

Notice of Intent to Mexico
Pursuant to Chapter Eleven of the
North American Free Trade Agreement

August 11th, 2020

Via Electronic Mail and Hand Delivery

Honorable Andrés Manuel López Obrador

Presidente de los Estados Unidos de México

Av. Constituyentes 161, San Miguel Chapultepec II Secc, 11850 CDMX, México

Honorable Dr. Graciela Márquez Colín

Secretaría de Economía

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Honorable Dr. Luz María de la Mora Sánchez

Subsecretaría de Comercio Exterior

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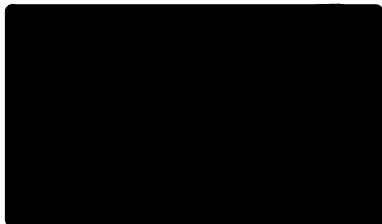
Secretaría de Economía

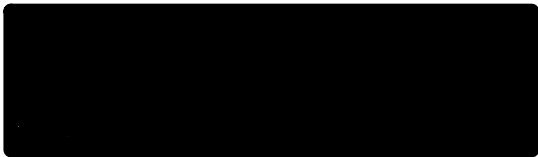
Av. De los Insurgentes Sur 1940, Colonia La Florida, CDMX, México

**Re: Notice of Intent to Submit Claims to Arbitration Pursuant to Chapter
Eleven of the North American Free Trade Agreement between the
United Mexican States, Canada, and the United States of America
(“Notice of Intent”)**

Dear Sirs and Mesdames:

Pursuant to Articles 1116, 1119, and 1120 of Chapter Eleven of the North American Free Trade Agreement between the United Mexican States (the “State” or “Mexico”), Canada, and the United States of America, signed on December 17th, 1992 and entered into force on January 1st, 1994 (the “Treaty”), Doups Holdings LLC, (“Doups Holdings” or the “Investor”), a Limited





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Liability Company incorporated under the laws of [REDACTED], United States of America, and a foreign investor in the State, provides the State with its Notice of Intent to submit to arbitration a claim against the State for breach of its obligations under the Treaty.

I. Name and Address of the Investor

1. Doups Holdings is an investor incorporated under the laws of [REDACTED], United States, and a foreign investor in the State. Doups Holdings' contact information is as follows:

Doups Holdings LLC



II. Legal Representative and Service of Documents

2. Doups Holdings is represented in this matter by [REDACTED]. Please direct all correspondence and communications related to this matter to [REDACTED] and/or [REDACTED], to the following address:



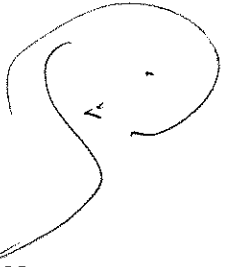
III. Service

3. This Notice of Intent is submitted to:

Honorable Andrés Manuel López Obrador
Presidente de los Estados Unidos de México
Av. Constituyentes 161, San Miguel Chapultepec II Secc, 11850, CDMX, México

Honorable Dr. Graciela Márquez Colín
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Subsecretaria de Comercio Exterior



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IV. Investment in the State

4. Doups Holdings has the following investment in the State, consisting of: (i) [REDACTED] of direct interest in Soluciones Pagomet CDMX; S. de R.L. de C.V. ("**Soluciones Pagomet**"), a company duly incorporated in Mexico; and (ii) the concession agreements identified as: **SEMOVI/CISCSCCEVPCDMX/0021/2018**¹ and **SEMOVI/CISCSCCEVPCDMX/0022/2018**², (the "**Concessions**") granted by Mexico City Mobility Secretary (*Secretaría de Movilidad*, commonly referred to as "**SEMOVI**" per its acronym in Spanish) to Soluciones Pagomet on March 2nd, 2018, to install, implement, manage and operate collection and control systems for parking on public areas (together the "**Investment**"³).

V. Breached Treaty Provisions

5. The State has breached its obligations under the following provisions of Chapter Eleven of the Treaty:
- Article 1102, National Treatment,
 - Article 1103, Most-Favored-Nation Treatment,
 - Article 1105, Minimum Standard of Treatment, and
 - Article 1110, Expropriation and Compensation.

VI. Factual Basis for the Claim

A. Jurisdiction

6. First, Article 1139 of the Treaty defines "*investor of a Party*" as a "*national or an enterprise of such Party, that seeks to make, is making or has made an investment*". In this regard, Doups

¹See Exhibit 1 (Concession SEMOVI/CISCSCCEVPCDMX/0021/2018 Agreement).

