

**ARBITRATION UNDER THE RULES OF THE
INTERNATIONAL CENTRE FOR SETTLEMENT OF
INVESTMENT DISPUTES**

ICSID CASE NO. ARB/20/46

LUPAKA GOLD CORP.

Claimant

VS.

REPUBLIC OF PERU

Respondent

**WITNESS STATEMENT OF
GORDON ELLIS**

1 October 2021

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1 INTRODUCTION

- 1 I, Gordon Ellis, provide this statement for the purpose of the arbitration proceedings between Lupaka Gold Corp. (“**Lupaka**”) and the Republic of Peru (“**Peru**”). I was born in Vancouver in 1947 and I am a Canadian citizen. My address is 1569 Dempsey Road, North Vancouver, British Columbia, Canada.
- 2 I co-founded Lupaka on 3 November 2000 (initially, the company was named ‘Kcrok Enterprises Ltd’, but we changed the name to Lupaka Gold Corp. on 4 May 2010). I have been a director of Lupaka since its incorporation and have served as Chairman of Lupaka’s the Board of Directors since January 2011. I have been Lupaka’s CEO and President since 31 July 2019, which is also a role I held from November 2000 to 31 December 2010 and from 14 October 2015 to 27 September 2017.
- 3 I provide this statement on behalf of Lupaka, a Canadian company with investments in the Invicta gold mine and surrounding concessions, located in the Huaura Province (“**Project**”), in connection with the arbitration proceedings between Lupaka and Peru.
- 4 In this statement I describe:
 - i) My professional background (**Section 2**);
 - ii) Lupaka’s investment in the Project (**Section 3**);
 - iii) Lupaka’s development of the Project (**Section 4**);
 - iv) Lupaka’s third-party finance agreement (**Section 5**);
 - v) Progress towards the production stage of the Project (**Section 6**);
 - vi) Parán representatives’ Invasions (**Section 7**); and
 - vii) How Parán officials and representatives’ Blockade caused Lupaka to lose its entire investment (**Section 8**).

2 PROFESSIONAL BACKGROUND

- 5 I graduated from the University of British Columbia, Canada in 1972 with a Bachelor of Science degree in geophysics. In 1974, I obtained a master's degree in business administration and international finance from the same university.
- 6 Since February 1984, I have been a member of the Professional Engineers and Geoscientists of British Columbia. I am also a Chartered Director of The Directors College, Canada, a member of the Canadian Institute of Mining and Metallurgy, a registered professional engineer in British Columbia, and a member of the Society for Exploration Geophysicists. I have over 50 years' experience in corporate management and resource development, and more than 30 years' experience in the gold mining sector.
- 7 My career in the mining industry began in the mid-1960s. I first started working on mine construction in the Endako and Granduc mines in remote parts of British Columbia. I began working in mining exploration in 1970; first with St. Joseph Phelps Dodge in Australia, and thereafter in the Canadian high Arctic, in Canada's Yukon and in the Northwest Territories with Canadian Superior Exploration.
- 8 From 1974 to 1978, I was part of the management team on two major resource assessment projects in Indonesia. During this time I also became a Registered Professional Economist.
- 9 From 1978 to 1989, I was one of the owners and the manager of a geophysical exploration consulting firm. We carried out geophysical and geochemical assessments of mining, oil and geothermal projects in areas ranging from North America to the Far East and Africa. During this time, I was involved directly in the examination of hundreds of mining projects in a wide range of environments.
- 10 Between 1979 to 1987, I partnered in and managed a mining exploration company. I visited and reviewed mine exploration sites of many kinds, participated in the management of five publicly traded junior mining companies simultaneously, and was involved directly in the development

of the Sonora open pit gold mine in California, USA. A senior mining company purchased Sonora and each of these five companies in 1987.

