IN THE MATTER OF
AN ARBITRATION UNDER THE RULES OF THE
UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW

THE RENCO GROUP, INC.

CLAIMANT,

v.

THE REPUBLIC OF PERU

RESPONDENT

CLAIMANT'S NOTICE OF ARBITRATION AND STATEMENT OF CLAIM

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1. Pursuant to Article 10.16 of the United States-Peru Trade Promotion Agreement that was signed on April 12, 2006 and entered into force on February 1, 2009 (the "Treaty")[1], the Renco Group, Inc. ("Renco" or the "Claimant") submits this Notice of Arbitration and Statement of Claim against the Republic of Peru ("Peru" or the "State") for claims arising out of Renco's investment in the La Oroya Metallurgical Complex (the "Complex").

2. This dispute arises from Peru's violations of the Treaty and international law, including Peru's (i) unfair and inequitable act of imposing additional environmental obligations upon Renco's investment in Doe Run Peru S.R. LTDA ("DRP") while simultaneously failing to grant DRP extensions of time to complete environmental projects, (ii) denial of justice due to the Peruvian judiciary's failure to nullify a facially-absurd credit by the Ministry of Energy and Mines ("MEM") in DRP's bankruptcy, and (iii) an indirect expropriation of Renco's investment in DRP by using MEM's improper credit to prevent DRP's restructuring and force its liquidation.

I. Parties

3. Renco has its principal place of business at One Rockefeller Plaza, 29th Floor, New York, NY 10020. Its telephone number is 212-541-6000, and its facsimile number is 212-541-6197. Renco is a legal entity organized under the laws of New York, United States of America.

4. The Republic of Peru is the constituted *de jure* government of the people and territory of Peru. For purposes of disputes arising under the Treaty, notices and other documents must be served on Peru by delivery to:[2]

> Dirección General de Asuntos de Economía Internacional
> Competencia e Inversión Privada
> Ministerio de Economía y Finanzas
> Jirón Lampa 277, piso 5
> Lima
> Peru

[1] **Exhibit C-1**, United States-Peru Trade Promotion Agreement, signed on April 12, 2006, and entered into force on February 1, 2009 (the "Treaty").

[2] **Exhibit C-1**, Treaty at Article 10.27, Annex 10-C.

II. Preliminary Statement

5. Cerro de Pasco founded the La Oroya Mining Complex in 1922. Roughly fifty years later in 1974, the Peruvian government expropriated the Complex, and Centromin, a state-owned company, operated it until 1997. For over seven decades, Cerro de Pasco and Centromin operated the Complex with little focus on, or regard for, the environment. During that time, the Complex's operation contaminated the soil in and around the town of La Oroya with heavy metals, including lead. In 1997, the Complex and surrounding area was widely regarded as one of the most polluted areas on the planet.

6. To address these conditions, Peru decided to privatize the Complex and require the new private owner to install numerous and expensive upgrades to the Complex's various facilities. Yet no company would consider bidding on the Complex because of its environmental condition and the potential liability associated with those conditions. As a critical inducement to encourage bidders to consider purchasing the Complex, Centromin and Peru agreed to share responsibilities regarding these environmental conditions with an eventual purchaser.

7. DRP complied with its contractual obligations and made significant additional investments to improve conditions in the La Oroya community. Yet after DRP spent over US$ 300 million, completed almost all of the environmental projects that it had committed to do, and made significant additional investments to improve conditions in the La Oroya community, Peru imposed new environmental obligations on DRP, refused to grant DRP reasonable extensions to comply with those obligations, undermined DRP's ability to comply with those new obligations under the few extensions it did grant, and subjected Renco and DRP to a public, smear campaign intended to create the impression that DRP was remiss in its remediation obligations.

8. Peru's conduct placed DRP in a precarious financial condition and undermined DRP's ability to secure financing sufficient to operate the Complex. In June 2009, DRP was forced to cease all operations. Shortly thereafter, one of DRP's creditors placed it into involuntary bankruptcy. Peru then filed a large and frivolous claim in the bankruptcy. That credit caused Peru to become DRP's largest creditor, thereby enabling it to control DRP's fate. DRP challenged Peru's credit, which the Peruvian judiciary upheld in decisions filled with reasoning that is so unreasonable that these decisions fall below international minimum standards of due process.

9. Within the bankruptcy process, Peru abused its creditor position and voted down several of DRP's proposed restructuring plans. It then supported a vote by the creditors to liquidate DRP. As a result, Renco lost complete control of its investment and all of its investment's economic value.

III. Factual Background

A. For Nearly 20 Years from the Early 1970s to the Early 1990s, the Peruvian Government Operated One of the Most Polluted Smelter Sites in the World—La Oroya Complex

10. The La Oroya Complex is comprised of smelters, refineries, and related equipment that process poly-metallic minerals into copper, lead, zinc and other metals, including silver and gold. Smelters process concentrates to create pure ore by burning-off or separating out unwanted impurities. Controlling emissions of these impurities is always a challenge. But the composition of concentrates at the La Oroya Complex create particularly significant complications in terms of design, operation, and potential for environmental impacts because the process of isolating and refining the target metals creates substantial quantities of by-products that are harmful to the environment and human health.