²See Exhibit 2 (Concession SEMOVI/CISCSCCEVPCDMX/0022/2018 Agreement).

³See Exhibit 3 for a general description of the economic rights granted in favor of the Investor in the Concessions.

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Holdings is a United States of America company that has made an investment in Mexico, and consequently an investor under the Treaty, bringing this claim on its own behalf, pursuant to Article 1116 of the Treaty.⁴

7. Second, pursuant to Article 1139 of the Treaty, “investment” means: “(a) an enterprise; (b) an equity security of an enterprise; (...) (e) an interest in an enterprise that entitles the owner to share in income or profits of the enterprise; (...) (g) real estate or other property, tangible or intangible, acquired in the expectation or used for the purpose of economic benefit or other business purposes; and (h) interests arising from the commitment of capital or other resources in the territory of a Party to participate in economic activity in such territory, such as under (i) contracts involving the presence of an investor’s property in the territory of the Party, including turnkey or construction contracts or concessions, or (ii) contracts where the remuneration depends substantially on the production, revenues or profits of an enterprise”. As a result of Doups Holdings’ [REDACTED] interest in Soluciones Pagomet and in the Concessions, Doups Holdings has an investment under Article 1139, sections (a), (b), (e), (g) and (h) of the Treaty.
8. Finally, the State has consented to submit this dispute to arbitration under Article 1122 of the Treaty.

B. Factual Background

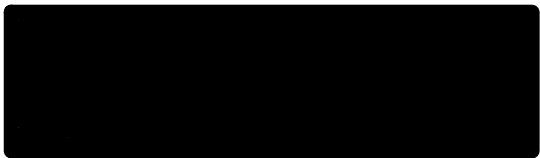
9. In order to comply and carry out with Mexico City’s *Mobility Policy*⁵, on November 30th, 2017, SEMOVI published in Mexico City’s Official Gazette the Declaration of Necessity to Implement Control, Supervision and Payment Systems for On-Street Vehicle Parking (Declaratoria de Necesidad para Implementar Sistemas de Control, Supervisión y Cobro de Estacionamiento de Vehículos en la Vía Pública)⁶ to perform the necessary operations to comply these activities, through the awarding of multiple concessions in accordance with the established requirements and per Mexico City’s regulations, applicable in 2017.
10. On March 2nd, 2018, Soluciones Pagomet was awarded the Concessions identified as **SEMOVI/CISCSCSEVPCDMX/0021/2018** and **SEMOVI/CISCSCSEVPCDMX/0022/2018** for the use, exploitation and development of public spaces to install, implement, manage and operate control and collection systems for vehicle parking on public streets in designated areas within Mexico City.

⁴ See Exhibit 4 (Doups Holdings LLC’s Certificate of Incorporation under the laws of [REDACTED] United States).

⁵ Including all of the actions, laws and programs carried out by the Mexico City government to strengthen the transportations and mobility system, in addition to (i) increasing the availability of parking spaces on public streets, (ii) reducing the time that citizens spend searching for a parking space, (iii) reduce the long-stay parking on public streets, (iv) eradicate illegal parking, (v) promote other means of transportation instead of private cars, (vi) improve the air quality, (vii) generate economic resources that can be used in mobility and transportation projects, urban infrastructure and regeneration of public areas, among others.

⁶ See Exhibit 5 (Declaration of Necessity to Implement Control, Supervision and Payment Systems for On-Street Vehicle Parking published on November 30th, 2017 in Mexico City’s Official Gazette).

