OT managers had told him “Jacobs are failing badly” and Kinnell confirmed “[i]t is all getting messy Richard and needs intervention to stop it getting significantly worse.”;

110.3 Landers completed his investigation in six days in late-January 2019, and concluded that there were no compliance breaches. However, Landers explicitly revealed to Bowley in a phone call on **February 25, 2019** that he had not reviewed the documents that Bowley had cited and urged him to review, which Bowley claimed evidenced the knowing misrepresentations, because it was impossible to do so in the time allotted to him as doing so would take six people three months. Nonetheless he told Bowley his investigation concluded that there was “no evidence” supporting Bowley’s claims(...);

111. Two days later on **February 27, 2019**, prior to markets open, TRQ released a news release dated February 26, 2019 (communicated herewith as Exhibit P-20), where it began

to reveal for the first time that there were problems at Oyu Tolgoi that were “ultimately expected to result in an overall schedule delay to sustainable first production beyond the end of Q3’21”. However, rather than reveal the truth, TRQ blamed the delays on “challenging ground conditions” (the exact same excuse given for the delay on October 15, 2018 when TRQ represented there were contingencies built into the schedule) instead of the specific cost overruns and delays that Bowley had reported to Rio Tinto’s senior management for a year and to its compliance officer just days prior. Additionally, despite the fact that Rio Tinto had been telling TRQ since at least November that first drawbell could not be achieved before the end of 2020 if the new drawbell sequencing strategy was not pursued, and the fact that TRQ’s own independent review conducted by OreWin had unequivocally informed TRQ just a few weeks prior that the new drawbell sequencing strategy was not being pursued and first drawbell would not be achieved until December 2020, TRQ chose to omit this material information. Specifically, the Company represented *inter alia* that:

- a. significant progress on the Oyu Tolgoi underground development project continued through 2018;
 - b. during the fourth quarter of 2018, TRQ had carried out its own review of Rio Tinto’s second annual schedule and cost re-forecast that had concluded that a delay to sustainable first production was expected from Q1 2021 to the end of Q3 2021 with the assistance of an independent Qualified Person, and had found that there was an increasingly likely risk of a further delay to sustainable first production beyond the third quarter of 2021, but that nonetheless the “project cost was expected to remain within the [USD] \$5.3 billion budget” (emphasis added); and
 - c. After the TRQ had completed its own independent Review of Rio Tinto’s second annual schedule and cost re-forecast, Rio Tinto had advised TRQ that delays are expected to result in an overall schedule delay to sustainable first production beyond the third quarter of 2021 as previously represented;
112. Upon the release of this news, TRQ’s share price on the TSX immediately dropped 13.7% just on February 27, 2019 and 18.3% overall over the next two days. However, despite the obviously material change disclosed in the news release (as evidenced by the market’s surprise and the corresponding precipitous drop in the Company’s share-price), TRQ inexplicably chose not to file a Material Change Report in violation of applicable securities regulations. This February 27, 2019 news release did not disclose that OreWin had told TRQ first drawbell could not be achieved on the timeline being publicly represented, that the USD \$5.3 billion budget had not been re-estimated in FC2 and OreWin could not validate the figure, and that project costs were known or should have been known to increase beyond USD \$5.3 billion, nor did it disclose that the delays to sustainable production and cost overruns were indicators of an impairment to the net book value of Oyu Tolgoi;
113. Also on **February 27, 2019**, Rio Tinto issued its 2018 Annual Report, communicated herewith as **Exhibit P-51**, in which it represented *inter alia* that the capital cost of Oyu Tolgoi was USD \$5.3 billion and that “[t]he detailed engineering design work and overall construction is mostly on track”. Rio Tinto further represented that while that was “a
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deterioration in some internal and external indicators of value for the Oyu Tolgoi CGU and ha[d] therefore prepared an assessment of recoverable amount”, Rio Tinto had nonetheless concluded that no impairment had taken place. Despite repeated past representations about the new drawbell sequencing strategy meaning first drawbell could be achieved in mid-2020, Rio Tinto, like TRQ, did not disclose that the new drawbell sequencing strategy had been abandoned and the first drawbell milestone would be significantly delayed;

- 113.1 That same day, Rio Tinto executives, including Jean-Sébastien Jacques also conducted a speech and held a question and answer session about Rio Tinto’s 2018 results (transcripts of which are attached hereto as **Exhibit P-110**. In the Speech, Stausholm, who was Rio Tinto’s Chief Financial Officer, represented that during 2018, Rio Tinto had made good progress on the underground project at Oyu Tolgoi. Then in the ensuing question and answer period, in response to at least two questions asking specifically about the anticipated schedule and costs at the Oyu Tolgoi underground, Respondent Jacques only represented that they had started the block cave and knew that the cave was going to cave, and that other than that they would give further updates once they had updated the model. This was despite the fact that Rio Tinto (and TRQ) knew unequivocally by this point that the caving/drawbell sequencing strategy was being abandoned and there was no way they could achieve the first drawbell milestone that they had been touting since 2016.
- 113.2 By latest on **March 4, 2019**, Rio Tinto provided TRQ with a summary report of the underground project current as of the end of February 2019 (communicated herewith as **Exhibit P-111**). This report disclosed that excavation of the primary crusher #1 chamber, which TRQ had stated on July 31, 2018 was completed in Q2 2018, was still not done, that the central heating plant, which was supposed to have already been completed but had been repeatedly delayed even since the last re-forecast, was now delayed months further and that the conveyor to surface system was behind even the FC2 schedule. This report also stated shaft 2 equipping was behind even the FC2 schedule and that it was clear that the commissioning work of shaft 2 was delayed by several months and needed to be reviewed, which would further delay sustainable production beyond the nine month delay disclosed in October 2018.
- 113.3 The fact that shaft 2 commissioning, which was vital to maintain the overall schedule, was 14 months behind schedule had been disclosed to Rio Tinto at latest by the first week of April 2018, and the fact that shaft 2 equipping and commissioning was grossly behind schedule had been disclosed to TRQ’s management, including Quellmann and Colton, before the start of the Class Period, including in the monthly reports they received for April, May and June 2018. This fact had also been very bluntly made known by Bowley in an email to Soirat’s direct subordinate on October 30, 2018 and again to a Rio Tinto chief development officer on November 12, 2018, where he expressly stated that the purported nine-month delay including contingency disclosed by TRQ in October 2018 was “light on the truth” and was a misrepresentation because the project was already 12 months behind schedule and that including commissioning, the project would be 18 months behind schedule.
- 113.4 Once again, despite these significant delays in critical path areas, the summary report for February 2019 represented that the overall progress (of 50.4%) was right in line with what
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was forecast in FC2 (of 50.6%) and actually ahead of the forecast in the 2016 Feasibility Study (of 49.3%).

- 113.5 On or about **March 5, 2019**, TRQ's independent mining consultant, OreWin provided TRQ with its final report regarding FC2 (communicated herewith as **Exhibit P-112**). This report again reiterated OreWin's findings from its draft report given to TRQ by February 12, 2019, including that the previously disclosed new sequencing strategy was not being pursued and first drawbell would not occur before December 2020, that the excavation of PC1 was still not complete, that shaft 2 equipping was delayed, that TRQ had informed OreWin that Rio Tinto had advised TRQ that there would be further delays to sustainable production but OreWin had not received any information about this from Rio Tinto, and that OreWin had been told cost would stay within the \$5.3 billion budget but that it had been informed that FC2 had not re-estimated costs and no detailed re-forecast of completion cost had been undertaken, and no details could be found of the cost estimate in FC2 and cost savings could not be validated.
- 113.6 On or about **March 6, 2019**, Marco Pires gave a presentation to the Oyu Tolgoi LLC board, which provided an update with data current to the end of January 2019 (communicated herewith as **Exhibit P-113**). This presentation once again reiterated that that the mine development sequencing would be changed (meaning it was not even possible to achieve first drawbell in mid-2020 as repeatedly represented), that lateral development was more than 3 kilometres behind the 2016 Feasibility Study forecast and significantly behind even the more recent FC2 forecast, that the conveyor to surface was significantly behind even the FC2 schedule (which was itself behind the 2016 schedule), that the central heating plant was delayed and that shaft 2 was behind schedule due in part to legacy issues. This presentation also disclosed again that the excavation of the primary crush #1 chamber (which was supposed to be finished before the start of the Class Period and which TRQ had unequivocally stated in its MD&A released July 31, 2018 had been excavated in Q2 2018) was still not done, was "fundamental to progress as per plan", and remained one of "the highest priorities" for underground development. This presentation again misleadingly represented however, that overall progress of 46.3% was essentially in line with the FC2 forecast of 46.9% and actually ahead of the 2016 Feasibility Study forecast of 46.0%.
- 113.7 By latest on **March 11, 2019**, the board of Oyu Tolgoi LLC (which included Quellmann, Soirat and Colton) were provided with the monthly report current to the end of January 2019 (although Soirat and Rio Tinto likely had access to this information well before this date) (communicated herewith as **Exhibit P-114**). This report stated that the new mining sequencing strategy would likely not be pursued and first drawbell wouldn't occur until Q4 2020, that shaft 2 was significantly behind the forecasts in the 2016 Feasibility Study and the more recent FC2 in part due to legacy design issues (i.e., issues that existed as of 2017), that lateral development was almost a kilometre behind FC2 forecast and more than three kilometres (or roughly 14%) behind the forecast in the 2016 Feasibility Study, that the central heating plant which was supposed to have been finished in 2018 was further delayed, and that the progress of the conveyor to surface (which had been significantly behind schedule since before the Class Period and Bowley had warned months prior would cause delays greater than the Respondents were publicly representing) was more than 9% behind the forecast in the recent FC2 and roughly 26% behind the forecast in the 2016 Feasibility Study. However, highlighting the misleading nature of these reports (as also concluded by the ICG Report), it was stated that the
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underground project's "[o]verall cumulative progress of 48.7% is only slightly behind the FC2 forecast of 48.9% and ahead of FS16 plan of 47.7%."

- 113.8 On **March 13, 2019**, Brendan Lane gave a presentation to the board of TRQ where he presented OreWin's findings regarding FC2 (communicated herewith as **Exhibit P-115**). This presentation reiterated *inter alia* that first drawbell was expected late in the fourth quarter of 2020 because the new drawbell sequencing strategy was not being pursued, that shaft 2 completion and commissioning would be later than forecast by Rio Tinto because of ongoing equipping delays, that there were delays to the overall development progress, and that there was likely to be further delays to individual activities which would result in additional delays to sustainable production. While this presentation noted that costs were expected to remain within the \$5.3 billion budget, it expressly noted that the FC2 review had not re-estimated costs to a detailed level. He also gave another presentation which disclosed that lateral development was significantly behind forecast, that shaft 2 delays were impacting development rate, that the primary crusher #1 chamber had not finished being excavated and remained the highest priority for underground development, and that the conveyor to surface progress and productivity rates remained significantly below the forecasts in the 2016 Feasibility Study and in FC2. He also repeated that the new mine sequencing strategy would not be pursued, meaning there was no possibility of achieving first drawbell in mid-2020.
114. On **March 14, 2019**, TRQ released its AIF, audited annual financial statements, MD&A, and corresponding CEO and CFO certifications, as well as a news release, for its fiscal year ended December 31, 2018 (communicated herewith as Exhibits P-21 to P-28 respectively). In these Impugned Documents and despite the warnings from Bowley, TRQ represented or reaffirmed *inter alia* that:
- a. despite admitting that it had overstated lateral development for the previous quarter which it revised downwards by 200 metres (or about 9%), significant progress on the Oyu Tolgoi underground development project continued through 2018, and underground lateral development had advanced 68.9% more than in 2017 (which had been represented to have made "good progress"). This was despite the fact that TRQ had been informed in numerous reports over the last few months, including ones it received in March 2019 that underground development was significantly behind schedule;
 - b. the cost of the Oyu Tolgoi underground development would remain within the USD \$5.3 billion budget;
 - c. TRQ's independent review conducted during the fourth quarter of 2018 found that some critical areas had been impacted by delays, including PC1, Shaft 2 and Shaft 5 (despite the representations about Shaft 5 being completed and fully operational made by the Respondents nearly eight-months prior);
 - d. after the TRQ had completed its own independent Review of Rio Tinto's second annual schedule and cost re-forecast, Rio Tinto had advised TRQ that delays are expected to result in an overall schedule delay to sustainable first production beyond the third quarter of 2021, as previously represented (although the AIF still
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included in a section that “[s]ustainable first production is expected to occur by the end of Q3’21, with the first draw bell on track for mid-2020”);