11. From 1922 through the 1990s, Peru's mining sector operated with little or no regulatory oversight. Mining companies were not required to control their emissions nor were they required to remediate environmental impacts. During the more than seventy years that Cerro de Pasco and Centromin owned and operated the Complex, they caused significant environmental contamination in and around the town of La Oroya.

12. The Peruvian government publically recognized in the 1970s that the La Oroya Complex was one of the worst polluters in the country, but during the ensuing twenty years under Centromin's control, Centromin continued to contaminate the soil and waters in and around the town of La Oroya, with little or no environmental oversight or State regulation.

13. In 1994, Newsweek reported:

> Richard Kamp figured he had seen the worst wastelands the mining industry was able to create. But that was before the American environmentalist – a specialist on the U.S.-Mexican border area – laid eyes on La Oroya, home to Centromin, Peru's biggest state-owned mining company. Last month, as his car rattled toward the town

> through hills that once were green, Kamp fell silent. Dusted with a whitish powder, the barren hills looked like bleached skulls. Blackened slag lay in heaps on the roadsides. At La Oroya, Kamp found a dingy cluster of buildings under wheezing smelter smokestacks. Pipes poking out of the Mantaro River's banks sent raw waste cascading into the river below. 'This,' he said, 'is a vision from hell.'[3]

B. In the Early 1990s, Peru Sought to Privatize the La Oroya Complex; No One was Interested Because of the Environmental Liabilities

14. In 1994, as part of a larger policy initiative to privatize its mining industry, Peru attempted to sell Centromin to private investors. Twenty-eight international companies expressed initial interest, but none submitted a bid because of the liability associated with environmental contamination claims and because the facilities' complex operations and obsolete infrastructure made it too difficult to attempt to modernize.

15. Peru then considered closing the La Oroya Complex because of its environmental problems, but decided that the facilities needed to keep operating. The Complex was a major employer in the region and also provided health care and educational services to the local population. In addition, the Complex was the only facility in the region that could process complex poly-metallic concentrates produced at surrounding mines, meaning that those mines, which were also a crucial source of employment, would suffer serious economic difficulties if Peru closed the Complex.

16. Thus, Peru recognized that it needed to both remediate the Complex's historical impacts and modernize the Complex to reduce its ongoing impacts while at the same time preserving the economic viability of its operations.

C. Peru Issued a Second Bid this Time Agreeing to Assume Substantial Environmental Responsibilities and so Renco Purchased the La Oroya Complex

17. Given the obsolete condition of many of Peru's mining facilities, Peru enacted new environmental regulations that created a transitional regime for existing operations. During that phase, companies had to prepare a preliminary environmental study identifying issues and proposing a program of projects intended to reduce pollutants and bring the company into compliance with current standards. These programs were referred to as a "PAMA," which was an acronym of Programa de Adecuación y Manejo Ambiental. MEM would approve a PAMA,

[3] **Exhibit C-2**, Corinne Schmidt, *How Brown Was My Valley*, NEWSWEEK, April 18, 1994.

and a company performing PAMA projects would be deemed in compliance with environmental regulations.

18. In 1995, Centromin submitted to MEM both a preliminary environmental study and a proposed PAMA for the La Oroya Complex. The study highlighted a number of significant issues, including substantial lead, arsenic, and other heavy meatal contamination of nearby rivers through leakage and direct discharges as well as particulate emissions into the air of lead and other heavy metals throughout the plant. Peru's Privatization Committee then retained an expert environmental consulting group to provide an independent assessment of the La Oroya Complex and assess Centromin's proposed PAMA program. These experts opined that there was insufficient quality data and engineering studies to list specific actions required to bring the Complex into compliance with current regulatory standards. In fact, these experts questioned whether the facilities would ever be able to comply and thus recommended considerable flexibility in the implementation and application of new standards if La Oroya is to continue as an economically viable operation and that continued long-term operation of the smelter and progress on privatization can be achieved only if La Oroya is subject to realistic requirements to gradually reduce emissions.

19. In late 1996, Centromin submitted its final PAMA, which MEM approved on January 14, 1997. The PAMA set forth sixteen projects and estimated that the total cost to complete all of them at US$ 129 million. These sixteen projects were intended to address four categories of environmental impact: (i) air emissions and air quality, (ii) soil remediation, (iii) control of liquid effluents, and (iv) management of slag and other waste deposits. The PAMA set forth a ten-year deadline to complete all sixteen projects. Ten days after MEM approved the PAMA, Peru again called for privatization of the Complex and issued a Public International Bidding No. PRI-16-97.

20. Peru awarded the bid to a consortium that included Renco. Renco and its affiliates own some of the largest mining, metals, and manufacturing companies in the world, and they have a strong track record of achieving high environmental standards of operations and developing innovative new environmental technologies. The consortium assigned its rights to a Peruvian subsidiary of Renco, DRP, as required, authorized, and approved by the relevant Peruvian authorities. On October 23, 1997, DRP, Doe Run Resources Corp., Renco, and Centromin executed the Stock Transfer Agreement, under which DRP acquired the majority shares of

Empresa Metalurgica La Oroya S.A. ("Metaloroya") for US$ 121.4 million.[4] DRP later invoked its rights to acquire the remaining shares for US$ 126.4 million.