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11. The Concessions were granted for an initial term of 10 (ten) years, which, pursuant the specific considerations of each Concession and applicable law, could be extended for two additional 10 (ten) year periods, providing that Soluciones Pagomet complied with its obligations under the Concessions.
 12. The Investor took all necessary actions to meet its obligations under the terms of the Concessions, to prepare the installation, operation and maintenance of parking meters, and consequently to be ready for the implementation of a mobile application for the abovementioned services, including successfully obtaining all required authorizations.
 13. Therefore, and considering Mexico's alleged enshrined protections for foreign investments, in order to fulfill its obligations under the Concessions, in 2018 the Investor developed the required technology and related software to install, operate and maintain multi space parking meters, as well as the configuration of an application, whereas users may pay for parking on public streets depending on the zone where the user is located. For such purposes, the Investor cemented strategic commercial alliances, executed agreements and made significant economic investments and/or assumed obligations with third parties, in order to comply with all of its obligations in accordance with the Concessions.
 14. Article 4, section IV, and Article 13, section III, of the "*Regulations for the Control of Parking on Mexico City's Public Streets*" (Regulación para el Control de Estacionamiento en Vía Pública de la Ciudad de México) states clearly that it is SEMOVI's responsibility to approve the specific location where each parking meter would be installed. Thus, Soluciones Pagomet submitted a proposal to SEMOVI, for the implementation and installation of the parking meters in the zones in Mexico City that it had been granted to begin its operations with the corresponding prior authorization issued by SEMOVI.
 15. While Soluciones Pagomet carried out all necessary actions to comply with its obligations under the terms of the Concessions and worked with and contracted third party experts for all the required technical studies, including completion and successful attainment of all corresponding requirements, SEMOVI and the government of Mexico City breached their obligations under the Concessions and the Treaty.
 16. Contrary to its obligations, SEMOVI did not expressly authorize Soluciones Pagomet's proposal for the implementation and installation of the parking meters, and according to Mexican Law, the legal interpretation of an absence of response from SEMOVI leads to the presumption that the request had been resolved in a negative manner⁷. Consequently, Soluciones Pagomet did not have the discretionary authority to determine the demarcation of each individual parking space, nor the location for the installation of each multi space parking

⁷ Article 89 of the "Administrative Procedure Law of Mexico City" (Ley de Procedimiento Administrativo de la Ciudad de México) provides that in the event the public authority responsible for issuing authorizations, licenses or permits, fails to respond the corresponding request within the legal timeframe, it is presumed that the request had been resolved in a negative sense.

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_____ meters, making it impossible to commence operating the Concessions. Therefore, Soluciones Pagomet had no choice but to cease its activities until SEMOVI's authorization was granted.

17. On January, 2019, Mexico City's Mobility Secretary, Mr. Andrés Lajous Loaeza and Mexico City's Mayor, Ms. Claudia Sheinbaum Pardo, held a press conference in which they presented a public document⁸ containing a list of 17 concessions granted on 2017 and 2018 in the public parking system of Mexico City, including Soluciones Pagomet's Concessions. However, in said conference Mexico City's Mobility Secretary, Mr. Andrés Lajous Loaeza and Mexico City's Mayor, Ms. Claudia Sheinbaum Pardo, declared that SEMOVI was not willing to accept the operation of such concessions. This declaration constitutes a violation of Soluciones Pagomet's due process of law, its right to be heard, and consequently, expropriates its rights and legitimate economic expectations under the Concessions. All the above, based on a political, yet illegal, motivation from both Mexico City's Mobility Secretary, Mr. Andrés Lajous Loaeza and Mexico City's Mayor, Ms. Claudia Sheinbaum Pardo⁹.
18. In addition to the above mentioned, on _____, Mexico City's Mobility Secretary, Mr. Andrés Lajous Loaeza convened a meeting with Soluciones Pagomet¹⁰. Said meeting was held on _____ in which Mexico City's Mobility Secretary, Mr. Andrés Lajous Loaeza, informed Soluciones Pagomet that SEMOVI was not willing to allow that the 17 concessions granted on 2017 and 2018 (including Soluciones Pagomet's Concessions) implement nor operate in Mexico City's public parking system, until said concessions were reviewed, reiterating the same declarations established on the conference held on January, 2019. Therefore, as a consequence of Mr. Andrés Lajous Loaeza's statements, Soluciones Pagomet was unable to commence with its operations pursuant to the Concessions until SEMOVI granted authorization. Later, without providing Soluciones Pagomet any notice of the existence of a procedure to review the Concessions, much less the ruling within this procedure, SEMOVI revoked the Concessions. This clearly constitutes a violation of Soluciones Pagomet's due process of law and its right to be heard, making it impossible for it to present evidence in order to justify its right to commence operations in accordance with the Concessions and/or to rectify any information SEMOVI deemed incorrect or incomplete; and, consequently, expropriated its rights and legitimate economic expectations under the Concessions instead.
19. On June _____ by means of a letter addressed to Mexico City's Mobility Secretary, Mr. Andrés Lajous Loaeza, Soluciones Pagomet stated the absence of a response from SEMOVI regarding its proposal for location of the parking spaces, and the locations for installing and situating the necessary parking meters in order to comply with the Concessions. Reiterating Soluciones Pagomet's request for the approval of the proposed locations related to the Concessions, considering that more than 12 (twelve) months had elapsed without SEMOVI's

⁸ See Exhibit 6 (Manual Histórico del Sistema de Parquímetros de la Ciudad de Mexico).