- 11 During the following years, I was the co-founder of two start-up non-mining enterprises. In 1989, I held the positions of Chairman, CEO and President of these publicly traded industrial companies. I directed their growth as they developed into steadily growing, profitable enterprises. One of these companies, Alternative Materials Technology, became a world leader in environmentally friendly water-based coatings for commercial applications and was purchased by a senior coatings company in 2003. The second company, Absorption Corp., also became a world leader in its industry and was purchased by a New York investment banking firm in 2010. Both organisations continued as segments of multi-billion-dollar enterprises.
- 12 In addition to my position as CEO and president of Lupaka, I am also currently a director and audit committee member of United States Commodity Funds LLC. I am also the managing partner of a number of ETF funds, including US Oil Fund, US Natural Gas Fund, US Gasoline Fund, which currently have over USD 4 billion under management. Since 2020, I have held the positions of director and chairman of the audit committee for Goldhaven Resources Corporation, a Canadian Junior exploration company with prospective gold projects located in the Maricunga Gold Belt, Chile and Newfoundland, Canada.

3 LUPAKA'S INVESTMENT IN THE PROJECT

- 13 In early 2012, Mr Eric Edwards, Lupaka's CEO and President at the time, identified the Project as a possible investment opportunity. The Project was owned by a company called Andean American Gold Corp. ("AAG"), and was located in the Huaura Province in Peru, approximately 120 kilometres north of Lima.
- 14 The Project consisted of a block of six mining concessions and a 1.2 kilometre mining tunnel (the "**Mine**"). The concessions were named

Victoria Uno,¹ Victoria Dos,² Victoria Tres,³ Victoria Cuatro,⁴ Victoria Siete⁵ and Invicta II,⁶ and covered a total of approximately 4,700 hectares.⁷ The Mine was located in the Victoria Uno concession.

- 15 AAG and previous owners of the Project had already confirmed the presence of extensive mineralisation in the Mine. For example, in July 2010, AAG had obtained a study on the resources present at the Project from SRK Consulting, a leading international mining consultancy firm (“**2010 Optimised Feasibility Study**”).⁸ The 2010 Optimised Feasibility Study confirmed extensive mineralisation and very high metallurgical recovery rates for gold and silver at the Project.⁹ The study also highlighted the likelihood that there was considerably more mineralisation throughout the Project than had been confirmed to date.¹⁰
- 16 Lupaka recognised that the Project was a significant asset that had excellent potential upside, but that it needed significant development before that potential could be realised. We were confident that we could design a mining plan and commercial strategy that would return significant profits on the Project.
- 17 We were also confident about investing in Peru because the country had a rare combination of a growing economy based on commodity exports and a stable federal government. Peru also had a long-standing body of law supporting mineral rights that supported mining companies to safely operate mines free from interference, an experienced mining contractor and labour force and tremendous exploration opportunities.

¹ Consolidated record of Victoria Uno concession (SPA), at **Exhibit C-28**.

² Consolidated record of Victoria Dos concession (SPA), at **Exhibit C-29**.

³ Consolidated record of Victoria Tres concession (SPA), at **Exhibit C-30**.

⁴ Consolidated record of Victoria Cuatro concession (SPA), at **Exhibit C-31**.

⁵ Consolidated record of Victoria Siete concession (SPA), at **Exhibit C-32**.

⁶ Consolidated record of Invicta II concession (SPA), at **Exhibit C-33**.

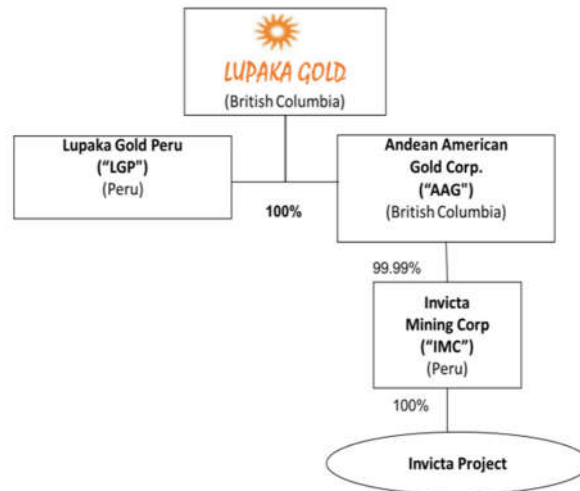
⁷ 2018 PEA, 13/04/2018, at **Exhibit C-34**, p. 1.