- e. construction at Oyu Tolgoi had progressed but had “slipped slightly behind the latest forecast for the period” (without any date now specified for construction completion);
 - f. the net book value of Oyu Tolgoi as at December 31, 2018 was USD \$8.84 billion;
 - g. At December 31, 2018, TRQ had conducted an impairment analysis on the Oyu Tolgoi underground mine and concluded that there was an indicator of impairment, but TRQ’s assessment indicated that no impairment charge needed to be taken [emphasis added];
 - h. The delays in the schedule for underground development would not reduce the recoverable amount of Oyu Tolgoi to below the net book value; and
 - h.1 that the filings did not contain untrue statements of material fact or omit a material fact required to be stated, that the financial statements and other financial information fairly presented in all material respects the financial condition, results of operation and cash flows of the issuer, and that Respondents Quellmann and Colton were responsible for establishing and maintaining DC&P and ICFR, had designed DC&P or caused it to be designed to provide reasonable assurance that material information relating to TRQ was made known to them and information required to be disclosed was summarized and reported, had designed ICFR or caused it to be designed to provide reasonable assurance regarding the reliability of financial reporting in accordance with GAAP, and that they had evaluated TRQ’s DC&P and ICFR and had concluded that as of the end of December 31, 2018, TRQ’s DC&P and ICFR were effective;
- 114.1 Despite the importance of the first drawbell milestone to the Oyu Tolgoi underground development, the fact that first drawbell had been represented to occur in mid-2020 in every single MD&A and numerous other presentations and disclosures since at least October 2016 (which as of October 2018 was expressly only even possible due to a change in the drawbell sequencing strategy), and the fact that both Rio Tinto and even TRQ’s own independent mining expert OreWin had definitively told TRQ that the change in drawbell sequencing strategy was no longer being pursued and first drawbell would not be achieved before December 2020, not only did neither the MD&A or the AIF disclose this material information, but in fact the AIF expressly stated that “first draw bell on track for mid-2020.”¹
115. There was also nothing in the March 14, 2019 MD&A to disclose the very specific warnings about delays and cost overruns at Oyu Tolgoi being given to Rio Tinto by Bowley, nor the investigation Rio Tinto had asked its independent legal counsel to undertake as a result of the whistleblowing from Bowley;
116. Additionally in its annual financial statements for fiscal 2018 released on March 14, 2019 (communicated herewith as Exhibit P-22), TRQ represented *inter alia* that:
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- a. the net book value of Oyu Tolgoi was determined using the net present value of expected future pre-tax cash flows;
 - b. the cash flow forecasts are based on management's best estimates of expected future revenues and costs [emphasis added]; and
 - c. the net book value was reviewed for impairment whenever events or changes in circumstances indicated that the full carrying amount may not be recoverable;
117. Also on **March 14, 2019**, TRQ released its management information circular for its annual general meeting to be held on May 14, 2019, communicated herewith as Exhibit P-29. This Core Document represented *inter alia* that:
- a. during 2018 underground lateral development had advanced 68.9% more than in 2017 (which had been represented to have made "good progress");
 - b. TRQ had a Corporate Disclosure Policy which contained measures to avoid selective disclosure;
 - c. TRQ had a Disclosure Committee responsible for overseeing the Company's disclosure practices, which was made up of Quellmann, Colton, Lane, and two others;
 - d. "Board members have full access to [TRQ's] records. [TRQ's] General Counsel also provides regular updates to the Directors on corporate governance best practices, regulatory changes and other relevant developments. In addition, Directors periodically visit the Oyu Tolgoi mine ("Oyu Tolgoi") to view the operations, the underground development ..." including in October of 2018 (presumably to emphasize that despite nearly half of TRQ's Board not being independent from Rio Tinto, the Board was still providing accurate disclosure about Oyu Tolgoi to TRQ's shareholders);
 - e. the Board "believe that regular, transparent communication is essential to Turquoise Hill's long-term success";
 - f. TRQ considered good corporate governance practices to be an important factor in the success of the Company, TRQ was committed to adopting and adhering to high standards in corporate governance, and the Board and management of TRQ continually worked at maintaining and improving corporate governance (including providing a list of examples of how TRQ's board and management were purportedly maintaining and improving corporate governance practices); and
 - g. TRQ had a *Code of Business Conduct* that was applicable to all employees, officers and directors regardless of their position in TRQ, and required that all employees, officers and directors uphold their commitment to a culture of honesty, integrity, accountability, and the highest standards of professional and ethical conduct;
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118. On **March 15, 2019**, TRQ conducted a conference call to discuss its earnings that were released the prior day, a transcript of which is communicated herewith as P-33. On this call, Quellmann essentially confirmed that TRQ had known about material risks to the schedule for months, but had chosen not to disclose them publicly. Specifically, Quellmann stated that in October of 2018 when TRQ had announced a maximum delay of only nine-months to sustainable production and confirmed the costs would remain at \$5.3 billion, the Respondents:

had identified some higher level of risks to the schedule, but not enough to warrant to change the indication to the market. Since then, if we fast forward to February of this year, it became obvious that Shaft 2 was delayed more than expected. [emphasis added]

- 118.0.1 On this call, Respondent Quellmann also represented that “we have a continued constructive dialogue with our partners and Government of Mongolia on the various issues.” Additionally, on this call, Respondent Colton once again reaffirmed the \$5.3 billion budget for the expansion, and Respondents Quellmann and Colton repeatedly represented they had “significant liquidity”, undrawn funds on the project finance facility, and access to additional sources of funding to fund the underground expansion of the Mine, and that TRQ had headroom before they had to look at alternative financing measures;
- 118.1 On **April 2, 2019** after Rio Tinto had closed its compliance investigation concluding that there was no evidence of wrongdoing, Bowley emailed longtime Rio Tinto board member, Ann Godbehere as well as its CEO, Jacques, to tell them how behind schedule the project was. The global head of Rio Tinto’s Ethics and Integrity section, Stephen Storey, responded to Bowley that they wanted his evidence. Rio Tinto then engaged the law firm, Baker McKenzie, to do a compliance review, and Storey asked Bowley to help Baker McKenzie;
- 118.1.1 On or around **April 12, 2019**, TRQ’s management, including Respondent Quellmann, received reports on the progress of the underground project, current to the end of March 2019 (communicated herewith as **Exhibits P-116** and **P-117**). The reports indicated that the central heating plant which was supposed to have been completed the prior year was still not done, that the conveyor to surface progress was more than 2.2 kilometres (or 27.1%) behind the forecast in the 2016 Feasibility Study and more than 700 metres (or 10.6%) behind even the forecast in FC2 and the progress rate was slower than in both forecasts, and that lateral development was more than 1 kilometre behind the forecast in FC2 and more than four kilometres (or 16.1%) behind the schedule in the 2016 Feasibility Study. It also indicated that shaft 2 was delayed by more than a year from what was forecast in FC2 (and even more than what was forecast in the 2016 Feasibility Report) and would not be complete before the end of October 2019, and that the date for first drawbell was unknown. Incredibly however despite these major setbacks, this report represented that project completion remained on schedule to be completed in the third quarter of 2022 and that overall progress was ahead of both the 2016 Feasibility Report and FC2 (again highlighting the misleading nature of this reporting metric).
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119. On **April 15, 2019**, TRQ issued a news release, communicated herewith as Exhibit P-30, in which it quoted Quellmann as representing that Shaft 2 would be completed by the end of October 2019;
- 119.0.1 On **April 16, 2019**, Rio Tinto issued a new release titled “Rio Tinto releases first quarter production results” (communicated herewith as **Exhibit P-118**), wherein it also represented that “[t]he commissioning of the main production shaft (Shaft 2) is now expected to complete in October 2019”. That same day, Rio Tinto also released its First Quarter Operations Review (communicated herewith as **Exhibit P-119**) wherein it also repeated the representation that the commissioning of Shaft 2 would be completed by the end of October 2019.
- 119.0.2 By latest on **April 29, 2019**, TRQ’s management provided a report to TRQ’s board with information current to the end of March 2019 (communicated herewith as **Exhibit P-120**). In addition to repeating the data on underground progress indicated in paragraph in 118.1.1 above, this report also disclosed that the project finance proceeds for the underground development would be fully exhausted during the first quarter of 2020 (i.e. at most within 11 months), and that unless TRQ could secure supplemental debt, its cash reserves to fund the underground development would be fully exhausted by November 2020 (and by August 2021 even if it could secure USD \$1.6 billion in supplemental debt). This report also disclosed that TRQ’s senior management had undertaken a roadshow where they had met with 19 major investors, and that investors were worried about equity financing being required to fund the Mine, but that senior management that reassured them that was not being considered. This report also disclosed that investors were worried that the fact that management consisted of Rio Tinto employees meant they were not acting in the best interests of minority shareholders.
- 119.0.3 By latest on **May 1, 2019**, TRQ’s management, including Respondent Quellmann, received a summary report on the underground development, current to the end of April 2019 (communicated herewith as **Exhibit P-121**). This report indicated that underground development continued to fall further behind schedule, including being almost 1.3 kilometers behind even the more recent FC2 forecast, as did the progress on the conveyor to surface. This report also indicated that certain parts of shaft 2 such as the development crusher, load out surface conveyor load being commissioned and ramp-up, which were estimated just last month to be finished in April, were also falling further behind.
- 119.1 On **May 9, 2019**, Bowley had a two-hour call with Baker McKenzie, wherein he informed the partner in charge of the law firm’s team that Rio Tinto would only give Baker McKenzie selected information so that the law firm would conclude that there were no compliance violations;
- 119.2 On **May 13, 2019**, Pires gave another presentation to the Board of TRQ, with data current to the end of April 2019 (communicated herewith as **Exhibit P-122**). This presentation indicated that lateral development was still roughly a kilometre behind the forecast in FC2 and more than 3.3 kilometres behind the forecast in the 2016 Feasibility Study, that the conveyor to system progress and productivity was substantially behind both the 2016 Feasibility Study forecast and the FC2 forecast, and that the Shaft 2 October finishing date “needed to be closely monitored”. This presentation explicitly stated that schedule “Target not achieved”, yet simultaneously also represented that overall progress was exactly in
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line with what was forecast in FC2 and actually ahead of the schedule forecast in the 2016 Feasibility Study, again demonstrating how misleading the use of this metric was.

119.3 On **May 15, 2019**, TRQ released its interim financial statements, MD&A, and corresponding CEO and CFO certifications on Form 52-109F2, as well as a news release, for the three-month period ended March 31, 2019 (i.e., Q1, communicated herewith as **Exhibits P-123** to **P-127**, respectively). In these Impugned Documents, and despite repeatedly being told since February that first drawbell could not be achieved in mid-2020 as had been consistently represented by TRQ for nearly three years, TRQ omitted to make any disclosure about this key milestone. These Core Documents also represented *inter alia*:

- a. that “[t]he Central Heating Plant is also progressing well” (despite the fact that it was supposed to be finished months earlier and yet was still unfinished);
- b. that “[d]uring Q1’19 development of the convey-to-surface decline also continued to progress and has now reached a cumulative development of 6.0 equivalent kilometres” (without disclosing that this was more than 2.2 kilometres (or 27.1%) behind the forecast in the 2016 Feasibility Study and significantly behind even the forecast in FC2), and that Pires had informed TRQ just two days prior explicitly that “Conveyor to Surface productivity rates remain below OTFS16 Plan and FC2 forecast”; and
- c. that “[u]nderground development progressed 3.2 total equivalent kilometres during the quarter. Since the re-start of development, a total of 21.2 total equivalent kilometres and 16.6 kilometres of lateral development have been completed” (without disclosing that this was more than 4 kilometres behind the forecast in the 2016 Feasibility Study and more than a kilometre behind even the re-forecast in FC2).

119.4 On **May 16, 2019**, TRQ conducted a conference call to discuss its results that were released the prior day, a transcript of which is communicated herewith as **Exhibit P-128**. On this call, Quellmann touted *inter alia* that:

- a. “[c]onsistent with our project schedule, we’ve made significant progress in completing a number of surface infrastructure projects over the first quarter of this year, including a new 6,000-tonne per day jaw crusher, which is mechanically completed” (when the crusher was forecast in the 2016 Feasibility Study to be fully completed in May 2018, and in FC2 to be fully completed in March 2019, and although the full integration of the crushing system was dependant on shaft 2 service and production hoist commissioning which was many months behind schedule, and although mechanically completed the electrical and instrumentation for the crushing system remained incomplete); [emphasis added]
 - b. TRQ had achieved 3.2 equivalent kilometres in underground development (without disclosing that this was 29% less than the 4.5 equivalent kilometres that the 2016 Feasibility Study forecast for Q1 2019); and
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- c. the Central Heating Plant was now in commissioning phase, which will “ensure adequate ventilation to support the ramp-up of the underground operations” (despite the fact that the TRQ Respondents had represented that the Shaft 5 ventilation system had become “fully operational” on August 1, 2018);
- 119.5 On this conference call, Colton also stated that one of his slides “comments on TRQ’s strong liquidity position as we ensure the continued funding of OT. ... At the end of March 2019, Turquoise Hill has approximately \$3.2 billion of available liquidity and that’s split between finance proceeds, the remaining finance proceeds of \$1.6 billion and approximately \$1.5 billion of cash.” This statement was extremely misleading as it omitted to state that just a few weeks ago, TRQ had been notified that the project finance proceeds would be fully exhausted during the first quarter of 2020 and that unless TRQ could secure supplemental debt, its cash reserves would be fully exhausted by November 2020 (i.e., two years prior to even when it was publicly representing the project would be complete, and even before when first drawdown could be achieved).
- 119.6 By latest on **May 20, 2019**, the board of Oyu Tolgoi LLC, including Soirat and Quellmann, received the monthly report current to the end of April 2019 (communicated herewith as **Exhibit P-129**). This report disclosed that:
- a. Shaft 2 (specifically its electrical and instrumentation, as well as logistics) were behind the FC2 forecast, and full integration of the crushing system was dependant on Shaft 2 service and production hoist commissioning which was many months behind schedule;
 - b. Underground mining advancement in April was 22.4% behind the FC2 forecast for the month;
 - c. Cumulative underground mining advancement was roughly 1.3 kilometres behind the FC2 forecast, and more than 4.5 kilometres (i.e. 16.9%) behind the forecast in the 2016 Feasibility Study, and would be worse in the future because FC2 assumed Shaft 2 would be available going forward when in fact it would not;
 - d. Conveyor to surface advancement in April was 14.9% behind the FC2 forecast for the month;
 - e. Cumulative conveyor to surface advancement was 753 metres (i.e. 10.7%) behind the FC2 forecast, and roughly 2.3 kilometres (i.e. 26.6%) behind the forecast in the 2016 Feasibility Study;
 - f. The central heating plant was still not commissioned even though the 2016 Feasibility Study forecast it would be by the end of 2017, FC1 forecast it would be by prior to the start of the Class Period and FC2 forecast it would be by November of 2018).
- 119.7 Despite all these shortfalls, this April report again misleadingly reported however that project completion remained on schedule to be completed in the third quarter of 2022 and that actual overall cumulative progress was exactly in line with the FC2 forecast and
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actually ahead of the forecast in the 2016 Feasibility Study (again highlighting the misleading nature of this reporting metric).