⁹ See Exhibit 7 (Press Release).

¹⁰ See Exhibit 8 (Writ addressed to Soluciones Pagomet).

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authorization of the necessary actions, emphasizing once again that without this authorization, Soluciones Pagomet was unable to operate¹¹.

20. On the same date (*i.e.* June 12th, 2019) and pursuant to the publication of a decree in Mexico City's Official Gazette entitled "*Decree adding Article 108 Bis to the Law on Patrimonial Regime and Public Service and reforming Article 209 of Mexico City's Law on Mobility*" dated May 20th, 2019, Soluciones Pagomet submitted before SEMOVI a brief stating that it had the required technology to comply with the requirements included in the aforementioned decree, and requested that SEMOVI provide indications about the procedure to associate the parking control systems with the Command, Control, Computer, Communications and Citizen Contact Center in Mexico City.¹²
21. Notwithstanding the new documents submitted before both Mexico City Mobility Secretary and SEMOVI, Soluciones Pagomet once again did not receive any response from SEMOVI and due to the lack of an express authorization from SEMOVI, was therefore unable to initiate operations under the terms of the Concessions.
22. The Investor incurred in several and very important costs having disbursed and made significant commitments of economic resources for an aggregated amount of \$ [REDACTED] MXN [REDACTED] MXN) to procure and develop the necessary technology including the mobile application, and arranged several financial commitments for the acquisition of parking meters, the installation of said equipment and their maintenance, as well as the acquisition of other necessary equipment and assets to comply with the terms of the Concessions.
23. Even though the Investor complied with all of its obligations, developed the required technology and arranged several financial commitments for equipment acquisition and the employment of human resources, and technical expertise to complete the installation of the parking meters in Mexico City's zones, SEMOVI and the government of Mexico City continued to breach their obligations under the Concessions and the Treaty.
24. On [REDACTED] Soluciones Pagomet was notified of the "*Administrative Procedures for Revocation of the Concessions*" identified as DGAI/SNC/PAR/036/SEMOVI/CISCSCEVPCDMX/0021/2018/2019¹³ and DGAI/SNC/PAR/037/SEMOVI/CISCSCEVPCDMX/0022/2018/2019¹⁴ in which SEMOVI initiated the process to revoke the rights granted to Soluciones Pagomet.

¹¹ See Exhibit 9 (Letter addressed to Andrés Lajous Loeza).

¹² See Exhibit 10 (Document presented to SEMOVI about the publication in Mexico City's Official Gazette).

¹³ See Exhibit 11 (Notification of the Administrative Procedure for Revocation of the Concession number DGAI/SNC/PAR/036/SEMOVI/CISCSCEVPCDMX/0021/2018/2019).

¹⁴ See Exhibit 12 (Notification of the Administrative Procedure for Revocation of the Concession number DGAI/SNC/PAR/037/SEMOVI/CISCSCEVPCDMX/0022/2018/2019).

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25. On [REDACTED], in response to the notifications, Soluciones Pagomet filed a document expressing its arguments regarding the illegality of the above-mentioned revocation processes. As Soluciones Pagomet indicated in its writ, the alleged reasons by SEMOVI to revoke the Concession, are SEMOVI's own responsibilities, since it was the Secretariat itself who made it impossible for Soluciones Pagomet to commence with its operations under the Concessions¹⁵.
26. Subsequently, SEMOVI summoned Soluciones Pagomet to present its corresponding evidence at a hearing held on [REDACTED]¹⁶.
27. On [REDACTED] Soluciones Pagomet's legal representative, appeared at the aforementioned hearing at SEMOVI's offices, to enforce its rights and to avoid the possibility of an improper revocation of the Concessions for the reasons and evidence communicated throughout this document¹⁷.
28. Notwithstanding all the above, on [REDACTED] SEMOVI announced the revocation of Soluciones Pagomet's rights as granted by the Concessions, ignoring all the above-mentioned evidence and arguments presented, thus breaching and violating the State's obligations under the Treaty¹⁸.

C. Basis for the Investor's Claim

29. **Minimum Standard of Treatment:** The State violated Article 1105 of the Treaty, which requires the State to treat investors fairly and equitably. The fair and equitable treatment standard contains the broadest substantive notions of good governance and the rule of law as expressed in terms of stability, transparency, and predictability. It also includes notions of protection of legitimate expectations, due process, freedom from discrimination, and freedom from coercion and harassment. The State violated Article 1105 through several discriminatory and arbitrary acts, which include:
- a. SEMOVI's failure to comply with its obligations to respond to the requested authorizations, which were necessary to allow Soluciones Pagomet to comply with its obligations. Consequently, Mexico frustrated the Investor's legitimate expectations to develop and operate the long-term Concessions and recover its Investments.
 - b. The State's failure to provide the Investor with due process of law, by the lack of motivation and foundation on the resolution that revoked the Concessions.