⁸ 2010 Optimised Feasibility Study, at **Exhibit C-35**.

⁹ 2010 Optimised Feasibility Study, at **Exhibit C-35**, p. 15 *et seq.*

¹⁰ 2010 Optimised Feasibility Study, at **Exhibit C-35**, p. 9.

- 18 Therefore, in 2012, we entered negotiations to acquire AAG and the Project. We concluded negotiations in July 2012 and acquired 100% of the shares in AAG on 1 October 2012.¹¹ AAG owned 99.99% of the shares in Invicta Mining Corp. (“IMC”). Under Peruvian law at that time, there had to be a minimum of two shareholders in IMC, so I acquired the remaining 0.01% of IMC. The ownership structure was as follows:



4 LUPAKA’S DEVELOPMENT OF THE PROJECT

- 19 In 2012, shortly after we acquired the Project, I visited the Mine several times. I was struck by the extent of visible mineralisation in the Mine. There were 20-30 metres of mineralisation visible to the naked eye, which is unusual. This mineralisation appeared to be of a high grade and was accessible.
- 20 During my visits to the Mine, Mr Edwards and I agreed that IMC should investigate the economic viability of initially commencing exploitation at a lower tonnes per day (“t/d”) production rate on the already exposed, high-grade mineralisation. We thought that this strategy would allow us to generate some initial revenue without significant capital expenditure. This, in turn, would have allowed us to use the revenue generated to continue exploration, expand defined mineralisation and increase the production rate.

¹¹ Lupaka, Share certificate for AAG, 01/10/2012, at **Exhibit C-36**.

- 21 We needed to expand our team to progress the Project. In early 2013, Mr Edwards appointed Mr Julio Félix Castañeda Mondragón as General Manager of IMC. Mr Castañeda was also the President of Lupaka Gold Peru, another subsidiary of Lupaka. Mr Castañeda was a proven successful explorationist and had worked with several mining and exploration companies throughout South America, including Buenaventura and Hochschild. Mr Castañeda was based in IMC's office in Lima but visited the Project regularly.
- 22 The Project was located on land that belonged to the Rural Community of Santo Domingo de Apache ("**Santo Domingo Community**") and the Rural Community of Lacsanga ("**Lacsanga Community**"). The Project also borders the land of the Rural Community of Parán ("**Parán Community**") (together, the "**Rural Communities**"). Mr Castañeda hired a community relations team ("**CR Team**") to help manage IMC's relationship with these Rural Communities.
- 23 Local engagement is important for rural mining projects. This is particularly true in South America, where face-to-face business relationships are the best way to establish trust and cooperation. Lupaka's management therefore made a considerable effort to engage with the Rural Communities, to listen to their concerns, and to be as transparent as possible about the activities at the Project. I was not directly involved in IMC's and Lupaka's relationships with the Rural Communities, although as Chairman of Lupaka's Board, I received updates from Mr Castañeda and Mr Edwards on this and other issues.
- 24 As well as engagement with the Rural Communities, throughout 2012 to 2015, IMC's and Lupaka's management teams concentrated on developing the Project, including:
- i) mapping the Project to locate the mineralisation;
 - ii) identifying processing plant options;
 - iii) finding co-investors to help back the development of the Project;
 - iv) upgrading the access road and logistics; and
 - v) putting in place all the regulatory approvals needed to initiate Mine development.