119.8 By latest on **June 3, 2019**, the management of TRQ, including Quellmann, received a summary report on the underground development, current to May 23, 2019 (communicated herewith as **Exhibit P-130**). This report indicated that:

- a. Underground mining for the period ending May 23, 2019 was 943 equivalent metres, which was 424 equivalent metres (or 31%) behind the FC2 forecast for the period of 1,367 equivalent metres;
- b. Total cumulative underground mining advancement was more than 1.55 equivalent kilometres behind the forecast in FC2 (and hence far more behind the forecast in the 2016 Feasibility Study);
- c. The excavation of the Primary Crusher 1 chamber had finally been completed (despite TRQ representing on July 31, 2018 that it had been finished in Q2 2018);
- d. The civil and concrete work for Primary Crusher #1, which is crucial to maintaining the schedule, which was forecast in the 2016 Feasibility Study to be done in April 2019 and in FC2 to be done in November 2019, was now delayed to at least February 2020 due to delayed handover of the chamber; and
- e. The Shaft 2 Development Crusher, commissioning of the load out surface conveyor load and ramp up, which was forecast in the 2016 Feasibility Study to be done in May 2018, and in FC2 to be done in March 2019, was now delayed to at least June 2019.

119.9 However, once again despite all these shortfalls, the May summary report again misleadingly reported that overall cumulative progress was 55.9%, which was only a little bit behind the forecast in the 2016 Feasibility Study of 56.3%, and actually ahead of the forecast in FC2 of 55.8% (again highlighting the misleading nature of this reporting metric).

119.10 By latest on **June 6, 2019**, the TRQ Board was provided with the report for the period ended April 30, 2019 (communicated herewith as **Exhibit P-131**). This report essentially repeated all the information in the report received by the Oyu Tolgoi board on May 20, 2019, including that shaft 2, underground mining advancement and conveyor to surface advancement was behind schedule, and also repeated that the project finance proceeds would be fully exhausted during the first quarter of 2020 and without supplemental debt, TRQ's cash would be fully exhausted by November of 2020 (before project completion or even first drawbell).

119.11 On **June 12, 2019**, there was a meeting of the board of Oyu Tolgoi (which included Soirat and Quellmann), wherein Marco Pires gave another presentation (communicated herewith as **Exhibit P-132**). This presentation revealed *inter alia* that:

- a. the schedule of the underground development was behind target, and the trend was that it was "deteriorating";
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- b. The Shaft 2 system “continues to be a critical enabler of higher progress rates of [underground] development”, the Shaft 2 headframe was at least 6 months behind the FC2 forecast and the Shaft 2 service hoist commissioning and production hoist commissioning was at least 7 months behind the FC2 forecast (making it significantly behind the forecast in the 2016 Feasibility Study, however despite these months long delays it represented that Shaft 2 progress “was 88% against the FC2 forecast of 90%” and an FS16 plan of 100%”;
- c. cumulative lateral development progress to the end of April 2019 was roughly 1 equivalent kilometre behind the forecast in FC2 and roughly 4.4 equivalent kilometres (or 16.4%) behind the forecast in the 2016 Feasibility Study;
- d. cumulative progress in the conveyor to surface decline to the end of April 2019 was 10.6% behind the forecast in FC2 and 26.1% behind the forecast in the 2016 Feasibility Study, “Conveyor to Surface productivity rates remain below OTFS16 Plan and FC2 forecast”, and “Productivity is expected is expected to continue to be severely constrained”;
- e. Primary Crusher #1, which was known to be many months behind schedule, was “fundamental to progress as per plan”
- f. the commissioning of the central heating plant which was forecast in FC2 to be done in December was 6 months behind;
- g. a revised forecast for engineering, procurement and construction management costs was being presented to the Oyu Tolgoi board in June; and
- h. development was “behind plan in critical areas”.

119.12 Despite all these shortfalls in “critical areas”, and that fact that in only a month’s time it would be revealed that the Mine development was 16 to 30 months behind schedule and would cost USD \$1.2 to \$1.9 billion more than previously reported, this presentation from Pires stated that overall progress was exactly “in line with the FC2 forecast” and actually ahead of the forecast in the 2016 Feasibility Study, and that the Mine was still on track for completion in the third quarter of 2022, again highlighting just how misleading this metric was.

119.13 At the same June 12, 2019 Oyu Tolgoi board meeting, Pires gave a presentation on a risk of delayed underground ramp up and/or suboptimal cave development rates (communicated herewith as **Exhibit P-133**). This presentation disclosed there was a “Possible / Very High” risk to schedule and/or production, and that this risk trend was increasing. This was caused by, among other things, “Inadequate ventilation, logistical and mine services”, a failure to “sustain the required draw bell opening rate”, “Major failure and/or poor system availability/reliability” of ore handling and infrastructure, and “Incomplete undercut excavation”. This presentation further reported that short term priorities included delivering Shaft 2 infrastructure to avoid further delays and implementing a “plan to improve efficiency and productivity in our [underground] development activities”.

119.14 Despite the dire warnings conveyed in this presentation about the business and operations of TRQ's only property, TRQ did not immediately file a material change report, as required under applicable law.

119.15 By latest on **June 26, 2019**, the management of TRQ, including Quellmann, received a report on the underground development current to end of May 2019 (communicated herewith as **Exhibit P-134**). This report again disclosed that as of the end of May 2019:

- a. there were **at least** seven-month "delays to completion of critical path activities such as Shaft 2 Service and Production Hoist commissioning" [emphasis added] compared to what was forecast in FC2 (and which were forecast in the 2016 Feasibility Study to be complete in July and August 2018, respectively);
 - b. The Shaft 2 Development Crusher, commissioning of the load out surface conveyor load and ramp up, which was forecast in the 2016 Feasibility Study to be done in May 2018, and in FC2 to be done in March 2019, was now delayed to at least June 2019;
 - c. The cumulative progress of Shaft 2 was 89%, compared to both the FC2 forecast and 2016 Feasibility Study plan which both stated it would be 100% done months prior;
 - d. The Central Heating plant cumulative progress was at 95.5%, compared to FC2 which forecast it would be 100% complete by November 2018, and the 2016 Feasibility Study which forecast it would be complete even prior to that);
 - e. The civil and concrete work for Primary Crusher #1, which is crucial to maintaining the schedule, which was forecast in the 2016 Feasibility Study to be done in April 2019 and in FC2 to be done in November 2019, was now delayed to at least February 2020 due to delayed handover of the chamber (which TRQ represented had been excavated in Q2 2018, but which was in fact excavated a year later in Q2 2019);
 - f. Underground development for May 2019 was 31.0% behind what was forecast in FC2;
 - g. Cumulative lateral development was roughly 5.3 equivalent kilometres (or 18.5%) behind the forecast in the 2016 Feasibility Study and roughly two equivalent kilometres (or 7.7%) behind even the more recent FC2 forecast, and this had a "Significant impact to critical path";
 - h. Conveyor to surface advancement for May 2019 was 31.2% behind what was forecast in FC2; and
 - i. Cumulative conveyor to surface advancement was roughly 2.5 equivalent kilometres (or 27.5%) behind the forecast in the 2016 Feasibility Study and 928 equivalent metres (or 12.6%) behind even the more recent FC2 forecast.
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119.16 Incredibly however, despite the critical shortfalls and delays (and the fact that just 2.5 weeks later TRQ would reveal a 16 to 30 month delay and massive cost overruns), This report stated that “Overall cumulative progress is at 56%, and is tracking in line with the FC2 forecast and FS16”, and that “The project completion date remains Q3-2022” (i.e., the same completion date forecast in both the 2016 Feasibility Study and FC2) (...);

119.17 On **July 8, 2019**, the *Australian Financial Review* published an article (communicated herewith as **Exhibit P-135**) suggesting that the problems at Oyu Tolgoi that TRQ and Rio Tinto sought to blame on newly available geotechnical data may have in fact been known by Rio 7 years earlier in 2012. Specifically, the article reported that in 2012, “[a]larm bells started to ring for the engineers working underground at Rio Tinto's Oyu Tolgoi mine when they had to abandon attempts to drill a fairly simple borehole for ventilation.” The article went on:

Rather than carve a discrete tunnel through the rock to surface, the bore collapsed into an ungainly void, unfit for use.

As they conducted a post mortem into the borehole failure, **the engineers were mindful the incident could be the proverbial canary in the coal mine for Rio's plan to build a huge network of tunnels more than a kilometre beneath the Mongolian desert as part of a \$US5.3 billion expansion.**

“We are pretty confident that it is stress-related and or fault-related, or both,” wrote Oyu Tolgoi’s then manager of Vertical Development and Mass Excavation Scott Ramsay, when discussing the cause of the bore failure.

“If it is stress alone due to depth, then we recognise that we have a much, much greater problem, as you'd be aware, because we have not only internal vent raises, but also vertical ore passes and ore bins and underground crusher stations to excavate at 1300 metres below surface for the success of this mine.” [emphasis added]

119.18 The findings of the *Australian Financial Review* that Rio Tinto and TRQ knew about the geotechnical issues at Oyu Tolgoi in 2012 and 2016 were also corroborated by senior Rio Tinto employees such as Mohammad Kishvand, who was Rio Tinto Senior Geotechnical Engineer at Oyu Tolgoi from May 2019 through September 2020 and who reviewed the 2012 and 2016 feasibility studies (which were internal documents that are different from the Technical Reports made available to investors). Mr. Khishvand stated that from the initial 2012 feasibility study, Rio Tinto executives knew that the ground conditions were challenging, but actively required its geotechnical engineers and outside consultants to keep the ground condition data they obtained a secret, because none of Rio Tinto’s management wanted to be held responsible for the delays and did not want to publicly acknowledge the issues because addressing them would require Rio Tinto to spend significantly more money than they were publicly disclosing. Mr. Khishvand has stated that:

We all knew that it was a very bad situation, but as a response they [Rio Tinto] always delayed or tried to keep it quiet. They always wanted us to discuss our concerns face to face, never email or in writing.

8) The Corrective Disclosures

120. After a year of making representations that Rio Tinto knew from Mr. Bowley's to be false, on **July 15, 2019** after the TSX had ceased trading for the day, TRQ released a news release (with a corresponding material change report released on July 24, 2019, communicated herewith as Exhibits P-1 and P-2 respectively) that finally corrected some (but still not all) of its previously released misrepresentations and revealed that:
- a. sustainable first production would be delayed by 16 to 30 months compared to the estimate made in the 2016 feasibility study that it would be achieved in the first quarter of 2021, and was now expected between May 2022 and June 2023;
 - b. the reasons for the delay were the unexpected and challenging geotechnical issues and complexities in the construction of Shaft 2 (despite the Company's past repeated representation that "[k]ey risks [of Oyu Tolgoi] were well understood and managed", despite the Company explicitly acknowledging it was aware of the "challenging ground conditions" in its press release of October 15, 2018 and despite Shaft 2 being largely excavated at the beginning of the Class Period);
 - c. the existing mine design would need to be changed;
 - d. the cost for the underground development project was expected to be USD \$1.2 to \$1.9 billion more than the USD \$5.3 billion that had been represented since 2016 and reaffirmed repeatedly throughout the Class Period (an increase in cost of between 23% to 36%);
 - e. the issues with the mine design were so uncertain that that it would take until the second half of 2020 to develop a revised design for the mine; and
 - f. although further work was necessary to reach definitive conclusions, TRQ was assessing the carrying value (i.e. the net book value) of its investment in Oyu Tolgoi and would announce any changes, along with any adjustments to deferred tax in its results for Q2 2020 released at the end of July, 2019;
121. As a result of this news, the very next day on July 16, 2019, TRQ's common stock price on the TSX closed at \$0.79 per share, down 43.2% from the prior day's closing price of \$1.39 per share, on more than 32 times the trading-volume of the prior day;
- 121.1 By latest on **July 19, 2019**, TRQ's management received the monthly report on the underground development current to the end of June 2019, as well as a summary report for June 2019 (communicated herewith as **Exhibits P-136 and P-137, respectively**). These monthly reports disclosed that as of the end of June 2019:
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- a. There were at least seven-month delays to completion of the Shaft 2 Service Hoist commissioning and Shaft 2 Production Hoist commissioning compared to what was forecast in FC2 (and which were forecast in the 2016 Feasibility Study to be complete in July 2018 and August 2018 respectively);
- b. The cumulative progress of Shaft 2 was 91%, compared to both the FC2 forecast and 2016 Feasibility Study plan which both stated it would be 100% done months prior;
- c. The civil and concrete work for Primary Crusher #1, which is crucial to maintaining the schedule, which was forecast in the 2016 Feasibility Study to be done in April 2019 and in FC2 to be done in November 2019, was delayed to at least February 2020;
- d. Underground development for May 2019 was 31.0% behind what was forecast in FC2;
- e. Cumulative lateral development was more than 5.4 equivalent kilometres (or 18.1%) behind the forecast in the 2016 Feasibility Study and more than 2.1 equivalent kilometres (or 7.9%) behind even the more recent FC2 forecast;
- f. Cumulative conveyor to surface advancement was more than 2.3 equivalent kilometres (or 25.1%) behind the forecast in the 2016 Feasibility Study and just over 804 equivalent metres (or 10.5%) behind even the more recent FC2 forecast.