¹⁵ See Exhibit 13 (Soluciones Pagomet's response to the Administrative Procedure in SEMOVI).

¹⁶ See Exhibit 14 (Summons to the hearing).

¹⁷ See Exhibit 15 (Minutes of the hearings held at SEMOVI's offices).

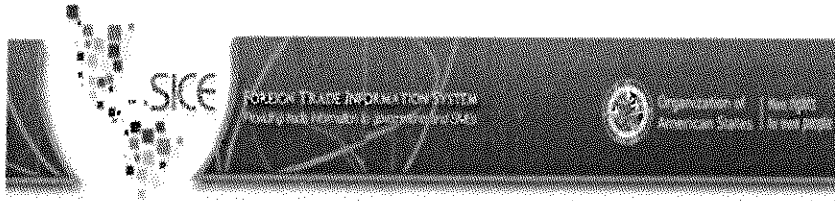
¹⁸ See Exhibit 16 (Revocations of the Concessions).



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30. **National Treatment and Most-Favored-Nation Treatment:** The State breached Articles 1102 (National Treatment) and 1103 (Most-Favored-Nation Treatment) by breaching its obligations to the Investor, an American national, by treating the Investor differently when compared to the State's nationals and to investors of other States.

31. **Expropriation and Compensation:** The State violated Article 1110 of the Treaty, by: a) expropriating the Investor's rights under the Concession without a just compensation, considering a fair market value of the expropriated rights and going concern value, as stated below, and b) not providing a due process of law when the revocation procedures were held.



Article 1110: Expropriation and Compensation

1. No Party may, either directly or indirectly, expropriate an investment of another Party in its territory or take a measure tantamount to expropriation or nationalization of such an investment ("expropriation"), except:

(a) for a public purpose;

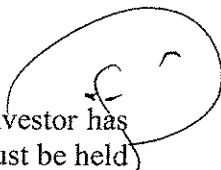
(b) on a non-discriminatory basis;

2. Compensation shall be equivalent to the fair market value of the expropriated investment immediately before the expropriation took place ("date of expropriation"), and shall not reflect any change in value occurring because the intended expropriation had become known earlier. Valuation criteria shall include going concern value, asset value including declared tax value of tangible property, and other criteria, as appropriate, to determine fair market value.

4. If payment is made in a lump sum, the valuation shall include any and all compensation that shall be due to the investor from the date of expropriation until the date of actual payment.

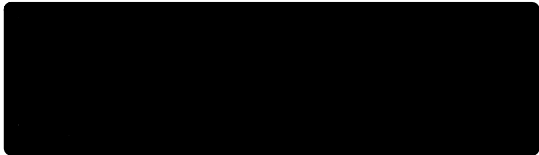
VII. Relief Sought and Damages Claimed

32. Given the State's evident and egregious violations of its Treaty obligations, the Investor has suffered and continues to incur significant financial damage for which the State must be held responsible. The Investor seeks full and fair market value compensation for the losses and other injuries suffered as a result of the State's breaches and will claim an amount of damages in excess of \$ [REDACTED] ([REDACTED] MXN), exclusive of interest, costs, and such other relief, as the arbitrators deem appropriate.



33. In addition to the above, the State's violations of the Treaty, causes to the Investor significant detriments and economic damages. Emphasizing that, due to all violations mentioned herein, the Investor will be deprived to receive the economic benefits granted in the Concessions, which were at all times, the Investor's motivation to invest and carry out business activities in the State.





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Conclusion

- 34. Notwithstanding the Investor's willingness to attempt to resolve the dispute, the Investor reserves all its rights and remedies. The Investor also reserves any other rights under Mexican law, the Concessions, or any other applicable agreements or instruments, including the right to seek compensation for any remaining damages that are not settled directly or through an international arbitration proceeding. Finally, the Investor reserves the right to amend and/or modify this Notice of Intent.

- 35. Nothing included herein is intended to prejudice or waive any rights or entitlements that the Investor or any other parties may have under the law, the Concessions, or any other applicable agreements, treaty or instruments.

Sincerely,