- 25 IMC made good progress in this respect. For example, on 22 January 2014, IMC obtained a Conceptual Study from SRK.¹² This study calculated that the optimum mining rate was 1,040 t/d, but that this would require a capital expenditure in excess of USD 100 million. However, this cost could have been reduced significantly if IMC were able to find a third-party processing plant to process the Mine's ore. Therefore, we continued to investigate toll processing plant options, including the possibility of purchasing a plant. Mr Castañeda details the investigations IMC made into toll processing plants in his witness statement, which I have read and fully agree with.¹³
- 26 On 14 October 2015, Mr Edwards stepped down to pursue other opportunities. I stepped in as CEO and President of Lupaka in his place. We continued to push forward with the Project. On 14 November 2012, IMC obtained a two-year extension to initiate development activities - *i.e.* from 28 December 2012 to 29 December 2014 - from the Peruvian Ministry of Energy and Mines ("**MEM**").¹⁴ On 11 December 2014, IMC also obtained approval from the MEM for its revised mining plan.¹⁵
- 27 In 2014, IMC had identified the Mally Processing Plant ("**Mally**") as a prospective acquisition opportunity. Mally was in the La Oyón region of Peru, approximately 100 kilometres from the Project,¹⁶ and was owned by Compañía de Minas Buenaventura S.A.A. ("**Buenaventura**"). We were very interested in acquiring Mally because it had the capability to process the Project's ore at 600 t/d, was closer to the Project than other processing plants (which meant reduced transportation costs) and did not require significant capital expenditure to optimise its processing efficacy.
- 28 Throughout 2015, we negotiated with Buenaventura for the purchase of Mally. However, Buenaventura was not yet willing to sell the Mally

¹² SRK, Conceptual Study Invicta Project: 300 tpd Option, 03/02/2014, at **Exhibit C-37**.

¹³ Witness Statement of Julio F. Castañeda, 01/10/2021, p. 26 *et seq.* (Section 6).

¹⁴ MEM Report and Resolution approving an extension to initiate development activities (SPA), 14/11/2012, at **Exhibit C-8 (corrected translation)**, p. 3.

¹⁵ MEM Report and Resolution approving the Mining Plan (SPA), 11/12/2014, at **Exhibit C-9 (corrected translation)**.

¹⁶ Aminpro, Due Diligence Report for Lupaka, Project, 25/11/2014, at **Exhibit C-38**, p. 6 (para. 2.1).

processing plant without also selling the associated mine that was a part of Buenaventura's overall operations. Buenaventura believed that its mine had several years of profitable life left. Therefore, the price Buenaventura wanted for the entire operation was more than we were willing to pay. As a result, negotiations with Buenaventura did not progress significantly for the time being.

- 29 However, we did make significant progress on other fronts. On 16 March 2015, IMC were successful in obtaining a permit for the use and storage of explosives from the *Superintendencia Nacional de Control de Servicios de Seguridad, Armas, Municiones y Explosivos de Uso Civil*.¹⁷ This was an important step because the storage and use of explosives is heavily regulated in Peru due to the country's history of civil unrest. IMC also obtained approval from the MEM for its updated Environmental Impact Assessment and concomitant technical report on 9 April 2015.¹⁸
- 30 Throughout 2015 to 2017, Mr Castañeda and his CR Team continued to progress negotiations with the Rural Communities. On 31 March 2015, IMC's CR Team secured a settlement agreement with the Lacsanga Community,¹⁹ and on 18 July 2017, IMC executed a surface agreement with the Lacsanga Community.²⁰

5 LUPAKA'S THIRD PARTY FINANCE AGREEMENT

- 31 Throughout 2015 and 2016, we were looking for investment partners to help fund the next stage of the Project. It was a tough market for junior mining companies at that time. The consultancy firm, Red Cloud, who we had consulted with previously in relation to the Project, introduced me to a private investment firm called Pandion Mine Finance LLC ("**Pandion**").

¹⁷ Global Authorisation issued to IMC for Acquisition and Use of Explosives and Related Materials (SPA), 16/03/2015, at **Exhibit C-39**.

¹⁸ MEM Report and Resolution approving ITS No. 1 (SPA), 09/04/2015, at **Exhibit C-40**; Asesores y Consultores Mineros S.A., Project Mining Plan for IMC, 2014 (SPA), at **Exhibit C-41**.

¹⁹ Agreement between IMC and the Lacsanga Community (SPA), 31/03/2015, at **Exhibit C-42**.

²⁰ 2017 Lacsanga Agreement (SPA), 18/07/2017, at **Exhibit C-43**.

Pandion specialises in providing funding solutions for mining companies in the precious metals sector.