121.2 Despite the fact that it was now known and acknowledged that the mine was 16 to 30 months behind schedule and USD \$1.2 to \$1.9 billion costlier than what was forecast in the 2016 Feasibility Study, the summary report still represented that forecast final cash and budget were USD \$5.3 billion, the full report still represented that project completion date remained the third quarter of 2022, and both reports represented that overall cumulative progress was 58% against the FC2 forecast of 58% and 2016 Feasibility Study plan of 59% (again highlighting how this metric was misleading and how it was used to hide how significantly behind schedule the project actually was).

121.3 In **early July 2019**, Oyu Tolgoi LLC provided TRQ with a draft MD&A for Q2 2019 (communicated herewith as **Exhibit P-138**). This document repeated much of the points from the June 2019 reports outlined in paragraph 121.1, namely that cumulative underground mining advancement was more than 2.1 equivalent kilometres (7.9%) behind the forecast in FC2 and that cumulative conveyor to surface advancement was 805 equivalent metres (or 10.5%) behind the forecast in FC2, and yet somehow overall cumulative progress of 58% was exactly in line with the FC2 forecast of 58% and almost in line with the 2016 Feasibility Study forecast of 59%. This document further reported that the overall engineering progress rate was 98.3% whereas both the 2016 Feasibility Study and FC2 both forecast it would be 100% complete months prior. In addition, this document revealed that the reasons that the underground engineering progress was behind expectations included *inter alia* because of “Shaft 2 (Electrical and Instrumentation, Skip Loading Chute modifications ... and [because of] Shaft 2 logistics.” This Report further added that there was “significant complexity in the hoist rope up and commissioning

activities **which is driving a high level of risk in the [Shaft 2] schedule**" [emphasis added].

122. On **July 31, 2019**, TRQ released its financial statements, MD&A and a corresponding news release for the three and six-month period ended June 30, 2019 (communicated herewith as Exhibits P-3 to P-5 respectively). In these Core Documents, the Company repeated the corrections released on July 15, 2019 as well as made further corrections of past misrepresentations, including that:
- a. first Drawbell (initial production) was now expected between October 2021 and September 2022 (as opposed to mid-2020 as previously represented – a delay of 16 to 30 months);
 - b. although not expressly disclosed, the aforementioned delays made it apparent that construction at Oyu Tolgoi would not be completed in 2022 nor would full production be achieved by 2027, as previously represented;
 - c. TRQ was taking a USD \$600 million impairment charge and a USD \$400 million difference in deferred tax asset recognition (relative to the same quarter a year prior) due to the delays and increased costs with the Oyu Tolgoi underground development project;
 - d. The indicator of impairment of Oyu Tolgoi was collectively: (1) the delay to sustainable production; and (2) the increase in project development cost, specifically the things that Bowley had been warning about since February of 2018;
 - e. the Net Book Value of Oyu Tolgoi was USD \$9.04 Billion (rather than the expected USD \$9.64 that it would have been absent the impairment);
 - f. the Company was recording a net loss of USD \$736.7 million in Q2 2019 compared to a net profit of \$204.4 million in Q2 2018, with the principal reason being the aforementioned \$600 million impairment charge and the other reason being the aforementioned \$400 million difference in deferred tax asset recognition, both of which “were impacted by the Company’s update on the Oyu Tolgoi underground project”;
 - g. TRQ was taking a “deferred tax de-recognition adjustment” of \$252.8 million in the quarter, which “was primarily due to updated operating assumptions in mine planning during the period, resulting primarily from timing of sustainable first production noted above as well as the revised estimates of underground development capital”; and
 - h. given the estimated impacts of the increases to underground development costs as well as delays to first sustainable production, TRQ no longer had enough funds on hand to complete the underground expansion project and now expected to need incremental financing to sustain its underground development beyond 2020;
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123. The Corrective Disclosures also revealed that despite TRQ's consistent and repeated representations to the contrary about the net book value of Oyu Tolgoi at various times during the proposed Class Period, in truth:
- a. the net book value of Oyu Tolgoi was not determined using management's best estimates of the net present value of expected future pre-tax cash flows, because management was or should have been aware for over a year that the expected future revenues and costs of Oyu Tolgoi were to be negatively impacted by delays and cost overruns; and
 - b. the net book value was not reviewed for impairment when events or changes in circumstances indicated that the full carrying amount may not be recoverable, or else it would have been impaired prior to the release of the first Impugned Document on July 31, as Mr. Bowley had begun definitely warning Rio Tinto about the delays and cost overruns at Oyu Tolgoi as of at least February 2018;
- 123.1 The Corrective Disclosures further revealed that despite the Respondents' consistent and repeated representations to the contrary, TRQ did not have effective DC&P and ICFR, material information required to be disclosed was not summarized and reported, TRQ's financial reporting was not reliable, and TRQ's disclosure policies and practices either were ineffective at avoiding selective disclosure or were not adhered to;
124. As a result of this news, the very next day on July 16, 2019, TRQ's common stock price on the TSX closed at \$0.69 per share, down 8.0% from the prior day's closing price of \$0.75 per share. Overall between July 15 to August 1, 2019, the stock price of TRQ dropped by over 50% due to the correction of the previously released misrepresentations, eliminating roughly \$1.41 billion of market capitalization for TRQ's shareholders in just 13 trading days;
- 124.1 Following the end of the Class Period, multiple individuals with first-hand knowledge of the Oyu Tolgoi expansion have affirmed that the cost overruns and schedule delays were not due to geotechnical issues, but rather that Rio Tinto and TRQ had falsely blamed geological problems because this type of problem is outside their control, whereas the concealed engineering and procurement problems were within their control;
- 124.2 Specifically, in addition to Mr. Bowley, a senior Red Path Mining manager at Oyu Tolgoi from 2013 to 2019 whose company was responsible for sinking Shaft 2 and Shaft 5 and who had seen all the progress reports, stated that he "would have been intimately aware of any rock instability" and that it "was just not present". As reported in Exhibit P-64 and detailed in Exhibit P-65, he further stated that the notion that the geological issues cited by Respondents was the primary driver of the delays was "one hundred percent pure horseshit. ... It was a management issue and an engineering issue. ... The project was being delayed because of engineering and execution. There may have been some pockets of bad ground, but that's expected in any mine."
- 124.3 This was also the same conclusion reached by analysts at Scotiabank who visited Oyu Tolgoi and also concluded that in light of the evidence, "it is now clear to us that the ~15 month delay in completing shaft 2 . . . appears to be the primary driver behind the recently
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disclosed Phase II development delay and capex overrun” as opposed to any geotechnical issues, which appear to be “manageable.”;

- 124.4 In fact, TRQ’s own description of events undermines the notion that the delays and cost overruns can be blamed on geotechnical issues. After the Class Period, TRQ’s own Chief Operating Officer, Joanne Dudley, explained to investors visiting the mine that the geotechnical problem is only in the ore body and does not cause delay because after the first team puts in the originally planned steel bolts and mesh, a separate team can put in extra steel bolts and stronger steel mesh to keep the ceiling and walls of the tunnels from collapsing for \$5,000 per meter, or a total of USD \$100 million. Thus, any geotechnical problems around the orebody account for only a small part of the \$1.2-\$1.9 billion cost overruns and do not account for the delays. Rather, the delays were caused by the problems with Shaft 2;
- 124.4.1 This was also the same conclusion reached by the ICG in its report to the OT Special Committee after the end of the Class Period. The ICG’s investigation found that the underground expansion project’s delays and cost overruns began as soon as work resumed in 2016 and were caused by engineering, procurement, and construction problems related to Shaft 2 and associated work in completing Shafts 1 and 5, and not by any geotechnical issues;
- 124.5 In addition, to the extent that geotechnical problems did cause any of the delays and cost overruns associated with Shaft 2 or the lateral tunnels, as explained above the Respondents were aware of these problems before the Class Period and actively suppressed them during the Class Period;

9) Events Post Corrective Disclosures

125. As reported in the *Australian Financial Review* and the *Financial Times* at Exhibits P-39 and P-40, on **November 26, 2019**, Dr. Maurice Duffy of GFI Blackswan wrote a letter to *inter alia* the board of Rio Tinto, its outside legal counsel Baker McKenzie, and some of Rio Tinto’s largest shareholders, revealing that:
- a. before his company had terminated its consultancy contract in 2017, he had reported “multiple, unprofessional [and] unethical behaviours” by Rio’s most senior executives to the then-chairman and members of the board, “who took no action”; and
 - b. the supposedly independent investigation commenced in January 2019 by Baker McKenzie into the problems raised by Mr. Bowley, “excluded information known by [GFI Blackswan] about Mongolia since 2017”;
- 125.1 On **March 16, 2020**, in connection with his employment dispute before the U.K. Tribunal, Mr. Bowley provided a 62-page sworn Witness Statement detailing the Respondents’ misrepresentations, which he signed under penalty of contempt of court (as reported by the *Global Investigations Review*, communicated herewith as Exhibit P-66, and produced in part at Exhibit P-81). The portion of Mr. Bowley’s Witness Statement which provides a summary of his action is reproduced in Exhibit P-65, and reads as follows:
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My case, in a nutshell, is as follows:

- 4.1 In 2017, Craig Kinnell said that he had concerns about the OT [Oyu Tolgoi] project.
- 4.2 He recruited me to address his concerns and to suggest solutions.
- 4.3 I reported my concerns and suggested solutions to Craig and Rosemary Fagen in London.
- 4.4 Despite repeating those concerns about schedule delay and cost overrun and proposing solutions, Rio Tinto made no disclosure of the true facts to their partners and investors or the market.
- 4.5 I was then sidelined but was not released from my contract and the confidentiality obligations that went with it.
- 4.6 Not only did RT not disclose the true facts but Arnaud Soirat, Craig Kinnell's boss, told the market that the project was on schedule and on budget, misleading the Government of Mongolia and others.
- 4.7 I continued to report my findings and fears over a) non-disclosure and b) misleading the market until my contract was brought to an early end, having continued to be sidelined and left completely unoccupied until then, marooned in Mongolia.
- 4.8 Being sidelined and then dismissed was the direct result of my whistleblowing reports to the Company.
5. Having reported the true facts to Rio Tinto, and having seen the misreporting of the facts to the market, I conclude that Rio Tinto is seeking to suppress my reports and, by delay, to enable it to shape the narrative for its later disclosures to stakeholders and the market generally regarding the state of the OT project. It has had every opportunity to take corrective action based upon my reports but has declined to do so. Not only has it suppressed my reports but it has made misleading statements to the market regarding the OT project which I was instructed to investigate and report on in London. There were no major geographical [sic] reasons for the delay in the project although this is what Rio Tinto claimed in order to conceal the true causes.

125.2 On **March 20, 2020**, TRQ released its MD&A for the 2019 fiscal year (communicated herewith as **Exhibit P-67**), wherein it disclosed that it would require at least an additional USD \$4.5 billion in financing to complete the Oyu Tolgoi underground expansion, and said

that this financing was required in addition to the USD \$2.2 billion that TRQ had in available liquidity.

126. On **July 2, 2020**, TRQ released a news release announcing that the revised feasibility study for Oyu Tolgoi had been completed, communicated herewith as **Exhibit P-52**. The study made recommendations which had the effect of reducing the estimated mineral reserves for the mine. TRQ further revealed in this news release that it estimated that the increase in capital costs would cost an additional USD \$1.5 billion (with a range of USD \$1.3 billion to \$1.8 billion);
 127. On **August 28, 2020**, TRQ released an updated technical report for the Oyu Tolgoi Mine, communicate herewith as **Exhibit P-53**. This document further revealed the extent of the Respondents' misrepresentations during the Class Period, revealing:
 - a. first Drawbell would be blasted (i.e. initial production) in May 2022;
 - b. sustainable production would be achieved in February 2023;
 - c. the conveyor to surface would be commissioned in the third quarter of 2023;
 - d. full production would be achieved in the first half of 2029; and
 - e. the payback period would be a further 6 years from January 1, 2021 (i.e. would be until 2027);
 128. On **September 10, 2020**, TRQ released a news release announcing that it had signed a non-binding memorandum of understanding with Rio Tinto concerning the funding of Oyu Tolgoi that reflected the parties' intentions to pursue a re-profiling of existing project debt, communicated herewith as **Exhibit P-54**. Under the reprofiling, while the time for repayment is extended, the value of the debt is not marked down. TRQ further announced that Rio Tinto would not allow TRQ to take on more than \$500 million of additional debt to address the funding shortfall for the underground development project, and that the remaining funding gap for the underground mine would be met through a TRQ equity offering, which would reach "at least US 1.7 billion" if no other debt or hybrid financing option was successfully completed. Such an equity offering would severely dilute TRQ's shareholders (apart from Rio Tinto itself who has anti-dilution rights that permit it to acquire additional securities of TRQ so as to maintain its controlling proportionate equity interest in TRQ). TRQ further explicitly stated that "Turquoise Hill has been informed by Rio Tinto that it does not currently support, or expect to consent to, additional debt or other non-equity sources of funding at Turquoise Hill or Oyu Tolgoi..." [emphasis added];
 129. On **October 15, 2020**, TRQ released a news release, communicated herewith as **Exhibit P-55**, announcing that the Company had received an independent consultant's report with respect to the delay and cost overruns at Oyu Tolgoi, and that the management and independent directors of the Company were currently reviewing the report with their advisors;
 130. On **November 4, 2020**, TRQ released a news release, communicate herewith as **Exhibit P-56**, announcing that following the discussions with Rio Tinto relating to the re-profiling
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of the Oyu Tolgoi project debt announced on September 10, 2020, it was commencing arbitration proceedings against Rio Tinto seeking a declaration to clarify Rio Tinto's role and obligations to support TRQ in seeking additional financing for the Oyu Tolgoi underground development project. TRQ expressly disclosed in this release that a special committee of its Board had commenced the arbitration because it had:

concluded that Rio Tinto's approach to the financing of the Oyu Tolgoi project is incompatible with the Company's announced strategy to maximize debt and / or hybrid financing for the Oyu Tolgoi project so as to minimize the size, and defer the timing, of an equity rights offering (if any) [emphasis added].

