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# BLOG

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## Montauk Metals Obtains Litigation Funding Against the Republic of Colombia and Withdrawal of Private Placement

(Toronto, Ontario, December 28, 2023) – Montauk Metals Inc. (TSX-V: MTK) (the “**Company**” or “**Montauk**”) is pleased to announce that it is been advanced US\$200,000 (the “**Loan Amount**”) pursuant to the loan and option agreement (the “**Loan Agreement**”) with Omni Bridgeway (Fund 5) Canada Investments Ltd. (“**Omni**”), as previously announced in its news release on November 9, 2023. The Loan Amount was advanced to the Company in connection with the execution of promissory note by Montauk in favour of Omni (the “**Note**”).

### **Background**

Montauk brought arbitration proceedings (the “**Arbitration**”) against the Republic of Colombia (“**Colombia**”) to enforce the Company’s rights to compensation under the Canada-Colombia Free Trade Agreement (the “**FTA**”), as previously described in its news releases of March 27, 2018, February 25, 2019, February 10, 2020, November 23, 2021, September 1, 2023, October 5, 2023 and November 9, 2023 and subject to certain conditions and approvals as noted below.

Montauk contends that Colombia breached its obligations owed to the Company, including specific obligations under the FTA. The claims include Colombia's refusal or failure to compensate the Company for the losses with respect to the Company's Reina de Oro project incurred as a consequence of Colombia's prohibition of mining in the páramos (high altitude eco-systems). On March 21, 2018, Montauk filed a Request for Arbitration against the Republic of Colombia before the International Centre for Settlement of Investment Disputes ("**ICSID**").

The Arbitration is being conducted in two phases. Phase One will determine whether the ICSID Tribunal adjudicating Montauk's claims (the "**Tribunal**") under the FTA has jurisdiction over this case and whether Colombia has breached its obligations under the FTA and is liable for compensation to the Company. Assuming that ICSID decides in favour of Montauk in Phase 1 (the "**Phase 1 Decision**"), Phase 2 of the arbitration ("**Phase 2**") will involve determining the quantum of damages awarded to Montauk to compensate it for losses incurred.

The Company must make a payment of US\$200,000 to ICSID (the "**ICSID Payment**") before a ruling on Phase 1 is rendered. The Company has advanced the Loan Amount to ICSID to satisfy the ICSID Payment and expects for this to result in the issuance of a decision on jurisdiction and liability. The ICSID payment was originally required to be paid on or before November 9, 2023 (the "**Payment Deadline**"), however the Company advised ICSID that the Agreements (as defined below) were subject to the approval of shareholders at a meeting of shareholders to be held on December 14, 2023 (the "**Meeting**"), and accordingly ICSID indicated that they would extend the Payment Deadline until after the shareholders vote to approve the Agreements at the Meeting. Shareholders of the Company approved the Agreements at the Meeting.

### **Litigation Funding**

The Loan Agreement grants Omni the option, exercisable in the sole discretion of Omni (the "**Phase 2 Election**") to provide litigation funding to the Company pursuant to an arbitration funding agreement (the "**AFA**", and together with the Loan Agreement, the "**Agreements**"). The Company, Omni and Lenczner Slaght LLP entered into the AFA, which, should Omni exercise the Phase 2 Election, provides Montauk an initial funding amount of up to US\$2,325,000 (the "**Non-Recourse Funding Amount**") subject to certain conditions. The Non-Recourse Funding Amount will be used to fund Phase 2 and may be increased in certain circumstances as may be agreed upon between the Corporation and Omni.

If Omni elects to provide the Non-Recourse Funding Amount for Phase 2 and the enforcement of any award obtained by the Company in the Arbitration, the Loan Amount and interest shall be repaid through proceeds recovered in the Arbitration (and in the event there are no proceeds recovered in the Arbitration, such amount inclusive of such interest shall be payable by the Company at the conclusion of the Arbitration). Please see the Company's press release issued on November 9, 2023 and management information circular dated November 9, 2023 for further information on the Agreements.

Omni's return on the Non-Recourse Funding Amount (the "**Omni Return**") will be limited solely to recovery from the amount of money for which the Arbitration is settled, or for which a final, non-appealable award is given in favour of the Corporation (the "**Litigation Proceeds**"). The Omni Return shall be an amount calculated as the sum of (i) a multiple of the amounts actually incurred of the Non-Recourse Litigation Funding Amount and (ii) a percentage of the gross recovery proceeds, both calculated when the recovery proceeds are received, as set out in the table below:

Months	Multiple	Percentage
0-12	2.0x	12%
12-24	3.0x	14%
24+	3.5x	16%

For any resolution that occurs on or after thirty-six (36) months from the date Omni makes a positive Phase 2 Election, Omni's Return shall bear interest at the rate of twelve percent (12%) per annum, accruing and compounding on a monthly basis.

The Litigation Proceeds, if received, will be disbursed in the following order of priority: (a) Omni shall be reimbursed the Recourse Loan and the amounts actually incurred of the Non-Recourse Funding Amount; (b) Omni shall be paid the Omni Return and legal counsel shall be paid their legal fees; and (c) the balance shall be paid to the Corporation.

In connection with the Loan Agreement, Note and LFA, the Company has agreed to grant Omni a continuing first priority security interest over any and all assets of the Company (whether presently held or acquired after the date hereof), including the Company's interest in any Litigation Proceeds.

The Company cannot guarantee that it will be successful at the Arbitration, or that the estimated amounts disclosed herein will not be revised as the Arbitration proceeds. The Company also cannot guarantee that it will be able to recover all or part of its legal and

arbitration costs from Colombia even if it is successful at the Arbitration. Management of the Company will continue to provide updates on material developments of the status of the Arbitration.

### **Private Placement Withdrawal**

Due to securing the foregoing funding, the Company will not be proceeding with the proposed private placement that was previously announced by the Company on October 5, 2023.

**RISK DISCLOSURE STATEMENT:** At the present time, the Company's payment obligations are substantially in excess of its cash balances and it has no other assets. The Company is not solvent and cannot continue as a going concern. Trading in shares of the Company and any investment in the Company is highly speculative. No trading in securities of the Company or investment should be made without being able to lose the entire amount of such funds. See below, "Cautionary Note Regarding Forward-Looking Statements". Investors are advised to seek professional advice before making any decision to trade in or invest in the securities of the Company.

### **Montauk Metals Inc.**

Mari Doren

VP Administration

775-748-5221

mdoren@montaukmetalsinc.com

www.galwaygoldinc.com

**Cautionary Note Regarding Forward-Looking Statements:** *This News Release includes certain "forward-looking statements" which are not comprised of historical facts. Forward-looking statements include estimates and statements that describe Montauk's future plans, objectives or goals, including words to the effect that Montauk or management expects a stated condition or result to occur. Forward-looking statements may be identified by such terms as "believes", "anticipates", "expects", "estimates", "may", "could", "would", "will", or "plan". Since forward-looking statements are based on assumptions and address future events and conditions, by their very nature they involve inherent risks and uncertainties. Although these statements are based on information currently available to Montauk, Montauk provides no assurance that actual results will meet management's expectations. Risks, uncertainties and other factors involved with forward-looking information could cause actual events, results, performance, prospects and opportunities to differ materially from those*