- 32 Pandion was interested in investing in Lupaka and the Project. Following Pandion's extensive due diligence, it created a specially incorporated Canadian investment vehicle called PLI Huaura Holdings LP ("PLI"). On 30 June 2016, Lupaka and PLI executed a definitive Pre-Paid Forward Gold Purchase Agreement (as amended) ("**PPF Agreement**").²¹
- 33 The PPF Agreement provided that Lupaka would receive gross proceeds of USD 7 million, payable in three tranches of USD 2.5 million, USD 2 million and USD 2.5 million, in exchange for deliveries of gold.²² The PPF Agreement also anticipated negotiations on a future prepayment estimated to be USD 6-12 million, the proceeds of which would have been used to fund Lupaka's acquisition of Mally.²³
- 34 Lupaka had the right to buy out and terminate the PPF Agreement, but this would be subject to an early termination fee. We signed a security agreement in PLI's favour over Lupaka's assets on 4 August 2017.²⁴

6 PROGRESS TOWARDS THE PRODUCTION STAGE OF THE PROJECT

- 35 After securing the PPF Agreement, we pushed forward with the development of the Project. On 27 September 2017, we hired Mr Will Ansley to replace me as CEO and President of Lupaka (although I remained Chairman of Lupaka's Board). Mr Ansley had a strong background in executive leadership in the metals and mining industry, including managing the start-up of a number of mines.
- 36 Mr Ansley guided IMC closer towards production. On 30 November 2017, the MEM issued IMC a Mining Operations Certificate (or "*Certificado de*

²¹ PPF Agreement, 30/06/2016, at **Exhibit C-44**; Second Amended and Restated PPF Agreement, 02/08/2017, at **Exhibit C-45** and Amendment No. 2 to the Second Amended and Restated PPF Agreement, 06/02/2018, at **Exhibit C-46**.

²² PPF Agreement, 30/06/2016, at **Exhibit C-44**, p. 23 (Section 4).

²³ PPF Agreement, 30/06/2016, at **Exhibit C-44**, p. 18 (see "Second Tranche Prepayment").

²⁴ Security Agreement between Lupaka and PLI, 04/08/2017, at **Exhibit C-47**.

Operación Minera” in Spanish), which allowed IMC to use explosives in the development of the Mine.²⁵

- 37 On 13 April 2018, IMC obtained an additional preliminary economic assessment of the Project from SRK Consulting.²⁶ This report confirmed the findings of the 2012 SRK Report and concluded that the Project was of “considerable merit” and had “demonstrated positive PEA results considering the conceptual extraction of a portion of the reported mineral resource.”²⁷
- 38 In 2018, IMC hired senior management personnel to assist in bringing the Project to production. On 14 March 2018, we hired Mr Justo Arellano as IMC’s Mine manager, and on 1 August 2018, we hired Mr Daniel Kivari as IMC’s Director of Operations. In September of 2018, we hired additional members of the CR Team, including a community relations manager named Mr Jorge “Coco” Arevalo.
- 39 By September 2018, we had materially completed all required development works. In terms of regulatory steps, we needed only the MEM’s approval of an amendment to the mine closure plan (also known as the ‘mine reclamation plan’) and an associated guarantee; and the MEM’s final inspection of the completed development works.
- 40 We also reached an agreement with Buenaventura on the terms of IMC’s acquisition of Mally on 21 September 2018.²⁸ We were able to negotiate a reasonable price of USD 10.4 million, plus VAT (approximately USD 12.2 million in total) for Mally, and had Board approval to make the purchase.²⁹

²⁵ MEM, IMC mining operations certificate (SPA), 30/11/2017, at **Exhibit C-10**.

²⁶ 2018 PEA, 13/04/2018, at **Exhibit C-34**, p. x *et seq.*

²⁷ 2018 PEA, 13/04/2018, at **Exhibit C-34**, p. xi.

²⁸ Draft Mally Purchase Agreement between Buenaventura and IMC, 21/09/2018, at **Exhibit C-48**.