131. On **November 25, 2020**, Rio Tinto shareholder Odey Asset Management LLP ("Odey") – a self-identified short-seller of TRQ's shares who stands to gain from the decline in TRQ's stock price – wrote a public letter to Rio Tinto, communicated herewith as **Exhibit P-57**. This public letter demanded among other things that Rio Tinto force TRQ to conduct an equity rights issue, as was Rio Tinto's right under the Financing Support Agreement in the event of delay, cost overruns and impairment of Oyu Tolgoi. Odey stated that Rio Tinto not triggering the rights issue was "causing material damage to Rio Tinto's shareholders, Turquoise Hill's prospective shareholders, and the Government of Mongolia [by] allowing the creation of ... a false market to form in the trading of Turquoise Hill's shares..." Odey noted that although TRQ initiating arbitration proceedings against Rio Tinto "has subtly indicated to the market that Rio Tinto may intend to take a course of action in line with Odey's view", nonetheless it demanded that Rio Tinto immediately formalize that intention. The thrust of Odey's letter in relevant part was that Rio Tinto and TRQ were understating the true amount of equity financing that TRQ would have to raise, and were thus still artificially inflating the true value of the Company's equity securities:

In Odey's opinion, the outcome of this conservative scenario is that, if Rio Tinto acts in the interests of its stakeholders, Turquoise Hill would be required to seek a minimum rights issue of \$8.9 billion. ...

In the absence of this transparency on the part of Rio Tinto, Odey believes that Turquoise Hill's stock is trading with materially misrepresented views of the risk profile compared to reality. Odey notes the great increase in the number of retail investors who have acquired Turquoise Hill's stock recently, who Odey feel do not understand the detail behind the Turquoise Hill investment case. Odey believes has the potential effect of great value destruction to Rio Tinto shareholders given the entry price of such a large rights issue will be substantially higher than would otherwise be the case should Rio Tinto pursue [sic] this approach. [emphasis in original, internal citation removed]

132. On **November 30, 2020**, one of TRQ's largest minority shareholders, Pentwater Capital Management ("Pentwater"), which owns nearly 10% of TRQ, released an open letter, communicated herewith as **Exhibit P-58**, stating that it was prepared to file an oppression action unless Rio Tinto allowed TRQ to take on more debt to fund the development project
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at Oyu Tolgoi, rather than forcing the Company to issue billions of dollars of equity and greatly dilute TRQ's other shareholders. In this letter Pentwater expressly made reference to the fact that Bowley had "confirmed that Rio was fully aware of the budget overruns and schedule delay a year in advance of the disclosure to the market and intentionally hid those facts from the market and the government of Mongolia";

133. On **December 1, 2020**, TRQ released a news release, communicated herewith as **Exhibit P-59**, which announced *inter alia* that the board of directors of Oyu Tolgoi LLC had approved a resolution establishing a special board committee (i.e., the OT Special Committee) to conduct an independent investigation into the causes of the cost overruns and delays to the Oyu Tolgoi underground expansion. Reports indicated that while Rio blamed an **uncontrollable factor** – namely weaker than expected geology in the underground section of Oyu Tolgoi – as the source of delays and cost overruns, "Rio has been less forthcoming about the degree to which **controllable factors** played a role in the blowouts; something the Mongolian government is particularly keen to investigate" [emphasis added]. Rio Tinto was unsurprisingly, opposed to the creation of the special board committee and the independent investigation;
- 133.1 On **December 18, 2020**, TRQ released a news release, communicated herewith as **Exhibit P-68**, wherein it announced that Rio Tinto had completed and delivered a "Definitive Estimate" which refined the forecast contained in the updated Technical Report filed on August 28 2020. The results of the Definitive Estimate included:
- a. A revised based case project development capital cost estimate of USD \$6.75 billion (a 27.4% increase over the original \$5.3 billion estimate); and
 - b. Sustainable first production forecast to occur in October 2022 (as opposed to the first quarter of 2021 as originally represented).
- 133.2 On **January 11, 2021** before the TSX had commenced trading for the day, TRQ released a news release, communicated herewith as **Exhibit P-69**, which announced *inter alia* that the Government of Mongolia had advised Rio Tinto that it was "dissatisfied with the results of the Definitive Estimate" and that it was "concerned that the significant increase in the development costs of the Oyu Tolgoi project has eroded the economic benefits it anticipated to receive therefrom." This press release further stated that [i]n particular, the Government of Mongolia had expressed its intention to initiate discussions with respect to the termination and replacement of the" Oyu Tolgoi deal with Rio Tinto, explaining that the "Government of Mongolia has indicated that if the Oyu Tolgoi project is not economically beneficial to the country, it would be necessary to review and evaluate whether it can proceed". TRQ' share price on the TSX fell precipitously on January 11, 2021 after release of this news, to close the day 18.7% lower than the prior day's closing price.
- 133.3 On **March 3, 2021**, Respondent Ulf Quellmann was forced by Rio Tinto to resign as CEO of TRQ and as a director on TRQ's Board, after the took actions seen to be in support of TRQ's minority shareholders that were contrary to Rio Tinto's interests. As reported in Exhibit P-61, in downgrading TRQ's stock from a "Hold" to a "Sell" the next morning, Canaccord Genuity remarked:
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Goodbye good governance – we hardly knew ye! Mr. Quellmann was the first CEO in our long history with TRQ that we believed actually pushed back on Rio and stood up for decisions that were in the best interests of all of all shareholders.

133.4 On **March 4, 2021**, BMO Capital analyst Jackie Przybylowski also downgraded TRQ's stock (as reported in Exhibit P-61) and in doing so remarked:

In our view, Mr. Quellmann had prioritized the defence of minority shareholder interest; with his departure, it's increasingly likely that project funding will be dilutive to Turquoise Hill Minority equity holders.

133.5 On **July 29, 2021**, TRQ disclosed that it required an additional USD \$2.4 billion in incremental funding for the development of the Oyu Tolgoi Mine;

133.6 On or about **August 3, 2021**, the ICG Report and Peer Review undertaken in connection with the OT Special Committee's investigation (referenced in paragraph 133) were delivered to TRQ. The ICG Report and Peer Review found that the delays and associated cost overruns were well known before the start of the Class Period and simply not disclosed, and were not due to unforeseen geotechnical issues;

133.7 On **August 9, 2021**, numerous media reports were released (including in the Financial Times and the Australian Financial Review, communicated herewith as **Exhibits P-75** and **P-76** respectively), regarding the ICG Report and Peer Review and the fact that the cost overruns and delays at Oyu Tolgoi were known before the Class Period and were not disclosed, as well as the fact that the stated justification that they were caused by geotechnical issues was not true;

133.8 Also on **August 9, 2021**, and expressly in response to media reports concerning the ICG Report and Peer Review, TRQ released a news release (communicated herewith as **Exhibit P-74**) which in part admitted that "[t]he ICG Report raises certain questions in relation to the project management process surrounding the increase in cost and schedule extension and suggests that changes in geotechnical parameters did not contribute significantly thereto";

133.9 On **October 14, 2021**, TRQ released a news release (and a corresponding Material Change Report on **October 20, 2021**, communicated herewith as **Exhibit P-78**) disclosing that sustainable production would be delayed "**until at least** January 2023" [emphasis added], and that TRQ now required incremental funding of USD \$3.6 billion for the development of the Mine - \$1.2 billion (i.e., 50% more than the \$2.4 billion it had disclosed it needed less than 3 months prior). This news release further disclosed that work on the underground development would be delayed until the representatives of the Mongolian Government on the Oyu Tolgoi LLC board agreed to increase the underground development capital, and that any significant further delays would result in further unfavourable impact to the underground development, including further delays to the timing of sustainable production and the amount of required underground capital expenditures;

133.10 These revelations caused TRQ's stock price to further plummet and the Company's analysts to wonder "how such a material change to sequencing and cost emerged over the past three months" (as reported in *MINING.com*, communicated herewith as **Exhibit P-77**). Contemporaneously, it was further reported that TRQ's partner at the Mine, the government of Mongolia, was concerned about the truth and lack of transparency about the causes of the cost overruns and delays during the Class Period, with a government spokesperson stating that a letter from Rio Tinto about the discrepancies between the findings in the ICG Report and Rio Tinto's (and TRQ's) position was not "satisfactory, in terms of responding to our specific queries and specific concerns over why there is a cost overrun and scheduled delays, why there's very different conclusions in the independent review report" (as reported in a *CNBC* article, communicated herewith as exhibit **P-79**).

IV. THE RESPONDENTS' DUTIES, WHICH THEY VIOLATED

133.11 At all material times, the Individual Respondents were directors and/or officers of TRQ or of its "Influential Person", Rio Tinto and Rio Tinto International Holdings Limited. As such, pursuant to 124 (1) of the Yukon *Business Corporations Act*, RSY 2002, c 20, Quellmann, Colton and Lane each had duties to:

- a. act honestly and in good faith with a view to the best interests of TRQ; and
- b. exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances;

133.12 Furthermore, as Members of TRQ's Disclosure Committee, Quellmann, Colton and Lane had duties to:

- a. monitor and oversee TRQ's disclosure practices;
 - b. assess controls, procedures and policies with respect to all electronic, written and oral disclosure of corporate information;
 - c. educate all of TRQ's other directors, officers and employees on all matters related to corporate disclosure;
 - d. establish procedures to ensure that they are fully apprised of all pending Company developments that may require public disclosure;
 - e. determine when developments affecting TRQ's business require or justify public disclosure;
 - f. review and authorize all disclosure in advance of public releases;
 - g. ensure the correctness, adequacy and integrity of the Company's disclosures and recommend to the Board that they be approved prior to their release;
 - h. ensure that the Company's control practices comply with regulatory requirements and adhere to best practices; and
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- i. scrutinize the effectiveness of and compliance with their disclosure controls, procedures and policies.

133.13 Additionally, TRQ, Rio Tinto, Rio Tinto International Holdings Limited and the Individual Respondents had duties placed on them pursuant to TRQ's *Corporate Disclosure, Confidentiality and Securities Trading Policy* and Rio Tinto's *Disclosure and Communications Policy* (communicated herewith as **Exhibit P-139**) which *inter alia* outlined how they were to interact with the public and required that they avoid selective or incomplete disclosure and to disclose as soon as possible information that could have a material effect on the price of their securities or that a reasonable person is likely to use as part of the basis for making investment decisions;

133.14 Furthermore, the Individual Respondents had duties placed on them pursuant to TRQ's mandatory *Code of Business Conduct* (communicated herewith as **Exhibit P-140**) and Rio Tinto's Mandatory Code of Conduct (which it calls ("*The Way We Work*") (communicated herewith as **Exhibit P-141**) which *inter alia* required that all employees, officers and directors including all third-parties working under the direction of Rio Tinto:

- a. uphold their commitment to a culture of honesty, transparency, integrity, accountability, and the highest standards of professional and ethical conduct;
- b. report any violations of laws, policies or standards (including using TRQ's whistle-blowing system if necessary), and to follow up on any reported violations including by whistleblowers; and
- c. avoid any conflicts of interest or even the appearance of conflicts of interest;

133.15 Additionally, TRQ, Quellmann and Colton had duties pursuant to *National Instrument 52-109 (Certification of Disclosure in Issuers' Annual and Interim Filings)* to *inter alia*:

- a. establish, maintain and certify that TRQ had effective DC&P and ICFR; and
- b. review any Core Documents (MD&A, AIF, financial statements, etc.) released during the Class Period, and ensure and certify that the Core Documents do not contain any untrue statements or omissions of material facts and fairly present the financial condition, result of operations and cash flows of TRQ;

133.16 TRQ, Rio Tinto, Rio Tinto International Holdings Limited and the Individual Respondents also had a duty to properly communicate the material information regarding TRQ's business, its financial position and its financial performance, pursuant to the QSA and its subsidiary instruments, including *National Instrument 51-102 (Continuous Disclosure Obligations)*;

133.17 By failing to make certain that TRQ took proper care to ensure that TRQ's disclosure documents and their public statements were free of misrepresentations and that it made timely disclosure of all material changes, as set out above, TRQ, Rio Tinto, Rio Tinto International Holdings Limited and the Individual Respondents violated the duties applicable to them.