²⁹ Draft Mally Purchase Agreement between Buenaventura and IMC, 21/09/2018, at **Exhibit C-48**, p. 7 (Clause Fourth).

7 PARÁN'S REPRESENTATIVES' INVASIONS

- 41 On 19 June 2018, IMC reported that Parán's President, Prosecutor, Secretary and Treasurer had led a raid on the Project at 4 am that morning with approximately 350-400 Community members, some of whom were armed.³⁰ Parán's representatives held hostage and assaulted several members of the IMC team, damaged IMC's facilities and property, and threatened IMC's personnel (the "**June 2018 Invasion**"). IMC had to suspend its operations during the June 2018 Invasion, which I was told lasted until the afternoon that day.
- 42 I received updates on the June 2018 Invasion from Mr Ansley throughout that day. [REDACTED]
- 43 Following the June 2018 Invasion, our CR Team made significant efforts to resolve the tensions between IMC and the Parán Community. However, on 14 October 2018, I was informed that Parán's Vice-President and approximately 100 community members had again invaded the Project (the "**Blockade**"). On this occasion, Parán officials and representatives set up a permanent Blockade on the Lacsanga Community's road which prevented IMC from gaining access the Mine.
- 44 As a result of Parán officials' Blockade of the Mine, we were forced to suspend operations entirely. This was highly problematic as it meant we could not service the PPF Agreement because we could not mine, process or sell any gold or other minerals.
- 45 Between June 2018 to July 2019, our team in Peru sought help - via letters, emails, telephone calls and meetings - from the local and national police authorities, the MEM, the Ministry of Internal Affairs and other Peruvian central government officials, including the prosecutor. [REDACTED]

³⁰ Internal Lupaka email, 19/06/2018, at **Exhibit C-49**.

██████████ I was kept abreast of these developments as they were happening.

- 46 It was relayed to me that during initial meetings with Parán officials and representatives, they insisted that they would not stop the Blockade unless and until IMC agreed to withdraw all the criminal complaints that it had lodged against some of Parán's leaders and representatives in relation to the June 2018 Invasion. However, we were unable, legally, to withdraw these complaints, but we also felt morally precluded from doing so. ██████████
██████████ during the June 2018 Invasion, Parán officials and representatives had held hostage and assaulted several members of the IMC team. They also damaged the Mine camp and stole equipment. Therefore, even if it had been legally possible to do so (which it was not), we would have set a dangerous precedent and endangered the safety of our staff if we had agreed to the Parán officials' demands.
- 47 By November 2018, Parán officials' Blockade continued to block our access to the Project. Unfortunately, I believe that Parán's leaders were emboldened by the fact that there did not seem to be any legal consequences to their illegal actions. We could not advance the Project any further, and therefore could not generate revenue. Unfortunately, this meant that we had to ask the majority of our employees to take unpaid leave or terminate their contracts.
- 48 When Parán officials and representatives first installed the Blockade, we had been prepared to reach a negotiated agreement with them. Indeed, this was the approach that the local and central authorities requested. However, despite many months of subsequent requests to the local and central Peruvian authorities, they took no action and Parán officials' Blockade remained in place. ██████████
██████████
- 49 To this day, I understand that the Parán officials retain control of the Project. Further, I understand from my connections in the Peruvian mining sector that the Parán officials and representatives are operating the Mine and selling the minerals. ██████████
██████████

8 PARÁN'S BLOCKADE CAUSED LUPAKA TO LOSE ITS ENTIRE INVESTMENT

- 50 Prior to Parán officials and representatives' Blockade, relations with PLI had been good. On 2 August 2017, we had secured an increase to the PPF Agreement,³¹ and on 6 February 2018, we also negotiated Amendment No. 2 to the Second Amended and Restated Pre-Paid Forward Gold Purchase Agreement.³²
- 51 As noted, by the end of September 2018, we had agreed the terms of a deal with Buenaventura for the purchase of Malla. We had also managed to agree on the terms of a draft Amendment No. 3 to the PPF Agreement ("**Draft Amendment No. 3**")³³ with PLI for the release of additional funds to purchase Malla. This would have allowed us to increase production from around 350 t/d to around 600 t/d, and thus to increase profits significantly.
- 52 Lupaka's Board of Directors approved Draft Amendment No. 3 and the acquisition of Malla on 27 September 2018.³⁴ We planned to sign the contract on 15 October 2018 and make a market announcement of the Malla transaction on 16 October 2018 before markets opened.³⁵ However, Parán officials and representatives' Blockade occurred on 14 October 2018, just before we executed Draft Amendment No. 3.
- 53 Understandably, PLI did not wish to execute Draft Amendment No. 3 while the Blockade remained in place. Initially, this was not a major cause for concern because we were confident that the Peruvian authorities would remove the Blockade. Unfortunately, Peru did not evict the Parán representatives from our Project.

³¹ Second Amended and Restated PPF Agreement, 02/08/2017, at **Exhibit C-45**.

³² Amendment No. 2 to the Second Amended and Restated PPF Agreement, 06/02/2018, at **Exhibit C-46**.

³³ Draft Amendment and Waiver No. 3 to the Second Amended and Restated PPF Agreement, 26/09/2018, at **Exhibit C-50**.

³⁴ Lupaka, Board Meeting Minutes, 27/09/2018, at **Exhibit C-51**, p. 3 *et seq.*

³⁵ Lupaka, Board Meeting Minutes, 27/09/2018, at **Exhibit C-51**, p. 3 *et seq.*

- 54 Since we were prevented from accessing the Project, we were unable to mine any ore.³⁶ Consequently, we were also unable to deliver gold in accordance with our obligations under the PPF Agreement. This resulted in Lupaka defaulting on the loan conditions of the PPF Agreement.
- 55 On 1 July 2019, Pandion informed us that it had sold its interest in PLI to Lonely Mountain Resources SAC (“**Lonely Mountain**”) (a Peruvian consortium).³⁷
- 56 On 2 July 2019 we received notice that Lonely Mountain had filed a ‘Notice of Acceleration’, declaring default under the PPF Agreement and claiming USD 15,581,654 as the ‘Early Termination Amount’.³⁸ Due to Parán officials’ illegal Blockade of Lupaka’s Mine, we had been unable to meet the scheduled repayment terms of the PLI Loan Agreement. We tried to negotiate with Lonely Mountain but were unsuccessful in convincing them to grant us more time to pay.
- 57 On 24 July 2019, PLI filed an action to seize ownership of IMC’s shares,³⁹ and on 26 August 2019 PLI foreclosed on and acquired all of IMC’s shares.⁴⁰
- 58 At this point, we considered that we had lost our entire investment in the Project and in Peru.

³⁶ Lupaka, Project Monthly Report, December 2018, at **Exhibit C-52**, p. 9.

³⁷ Email from Pandion to Lupaka, 01/07/2019, at **Exhibit C-53**.

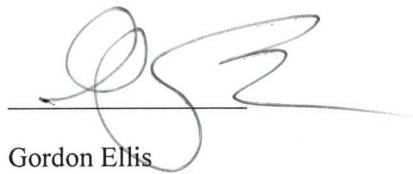
³⁸ PLI, Notice of Acceleration under PPF Agreement, 02/07/2019, at **Exhibit C-54**.

³⁹ PLI, Notices of enforcement of the Pledge over IMC’s shares (SPA), 24/07/2019, at **Exhibit C-55**.

⁴⁰ Letter from Servicios Conexos Notreg E.I.R.L. to IMC (SPA), 23/09/2019, at **Exhibit C-56**.

* * *

This witness statement has been drafted by me and by LALIVE, counsel for Lupaka, on the basis of discussions and exchanges of correspondence. I have carefully reviewed the statement and confirm that it correctly reflects my recollection of the facts described and my opinions. I am prepared to appear before the Arbitral Tribunal to confirm the content of this statement.



A handwritten signature in black ink, consisting of a large, stylized 'G' followed by a series of loops and a long horizontal stroke extending to the right.

Gordon Ellis

Signed on 1 October 2021 in Vancouver, Canada.