V. THE CLASS' DAMAGES

133.18 At all material times, common shares of TRQ traded in efficient markets that incorporated the publicly available information about TRQ, including information regarding the cost and progress of the underground expansion at Oyu Tolgoi (whether disclosed by TRQ or its influential person Rio Tinto/Rio Tinto International Holdings Limited), into the price of the Company's securities;

133.19 The Respondents knew and intended that the market price or value of TRQ's securities would reflect the information that they communicated to the market, including the misrepresentations alleged herein(...);

133.20 The Applicant and the Class suffered damages and losses as a result of the Respondents' misrepresentations, failure to make timely disclosure and improper conduct as alleged herein, as the Class Members purchased or acquired TRQ's securities at prices that were artificially inflated due to the actions of the Respondents(...);

VI. THE RIGHTS OF ACTION

134. The Applicant, on his own behalf and on behalf of the other Class Members, advances the following causes of action against the Respondents, TRQ, Quellmann, Colton and Lane:

- a. a claim under art. 225.8 of the QSA, and if necessary, the concordant provisions of the Equivalent Securities Acts in relation to the dissemination of the Impugned Documents containing misrepresentations within the meaning of the QSA;
- b. a claim under art. 225.9 of the QSA, and if necessary, the concordant provisions of the Equivalent Securities Acts in relation to the dissemination of the Impugned Statements containing misrepresentations within the meaning of the QSA;
- c. a claim under art. 225.11 of the QSA, and if necessary, the concordant provisions of the Equivalent Securities Acts in relation to TRQ's failure to make timely disclosure of a material change; and
- d. a civil law claim under art. 1457 of the CCQ for breach of the Respondent's general duty of diligence owed to all Class Members and for omissions and misstatements of material facts;

134.1 The Applicant, on his own behalf and on behalf of the other Class Members, advances the following causes of action against the Respondents, Rio Tinto PLC, Rio Tinto Limited, Rio Tinto International Holdings Limited, Jacques, and Soirat:

- a. a claim under art. 225.8 of the QSA, and if necessary, the concordant provisions of the Equivalent Securities Acts for knowingly influencing TRQ, Quellmann, Colton and/or Lane to release the Impugned Documents containing misrepresentations within the meaning of the QSA;
 - b. a claim under art. 225.9 of the QSA, and if necessary, the concordant provisions of the Equivalent Securities Acts for knowingly influencing Quellmann, Colton
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and/or Lane to release the Impugned Statements containing misrepresentations within the meaning of the QSA;

- c. a claim under art. 225.10 of the QSA, and if necessary, the concordant provisions of the Equivalent Securities Acts for releasing the Impugned Rio Documents/Statements containing misrepresentations relating to TRQ;
- d. a claim under art. 225.11 of the QSA, and if necessary, the concordant provisions of the Equivalent Securities Acts for knowingly influencing TRQ, Quellmann, Colton and/or Lane in the failure to make timely disclosure of a material change;
- e. a civil law claim under art. 1457 of the CCQ for breach of the Respondents' general duty of diligence owed to all Class Members and for omissions and misstatements of material facts;

1) Statutory Right of Action for Misrepresentation in Impugned Documents and in Impugned Statements and for Failure to Make Timely Disclosure Pursuant to the QSA

- 135. On behalf of himself and the other Class Members, the Applicant asserts as against Respondents TRQ, Quellmann and Colton as well as Rio Tinto, Rio Tinto International Holdings Limited, Jacques and Soirat, the rights of action found in articles 225.8 and 225.11 of the QSA, and if necessary, the concordant provisions of the Equivalent Securities Acts;
 - 136. The claim under art. 225.8 is being asserted in respect of the Impugned Documents, which contained misrepresentations within the meaning of the QSA, as particularized herein;
 - 137. At all relevant times, TRQ was a reporting issuer in Québec under art. 68 of the QSA;
 - 138. At all relevant times, TRQ's head office, domicile and principal establishment was located in Québec, and the Company significantly connected to Québec for the purposes of Title VIII, Chapter II, Division II of the QSA;
 - 139. Respondents Quellmann and Colton were directors of TRQ at the time of the release of all Impugned Documents. Colton was an officer of TRQ at all of those times and signed all certifications released during those times. Quellmann was an officer at all of those times after July 31, 2018 and signed all CEO certifications after that date;
 - 140. In respect of the Impugned Documents that are non-Core Documents, Respondents TRQ, Quellmann and Colton: (a) knew, at the time that each of such documents was released, that the document contained a misrepresentation or deliberately avoided acquiring such knowledge at or before that time; or (b) were guilty of a gross fault in connection with the release of each of such documents;
 - 140.1 At all relevant times, Rio Tinto and Rio Tinto International Holdings Limited were "influential persons" of TRQ, including at the time of the release of all Impugned Documents. Rio Tinto and Rio Tinto International Holdings Limited knowingly influenced Rio Tinto to release, and Quellmann and Colton to authorize, permit or acquiesce in the
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- release, of the Impugned Documents. Jacques and Soirat were directors and/or officers of influential person Rio Tinto;
141. The corrections about *inter alia* the cost overruns and delays of the underground expansion of Oyu Tolgoi were material changes in the affairs of the Company and TRQ, Quellmann and Colton are liable under art. 225.11 of the QSA for not making timely disclosure of these material changes;
 - 141.1 Rio Tinto and Rio Tinto International Holdings Limited, and Rio Tinto's directors and/or officers Jacques and Soirat knowingly influenced TRQ in the failure to make timely disclosure and knowingly influenced Quellman and Colton to authorize, permit or acquiesce in the failure to make timely disclosure;
 142. On behalf of himself and the other Class Members, the Applicant asserts as against all of the Respondents the right of action found in section 225.9 of the QSA, and if necessary, the concordant provisions of the Equivalent Securities Acts;
 143. The claim under art. 225.9 of the QSA is being asserted in respect of the Impugned Statements, which contained misrepresentations within the meaning of the QSA, as particularized herein;
 144. Quellmann Colton and Lane were mandataries or other representatives of TRQ who made public oral statements in the Impugned Statements relating to TRQ's business or affairs that contained misrepresentations;
 - 144.1 Rio Tinto, Rio Tinto Limited Holdings, Jacques and Soirat knowingly influenced TRQ, Quellmann, Colton and Lane to make the make the public oral statements or to authorize, permit or acquiesce in the making of the public oral statements containing misrepresentations;
 - 144.2 On behalf of himself and the other class Members, the Applicant asserts as against Rio Tinto PLC, Rio Tinto Limited, Rio Tinto International Holdings Limited, Jacques, and Soirat the right of action found in section 225.10 of the QSA, and if necessary, the concordant provisions of the Equivalent Securities Acts;
 - 144.3 The claim under art. 225.10 of the QSA is being asserted in respect of the Impugned Rio Documents/Statements, which contained misrepresentations within the meaning of the QSA, as particularized herein;
 - 144.4 Rio Tinto and Riot Tinto International Holdings Limited were influential persons of TRQ and Jacques and Soirat were their directors and/or officers and mandataries. Rio Tinto released or made the Impugned Rio Documents/Statements and Jacques and/or Soirat authorized, permitted or acquiesced in their release or making. Jacques and/or Soirat also made some of the Impugned Rio Documents/Statements that were public oral statements;
 145. The Respondents (a) knew or should have known at the time that the Impugned Documents and Impugned Rio Documents/Statements were released and the Impugned Statements were made that the Impugned Documents, Impugned Rio Documents/Statements and Impugned Statements contained a misrepresentation or
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deliberately avoided acquiring such knowledge at or before that time; or (b) were guilty of a gross fault in connection with the making of each of such statements and release of each document;

146. In light of the Respondents' failure to disclose material adverse facts, their portrayal of TRQ's business, affairs and operations was inaccurate and incomplete;
147. Had these material facts been disclosed, the Applicant and Class Members would not have purchased TRQ's securities or would not have purchased them at artificially-inflated prices;
148. The Respondents knew that the Impugned Statements, Impugned Rio Documents/Statements and Impugned Documents would be disseminated to the public who relied on these statements and documents to make informed financial decisions;

2) Article 1457 of the Civil Code of Quebec

149. On behalf of himself and all Class Members, the Applicant asserts a civil right of action under art. 1457 CCQ, against all of the Respondents for breach of their general duty of diligence owed to all Class Members and for omissions and misstatements of material facts;
 150. The Respondents' violations of their duty of diligence are particularized herein;
 151. The Respondents did not fulfill their legal obligations warranted by their special relationship with the Class Members;
 152. By authorizing, permitting and acquiescing to the publication and dissemination of false and misleading information by way of news releases and public statements, the Respondents did not fulfill the legal obligations warranted by their relationship with the Class Members as required by law;
 153. The Respondents committed a fault which caused significant monetary damages to the Class Members. The Respondents are solidarily liable to the Class Members;
 154. The Applicant and Class Members relied on the fact that the Respondents' portrayal of TRQ's business, affairs and operations were truthful and accurate;
 155. The information about the underground development project at Oyu Tolgoi underpinned the Applicant's and Class Members' transactions in TRQ's securities;
 156. The Applicant and Class Members would not have purchased TRQ's securities had they been aware of the Respondents' misrepresentations and omissions of fact as the Respondents' misrepresentations and omissions of fact were material;
 157. The negligence, gross negligence, faults, wilful acts and breaches of the Respondents' duties and applicable laws and regulations were committed in Québec;
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158. Additionally, pursuant to art. 1463 CCQ, TRQ is vicariously liable for the faults committed by Quellmann, Colton, Lane or any other officer, director, agent or employee of TRQ, and Rio Tinto is vicariously liable for the faults committed by Rio Tinto International Holdings Limited, Jacques, Soirat or any other officer, director, agent or employee of Rio Tinto;
159. As alleged herein, the Individual Respondents committed a fault by allowing the publication of documents and dissemination of public statements which they knew or ought to have known contained misrepresentations of material facts. In doing so, the Individual Respondents breached the duty of diligence owed to the Applicant and Class Members under art. 1457 CCQ;
160. In exchange for their work as TRQ's or Rio Tinto's management, the Individual Respondents received compensation by way of salaries and other consideration from Rio Tinto or TRQ (either directly, or through Rio Tinto who would then charge TRQ the amount of that remuneration);
161. While performing their duties, the Individual Respondents were legally under the direction and control of TRQ and/or Rio Tinto;
162. TRQ and Rio Tinto benefited directly from their misrepresentations and failure to make timely disclosure of material changes as it artificially inflated the price of TRQ's and/or Rio Tinto's stock;
163. In view of the foregoing, TRQ and Rio Tinto are solidarily liable towards the Class Members for the faults committed by the Individual Respondents in the performance of their duties;

3) Forward-Looking Statements

164. The statutory defence provided for by s. 225.22 and 225.23 of the QSA regarding forward-looking information in a document does not apply to any misrepresentations alleged herein since these misrepresentations related to then-existing facts and conditions and/or because they had no reasonable basis when made;

VII. THE CRITERIA OF ARTICLE 575 CCP

1) The Facts Alleged Appear to Justify the Conclusions Sought

165. The Applicant Alleges that the Impugned Documents, Impugned Rio Documents/Statements and Impugned Statements, contained misrepresentations of material fact and failed to make timely disclosure of material changes in light of the facts alleged above;
 166. TRQ's Impugned Documents that were annual or interim disclosure statements were signed by Quellmann and/or Colton, who also provided certifications under Forms 52-109F1 and 52-109F2 or under applicable U.S. securities laws, in each case confirming that these documents did not contain any untrue statement of a material fact or omit to
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state a material fact required to be stated or that is necessary to make a statement not misleading;

- 166.1 Jacques similarly was subject to applicable U.S. securities laws to certify that Rio Tinto's annual or interim disclosure statements did not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading
167. At all relevant times during the Class Period, the Respondents omitted to disclose and misrepresented material facts regarding TRQ's affairs and operations which artificially increased the value of TRQ's and Rio Tinto's securities;
168. The Respondents knowingly authorized, permitted and acquiesced to the publication and dissemination of false and misleading information, thus violating the QSA and, if necessary, the concordant provisions of the Equivalent Securities Acts as well their general duty of diligence owed to all Class Members;
169. The Applicant and Class Members bought TRQ's securities at artificially-inflated prices and suffered damages following the publication of the Corrective Disclosures;
170. In light of the above, and as detailed herein, the faults committed by the Respondents support the Applicant's and Class Members' claims;

2) The Claims of the Class Members raise Identical, Similar or Related Issues of Law or Fact

171. At all relevant times, the Respondents had legal obligations pursuant to the QSA and the Equivalent Securities Acts to make periodic and timely disclosure of material facts and changes as well as provide accurate financial disclosure. They violated those legal obligations;
 172. Additionally, the Respondents owed Class Members duties under article 1457 CCQ. These duties were informed by the QSA and Equivalent Securities Acts, subsidiary instruments including NI 43-101, NI 51-102, NI 52-109, U.S. securities laws, and TRQ's and Rio Tinto's own stated policies including TRQ's Code of Business Conduct and Corporate Disclosure Policy as well as Rio Tinto's Disclosure and Communications Policy and Mandatory Code of Conduct;
 173. During the Class Period, the Respondents committed a fault in respect of the Class by failing to comply with their duties and responsibilities and by making the misrepresentations pleaded herein;
 174. The Individual Respondents oversaw the preparation and reporting of TRQ's and/or Rio Tinto's public disclosures to the market and/or made public statements to the market, and knew or should have known of the misleading statements and the omissions of material facts these Impugned Documents, Impugned Rio Documents/Statements and Impugned Statements contained;
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175. Respondents Quellmann and Colton authorized, permitted or acquiesced to the release of TRQ's public disclosure documents during the Class Period by TRQ which contained the omissions of material facts and the misrepresentations;
 - 175.1 Respondent Jacques authorized, permitted or acquiesced to the release of Rio Tinto's public disclosure documents during the Class Period by Rio Tinto which contained the omissions of material facts and the misrepresentations;
 176. In addition to its direct liability, TRQ and Rio Tinto are liable for the faults committed by the Individual Respondents, by Rio Tinto International Holdings Limited, and by TRQ and Rio Tinto's other officers, directors, partners and/or employees;
 177. As a result of the Respondents' failure to make timely disclosure of material changes in TRQ's affairs and their misrepresentations in TRQ's and Rio Tinto's disclosure documents, TRQ's securities traded at artificially inflated prices during the Class Period and the Class Members acquired those securities at prices that were inflated and that did not reflect their true value. When the truth began to emerge, the market price or value of TRQ's securities plummeted, causing significant losses and damages to the Applicant and the Class;
 178. In light of the foregoing, the principle issues of fact and law to be dealt with collectively are the following:
 - a. did the Impugned Documents or Impugned Statements or Impugned Rio Documents/Statements, or any of them, contain one or more misrepresentations within the meaning of the QSA, and if necessary, the Equivalent Securities Acts? If so, what Impugned Documents and/or what Impugned Statements and/or what Impugned Rio Documents/Statements contained what misrepresentations?
 - b. did TRQ fail to make timely disclosure of a material change pursuant to the QSA, and if necessary, the Equivalent Securities Acts?
 - c. are any of the Respondents liable to the Applicant and the Class Members, or any of them, under Title VIII, Chapter II, Division II of the QSA and, if necessary, the concordant provisions of the Equivalent Securities Acts? If so, what Respondent is liable and to whom?
 - d. did any of the Respondents owe a duty of diligence to the Applicant and the Class Members, or any of them, under the general private law of Quebec? If so, what Respondent owed a duty of diligence and to whom?
 - e. if some or all of the Respondents owed a duty of diligence to the Applicant and the Class Members, or any of them, did any of the Respondents violate such duty of diligence and commit a fault under article 1457 of the CCQ? If so, what Respondent committed a fault and with respect to whom?
 - f. what damages are sustained by the Applicant and the other Class Members?
-

- g. are any of the Respondents liable to the Applicant and the Class Members, or any them for damages? If so, is that liability solidary and if not, which Respondent is liable and for what amount? and
 - h. is TRQ and/or Rio Tinto vicariously liable for the actions of Rio Tinto International Holdings Limited and/or the Individual Respondents?
 - i. did Rio Tinto, Rio Tinto International Holdings Limited knowingly influence TRQ to make misrepresentations or fail to make timely disclosure?
179. The majority of the issues to be dealt with are issues common to every Class member;
180. The interests of justice favor that this Application be granted in accordance with its conclusions.
181. Consequently, the Applicant and the Class Members seek for this Honourable Court to authorize the following conclusions to the proposed proceedings:

GRANT this class action on behalf of the Applicant and the Class;

GRANT the Applicant and the Class' claim for damages against the Respondents in respect of the rights of action asserted against the Respondents under Title VIII, Chapter II, Divisions II of the QSA (and if necessary, the concordant provisions of the Equivalent Securities Acts) and article 1457 of the CCQ;

CONDEMN the Respondents to solidarily pay to the Applicant and the Class compensatory damages for all monetary losses;

ORDER collective recovery in accordance with articles 595 to 598 of the *Code of Civil Procedure*;

THE WHOLE with interest and additional indemnity provided for in the *Civil Code of Québec* and with full costs and expenses, including expert fees, notice fees and fees relating to administering the plan of distribution of the recovery in this action;

3) The composition of the group makes it difficult or impracticable to apply the rules for mandates to take part in judicial proceedings on behalf of others or for consolidation of proceedings

182. TRQ is a public company which at all times during the Class Period had issued and outstanding 2,012,314,469 common shares which are publicly traded on worldwide stock exchanges, alternative electronic stock exchanges, over-the-counter exchanges and dark pools;
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183. There are thousands of investors that could be members of the putative Class and that are likely located throughout the world;
184. In this context, it would be impracticable for each member of the Class to bring a separate action;

4) The Applicant who is requesting to be appointed as Representative Plaintiff, is in a position to properly represent the Class Members

185. The Applicant understands the requirements of time and dedication required of his role and is prepared to devote the required resources to carry forward this proposed class action on behalf of the Class;
186. The Applicant has the resources, knowledge, time and dedication required to act as the representative Applicant of the Class and to advance the case on behalf of the Class;
187. The Applicant purchased TRQ's securities during the Class Period, held them until after the Corrective Disclosures, and suffered a financial loss;
188. The Applicant has no conflict of interest with other Class Members and is represented by counsel that are experience at litigating shareholders' claims in class actions against multinational corporations that list their securities on multiple exchanges;
189. The Applicant has given the mandate to the undersigned attorneys to post the present matter on their firm website in order to keep the Class members informed of the progress of these proceedings and in order to more easily be contacted or consulted by said Class members;
190. The present Application is well founded in fact and in law;

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

GRANT the present Application;

AUTHORIZE the institution of a Class Action in the form of an originating application on behalf of the Class as described herein;

APPOINT the Plaintiff (...) H [REDACTED] D [REDACTED] as the Class Representative Plaintiff representing the Class as described herein;

IDENTIFY the principal issues of law and fact to be treated collectively as the following:

- a. did the Impugned Documents or Impugned Statements or Impugned Rio Documents/Statements, or any of them, contain one or more misrepresentations within the meaning of the QSA, and if necessary, the Equivalent Securities Acts? If so, what Impugned Documents and/or what Impugned Statements and/or what Impugned Rio Documents/Statements contained what misrepresentations?
-

- b. did TRQ fail to make timely disclosure of a material change pursuant to the QSA, and if necessary, the Equivalent Securities Acts?
- c. are any of the Respondents liable to the Applicant and the Class Members, or any of them, under Title VIII, Chapter II, Division II of the QSA and, if necessary, the concordant provisions of the Equivalent Securities Acts? If so, what Respondent is liable and to whom?
- d. did any of the Respondents owe a duty of diligence to the Applicant and the Class Members, or any of them, under the general private law of Quebec? If so, what Respondent owed a duty of diligence and to whom?
- e. if some or all of the Respondents owed a duty of diligence to the Applicant and the Class Members, or any of them, did any of the Respondents violate such duty of diligence and commit a fault under article 1457 of the CCQ? If so, what Respondent committed a fault and with respect to whom?
- f. what damages are sustained by the Applicant and the other Class Members?
- g. are any of the Respondents liable to the Applicant and the Class Members, or any of them for damages? If so, is that liability solidary and if not, which Respondent is liable and for what amount? and
- h. is TRQ and/or Rio Tinto vicariously liable for the actions of Rio Tinto International Holdings Limited and/or the Individual Respondents?
- i. did Rio Tinto, Rio Tinto International Holdings Limited knowingly influence TRQ to make misrepresentations or fail to make timely disclosure?

IDENTIFY the conclusions sought by the action to be instituted as being the following:

GRANT this class action on behalf of the Applicant and the Class;

GRANT the Applicant and the Class' claim for damages against the Respondents in respect of the rights of action asserted against the Respondents under Title VIII, Chapter II, Divisions II of the QSA (and if necessary, the concordant provisions of the Equivalent Securities Acts) and article 1457 of the CCQ;

CONDEMN the Respondents to solidarily pay to the Applicant and the Class compensatory damages for all monetary losses;

ORDER collective recovery in accordance with articles 595 to 598 of the *Code of Civil Procedure*;

THE WHOLE with interest and additional indemnity provided for in the *Civil Code of Québec* and with full costs and expenses, including expert fees, notice fees and fees relating to administering the plan of distribution of the recovery in this action;

AUTHORIZE these class action proceedings under section 225.4 of the *Québec Securities Act*;

APPROVE the notice to the members of the Class in the form to be submitted to the Court;

ORDER the publication of the notice to the members of the Class no later than forty-five (45) days after the date of the Judgment authorizing the class proceedings in accordance with Article 579 *CCP*;

ORDER that the deadline for a member of the Class to exclude themselves from the Class action proceedings shall be sixty (60) days from the publication of the notice to the Class members;

DECLARE that all Class members who have not requested their exclusion from the Class in the prescribed delay to be bound by any Judgment to be rendered on the class action to be instituted;

THE WHOLE WITH COSTS including experts' fees and all costs related to the publication of the notices to Class Members and the *timbre judiciaire*.

MONTREAL, (...) September 10, 2025

Lex Group Inc.

Lex Group Inc.

Per: David Assor

Class Counsel / Attorneys for Plaintiff

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Westmount, (Québec), H3Z 1A7

Telephone: 514.451.5500 ext. 321

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And

TORONTO, (...) September 10, 2025

Hadi Davarinia

KND Complex Litigation

Per: Hadi Davarinia

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CANADA

Class Actions Division
SUPERIOR COURT

PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL
No.: 500-06-001113-204

H [REDACTED] **D** [REDACTED] (...),

Plaintiff

vs.

TURQUOISE HILL RESOURCES LTD., et al.

Defendants

PLAINTIFF'S RE-RE-RE-AMENDED LIST OF EXHIBITS

- Exhibit P-1:** TRQ news release released July 15, 2019 titled "Turquoise Hill announces second quarter 2019 production results and provides underground development update"
- Exhibit P-2:** TRQ Material Change Report released July 24, 2019
- Exhibit P-3:** TRQ interim financial statements released July 31, 2019
- Exhibit P-4:** TRQ MD&A released July 31, 2019
- Exhibit P-5:** TRQ news release released July 31, 2019 titled "Turquoise Hill announces financial results and review of operations for the second quarter of 2019"
- Exhibit P-6:** TRQ interim financial statements released July 31, 2018
- Exhibit P-7:** TRQ MD&A released July 31, 2018
- Exhibit P-8:** TRQ CEO Certification released July 31, 2018
- Exhibit P-9:** TRQ CFO Certification released July 31, 2018
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- Exhibit P-10:** TRQ news release released July 31, 2018 titled “Turquoise Hill announces financial results and review of operations for the second quarter of 2018”
- Exhibit P-11:** TRQ news release released October 15, 2018 titled “Turquoise Hill announced third quarter 2018 production and provides underground development update”
- Exhibit P-12:** TRQ interim financial statements released November 1, 2018
- Exhibit P-13:** TRQ MD&A released November 1, 2018
- Exhibit P-14:** TRQ CEO Certification released November 1, 2018
- Exhibit P-15:** TRQ CFO Certification released November 1, 2018
- Exhibit P-16:** TRQ news release released November 1, 2018 titled “Turquoise Hill announces financial results and review of operations for the third quarter of 2018”
- Exhibit P-17:** TRQ presentation released on or about November 2, 2018 titled “Turquoise Hill: A Compelling Value Proposition”
- Exhibit P-18:** TRQ news release released January 17, 2019 titled “Turquoise Hill announces fourth quarter 2018 production and 2019 operational guidance”
- Exhibit P-19:** TRQ presentation released on or about January 17, 2018 titled “A Leading Copper and Gold Producer, Developing the Next Tier-1 Copper Asset”
- Exhibit P-20:** TRQ news release released February 27, 2019 titled “Turquoise Hill announces 2019 financial guidance and provides underground development update”
- Exhibit P-21:** TRQ AIF released March 14, 2019
- Exhibit P-22:** TRQ annual audited financial statements released March 14, 2019
- Exhibit P-23:** TRQ MD&A released on March 14, 2019
- Exhibit P-24:** TRQ CEO Certification pursuant to 18 U.S.C. Section 1350 released March 15, 2019
- Exhibit P-25:** TRQ CEO Certification pursuant to the *Securities Exchange Act of 1934* released March 15, 2019
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- Exhibit P-26:** TRQ CFO Certification pursuant to 18 U.S.C. Section 1350 released March 15, 2019
- Exhibit P-27:** TRQ CFO Certification pursuant to the *Securities Exchange Act of 1934* released March 15, 2019
- Exhibit P-28:** TRQ news release released March 14, 2019 titled “Turquoise Hill announces financial results and review of operations for 2018”
- Exhibit P-29:** TRQ management information circular released March 14, 2019
- Exhibit P-30:** TRQ news release released April 15, 2019 titled “Turquoise Hill announces first quarter 2019 production and provides underground development update”
- Exhibit P-31:** Transcript of TRQ conference call conducted August 1, 2018
- Exhibit P-32:** Transcript of TRQ conference call conducted November 2, 2018
- Exhibit P-33:** Transcript of TRQ conference call conducted March 15, 2019
- Exhibit P-34:** TRQ Technical Report for Oyu Tolgoi released October 21, 2016
- Exhibit P-35:** *Financial Times* article titled “Rio Tinto whistleblower refers allegations to financial regulators”, dated March 23, 2020
- Exhibit P-36:** *Australian Financial Review* article titled “Ex-Rio Tinto manager says he warned of Oyu Tolgoi blowouts”, dated November 12, 2019
- Exhibit P-37:** *Financial Times* article titled “Rio Tinto in legal battle with former manager over giant copper mine”, dated February 16, 2020
- Exhibit P-38:** *Australian Financial Review* article titled “Rio Tinto settles with Oyu Tolgoi whistleblower”, dated September 29, 2020
- Exhibit P-39:** *Australian Financial Review* article titled “Rio Tinto board ignored report of ‘unethical behaviour’”, dated July 27, 2020
- Exhibit P-40:** *Financial Times* article titled “Rio Tinto executive coach reported ethical concerns to regulators”, dated November 10, 2020
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- Exhibit P-41:** Financing Support Agreement between TRQ and Rio Tinto dated December 15, 2015
- Exhibit P-42:** TRQ Material Change Report released December 18, 2015
- Exhibit P-43:** *Financial Times* article titled “US regulator examines Rio Tinto whistleblower claims over Oyu Tolgoi”, dated September 6, 2020
- Exhibit P-44:** *Whistleblower News Network* article titled “SEC Examining Whistleblower Complaint Regarding Rio Tinto’s \$6.8 Billion Copper Mining Project”, dated September 18, 2020
- Exhibit P-45:** TRQ news release released May 6, 2016 (but dated May 5, 2016) titled “Oyu Tolgoi notice to proceed and 2016 feasibility study approved”
- Exhibit P-46:** TRQ news release released January 22, 2018 titled “Oyu Tolgoi marks early development milestone with completion of Shaft 2 sinking”
- Exhibit P-47:** Open Letter from TRQ shareholder SailingStone Capital Partners filed with SEC, dated February 1, 2018
- Exhibit P-48:** TRQ news release released March 14, 2018 titled “Turquoise Hill Board of Directors issues letter to shareholders”
- Exhibit P-49:** TRQ news release released May 3, 2018 titled “Turquoise Hill Board of Directors provides update on shareholder correspondence”
- Exhibit P-50:** Rio Tinto presentation delivered by Arnaud Soirat, dated October 2018
- Exhibit P-51:** Rio Tinto 2018 Annual Report released February 27, 2019
- Exhibit P-52:** TRQ news release released July 2, 2020 titled “Turquoise Hill announces completion of 2020 Oyu Tolgoi Feasibility Study, updated Mineral Reserves and Mineral Resources, and an improved liquidity outlook”
- Exhibit P-53:** TRQ Technical Report for Oyu Tolgoi released August 28, 2020
- Exhibit P-54:** TRQ news release released September 10, 2020 titled “Turquoise Hill announces an update on funding discussions with Rio Tinto”
- Exhibit P-55:** TRQ news release released October 15, 2020 titled “Turquoise Hill announces third quarter 2020 production and provides updates on underground development, the definitive estimate and the liquidity outlook”
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- Exhibit P-56:** TRQ news release released November 4, 2020 titled “Turquoise Hill to commence arbitration to seek clarity with respect to financing”
- Exhibit P-57:** Open Letter from Rio Tinto shareholder & TRQ short-seller Odey Asset Management LLP, dated November 25, 2020
- Exhibit P-58:** Open Letter from TRQ shareholder SailingStone Capital Partners released November 30, 2020
- Exhibit P-59:** TRQ news release released December 1, 2020 titled “Turquoise Hill Supports Oyu Tolgoi’s Independent Review of Mine Cost Overruns and Schedule Delays”
- Exhibit P-60:** P██████ L██████ bank trading record for July 3, 2019 purchase
- Exhibit P-61:** *MINING.COM* article titled “Turquoise Hill CEO quits on Rio Tinto meddling”, dated March 4, 2021
- Exhibit P-62:** U.S. TRQ Defendants’ Memorandum of Law in Support of Their Motion to Dismiss the Amended Class Action Complaint, filed May 17, 2021
- Exhibit P-63:** Transcript of TRQ conference call conducted November 3, 2017
- Exhibit P-64:** *Australian Financial Review* article titled “Dirty dozen accuse Rio of covering up extent of Mongolian blowout”, dated March 25, 2021
- Exhibit P-65:** U.S. Amended Consolidated Complaint for Violations of Federal Securities Laws, filed March 17, 2021
- Exhibit P-66:** *Global Investigations Review* article titled “Rio Tinto and purported whistleblower settle employment dispute”, dated September 28, 2020
- Exhibit P-67:** TRQ MD&A released March 20, 2020
- Exhibit P-68:** TRQ news release released December 18, 2020 titled “Turquoise Hill announces Definitive Estimate”
- Exhibit P-69:** TRQ news release released January 11, 2021 titled “Turquoise Hill provides an update on the Tax Arbitration and discussions with the Government of Mongolia and Proposed Class Action”
- Exhibit P-70:** Projected Statement of Claim
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- Exhibit P-71** Declaration of Gregory F. Laufer in support of TRQ Defendants' Motion to Dismiss the Second Amended Complaint, executed on October 19, 2021
- Exhibit P-72** Independent Technical Review, Oyu Tolgoi Underground Expansion Project, dated July 31, 2021 (Exhibit 29 to Laufer Declaration)
- Exhibit P-73:** Peer Review of Independent Technical Review, Oyu Tolgoi Underground Expansion Project, dated July 28, 2021 (Exhibit 30 to Laufer Declaration)
- Exhibit P-74:** TRQ news release released August 9, 2021
- Exhibit P-75:** *Financial Times* article titled "Review casts doubt over Rio Tinto explanation of Oyu Tolgoi problems", dated August 9, 2021
- Exhibit P-76:** *Australian Financial Review* article titled "Oyu Tolgoi another Jacques scandal for Rio Tinto", dated August 9, 2021
- Exhibit P-77:** *MINING.COM* article titled "Turquoise Hill stock crushed after Oyu Tolgoi funding gap swells by \$1.2 billion", dated October 14, 2021
- Exhibit P-78:** TRQ Material Change Report released October 20, 2021
- Exhibit P-79:** *CNBC* article titled "Mongolia has concerns about Rio Tinto's management of a major copper mine, official says", dated October 18, 2021
- Exhibit P-80:** Report into Workplace Culture at Rio Tinto, released on or about February 1, 2022
- Exhibit P-81:** Declaration of Michael D. Blatchley in opposition to Defendants' Motions for Issuance of a Letter of Request pursuant to the Hague Convention on the taking of Evidence Abroad in Civil or Commercial Matters, dated March 18, 1970
- Exhibit P-82:** *Daily Mail* article titled "Rio Tinto boss Jakob Stausholm in tearful apology over bullying claims at the mining giant", dated August 9, 2023
- Exhibit P-83:** LinkedIn Post of Richard Bowley, approx. dated August 13, 2023
- Exhibit P-84:** Twitter Post of Richard Bowley, dated August 11, 2023
- Exhibit P-85:** Presentation titled "OT UG Project Status Update", dated November 2017
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- Exhibit P-86:** Oyu Tolgoi Hugo North Lift 1 Underground Project December 2017 Update, dated December 2017
- Exhibit P-87:** Oyu Tolgoi Underground Project Flash Report, dated April 2018
- Exhibit P-88:** Monthly Operations & Underground Development Report for Oyu Tolgoi LLC, dated May 2018
- Exhibit P-89:** Presentation titled “Oyu Tolgoi LLC Board Meeting No. 33”, dated June 6, 2018
- Exhibit P-90:** TRQ Chief Executive Report, dated May 31, 2018
- Exhibit P-91:** Oyu Tolgoi Underground Project Flash Report, dated June 2018
- Exhibit P-92:** Monthly Operations & Underground Development Report for Oyu Tolgoi LLC, dated June 2018
- Exhibit P-93:** Presentation titled “Oyu Tolgoi Underground Project Update”, dated July 2018
- Exhibit P-94:** Arnaud Soirat Interview with *MNB World*, dated August 15, 2018
- Exhibit P-95:** Presentation titled “Oyu Tolgoi LLC Board Meeting No. 34”, dated September 12, 2018
- Exhibit P-96:** Schedule and Capital Cost Risk Analysis Report by Broadleaf, dated September 2018
- Exhibit P-97:** Presentation titled “Delivering Superior Returns” at the Bernstein Pan European Strategic Decisions Conference, dated September 26, 2018
- Exhibit P-98:** Monthly Operations & Underground Development Report for Oyu Tolgoi LLC, dated September 2018
- Exhibit P-99:** TRQ Chief Executive Report, dated September 30, 2018
- Exhibit P-100:** Presentation titled “OT Underground Project TRQ FC2 Briefing”, dated October 9, 2018
- Exhibit P-101:** Rio Tinto News Release titled “Rio Tinto Releases Third Quarter Production Results”, dated October 16, 2018
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- Exhibit P-102:** Rio Tinto Operations Review for Third Quarter 2018, dated October 16, 2018
- Exhibit P-103:** Draft MD&A for Third Quarter 2018 provided by Oyu Tolgoi LLC (“OT LLC”) to TRQ, dated October 2018
- Exhibit P-104:** Presentation titled “Delivering Superior Returns” at the UBS Australasia Conference, dated November 12, 2018
- Exhibit P-105:** Monthly Operations & Underground Development Report for Oyu Tolgoi LLC, dated November 2018
- Exhibit P-106:** TRQ Chief Executive Report, dated December 31, 2018
- Exhibit P-107:** Monthly Operations & Underground Development Report for Oyu Tolgoi LLC, dated December 2018
- Exhibit P-108:** Rio Tinto Operations Review for Fourth Quarter 2018, dated January 18, 2019
- Exhibit P-109:** Draft Oyu Tolgoi Project FC2 Review by OreWin, dated February 2019
- Exhibit P-110:** Transcript of Rio Tinto Earnings Call for Fourth Quarter 2018
- Exhibit P-111:** Oyu Tolgoi Underground Project Flash Report, dated February 2019
- Exhibit P-112:** Final Oyu Tolgoi Project FC2 Review by OreWin, dated March 5, 2019
- Exhibit P-113:** Presentation titled “Oyu Tolgoi LLC Board Meeting No. 36”, dated March 6, 2019
- Exhibit P-114:** Monthly Operations & Underground Development Report for Oyu Tolgoi LLC, dated January 2019
- Exhibit P-115:** Presentation titled “Hugo North Lift 1 FC2 Update: Review Findings”, dated March 2019
- Exhibit P-116:** Monthly Management Report for Oyu Tolgoi Management, dated March 2019
- Exhibit P-117:** Monthly Operations & Underground Development Report for Oyu Tolgoi LLC, dated March 2019
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- Exhibit P-118:** Rio Tinto News Release titled “Rio Tinto Releases First Quarter Production Results”, dated April 16, 2019
- Exhibit P-119:** Rio Tinto Operations Review for First Quarter 2019, dated April 16, 2019
- Exhibit P-120:** TRQ Chief Executive Report, dated March 31, 2019
- Exhibit P-121:** Oyu Tolgoi Underground Project Flash Report, dated April 2019
- Exhibit P-122:** Presentation titled “Underground Project Update: Briefing to TRQ BoD”, dated May 2019
- Exhibit P-123:** TRQ’s Unaudited Interim Financial Statements for First Quarter 2019, dated March 31, 2019
- Exhibit P-124:** TRQ’s MD&A for First Quarter 2019, dated March 31, 2019
- Exhibit P-125:** TRQ’s Form 52-109F2 signed by Ulf Quellmann, dated May 15, 2019
- Exhibit P-126:** TRQ’s Form 52-109F2 signed by Luke Colton, dated May 15, 2019
- Exhibit P-127:** TRQ News Release titled “Turquoise Hill announces financial results and review of operations for the first quarter of 2019”, dated May 15, 2019
- Exhibit P-128:** Transcript of TRQ’s Earnings Call for First Quarter 2019
- Exhibit P-129:** Monthly Operations & Underground Development Report for Oyu Tolgoi LLC, dated April 2019
- Exhibit P-130:** Oyu Tolgoi Underground Project Flash Report, dated May 2019
- Exhibit P-131:** TRQ Chief Executive Report, dated April 30, 2019
- Exhibit P-132:** Presentation titled “Oyu Tolgoi LLC Board Meeting No. 37, Item #5.2: CDO UG Update”, dated June 12, 2019
- Exhibit P-133:** Presentation titled “Oyu Tolgoi LLC Board Meeting No. 37, Item #10: Geotechnical risks (Board action plan #6)”, dated June 12, 2019
- Exhibit P-134:** Monthly Operations & Underground Development Report for Oyu Tolgoi LLC, dated May 2019
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- Exhibit P-135:** *Australian Financial Review* article titled "How Rio Tinto dug itself a hold in Mongolia", dated July 8, 2019
- Exhibit P-136:** Monthly Operations & Underground Development Report for Oyu Tolgoi LLC, dated June 2019
- Exhibit P-137:** Oyu Tolgoi Underground Project Flash Report, dated June 2019
- Exhibit P-138:** Draft MD&A for Second Quarter 2019 provided by OT LLC to TRQ, dated July 2019
- Exhibit P-139:** *Disclosure and Communications Policy* of Rio Tinto, last updated December 18, 2019
- Exhibit P-140:** *Code of Business Conduct* of TRQ ("*The way we work*"), last updated January 2013
- Exhibit P-141:** *Code of Conduct* of Rio Tinto ("*The way we work*"), last updated February 2023.
- Exhibit P-142:** H  D  bank trading record and record of holdings Class Period TRQ purchases

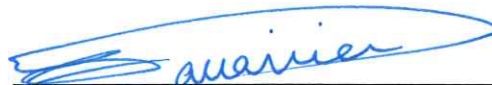
MONTREAL, (...) September 10, 2025



Lex Group Inc.
Per: David Assor

And

TORONTO, (...) September 10, 2025



KND Complex Litigation
Per: Hadi Davarinia

Class Counsel / Attorneys for Plaintiff

(Class Action Division)
SUPERIOR COURT

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

H [REDACTED] D [REDACTED]

Applicant

v.

TURQUOISE HILL RESOURCES LTD et al.

Respondents

**RE-RE-RE-AMENDED APPLICATION FOR
AUTHORIZATION TO INSTITUTE A CLASS
ACTION AND FOR AUTHORIZATION TO BRING
AN ACTION PURSUANT TO SECTION 225.4 OF
THE QUÉBEC SECURITIES ACT**

ORIGINAL

Me David Assor



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