D. Renco's Acquisition Vehicle, DRP, Exceeded Its Environmental Obligations Under the Stock Transfer Agreement and Enacted Additional Measures to Assist and Protect the Local Population

21. Between 1998 and 2002, Doe Run Peru's engineering and design studies showed that Centromin had severely underestimated the cost and complexity of updating the Complex. As a result, DRP made multiple requests to expand the scope of its PAMA obligations, and MEM also repeatedly asked DRP to add new PAMA projects. For instance, in October 1999, MEM approved DRP's request to add more PAMA tasks, which increased the originally anticipated PAMA investment amount by US$ 60,767,000 to total of US$ 168,342,000. Similarly, DRP and MEM increased the amount needed for projects to improve an industrial liquid effluents treatment plant from an initial US$ 2,500,000 to US$ 33,600,000.

22. In 2002, MEM asked DRP to engage in eight new emissions reduction projects. In particular, MEM asked DRP to do the following: (1) separate treatment for dusts to eliminate recirculation; (2) encapsulate the concentrates during warehousing; (3) an environmental management plan for the Huanchan deposit; (4) ongoing cleaning program for the plant; (5) establish self-limitations on the treatment of concentrates with high contents of arsenic and cadmium with the aim of reducing the levels of emission to acceptable national and international levels; (6) better the plant maintenance in order to reduce the emission of gasses and dust; (7) design a system of alert to prevent the occurrence of emission peaks; and (8) coordinate with the civil society the relocation of the educational centers of La Oroya Antigua, including transportation of the students. In response, DRP added the new projects to its growing list of projects that it was required to undertake and complete within the original ten-year timeframe of the PAMA.

23. DRP also engaged in numerous activities beyond the scope of the PAMA projects to reduce lead contamination and to address public health concerns related to lead exposure for both workers and the community. These efforts included (among other things) the mandated use of

[4] By merger agreement dated December 30, 1997 (two months after the parties executed the Stock Transfer Agreement), the Company merged completely into DRP, which assumed all of the Company's contractual rights and obligations, per the Tenth Clause of the Stock Transfer Agreement.

respirators and the change room (where workers start and end each day in a clean set of clothes), the use of spray trucks to reduce dust, and frequent medical check-ups. When DRP acquired the Complex, the blood lead levels of workers averaged 51.1 µg/dl. By 2002, the workers' blood lead levels had fallen below the World Health Organization's recommended worker levels of 40 µg/dl for men and 30 µg/dl for women. By 2005, these average numbers had dropped to 32.18 µg/dl. DRP also dramatically reduced accidents at the Complex, and received awards for its safety record.

24. DRP also constructed on-site change-houses, routinely washed trucks before they left the facility, and mandated that workers shower and change clothes after their shifts. These measures, which were not included in the original PAMA, prevented the transmission of contaminants to the workers' homes.

25. DRP also enacted measures to reduce emissions from the main stack and to control fugitive emissions (which were the main sources of lead and other heavy metal emissions). Such measures included: a) installing a television system in an environmental control center to monitor and immediately address visible fugitive emissions, b) introducing portable radios to facilitate real-time communications on the Complex, c) repairing flues to improve dust recovery, and d) changing filter bags in 27 bag houses thereby increasing dust recovery from 96.5 percent to 98.1 percent. By the end of 2001, DRP had reduced the amount of particulate matter emitted from the main stack by 27.6 percent.

26. In 1999 and 2000, the Peruvian Ministry of Health and an NGO separately reported studies showing higher than normal blood-lead levels in people living in La Oroya. In response, DRP performed a follow-up blood-lead level study on 5,000 residents and created the Hygiene and Environmental Health Program to carry out a series of actions based on the general recommendations of the United States Centers for Disease Control and Prevention and the World Health Organization. These actions included: (1) evaluating and monitoring the physical and psychological well-being of the children of La Oroya; (2) utilizing social workers to evaluate the family situation and potential risk factors for high blood lead levels in the home; (3) providing personalized training in hygiene and nutrition during house visits, including training in hand washing and bathing and training in proper cleaning of the house; (4) creating leaders in health and hygiene through community workshops; (5) sponsoring presentations on health and hygiene in local schools, including an educational puppet show and children's book;

and (6) sponsoring a campaign to clean the schools, roads, and neighborhoods on a weekly basis, for which Doe Run Peru provided cleaning supplies and pressurized water from a water truck.

27. In 2003, at DRP's insistence, the Peruvian Ministry of Health entered into an agreement with DRP to support a public health program. Through this agreement, DRP provided the Peruvian Ministry of Health financial support to achieve the following objectives: (1) establishing a culture of prevention in the population with the adoption of healthy habits that reduce exposure to dust; (2) establishing a safer water system, a program for potable water, monitoring programs for the soil, crops, wild vegetation and animals, and air quality, and monitoring of blood lead levels; (3) gradually reducing blood lead levels; (4) creating a program to treat children and pregnant women with high blood lead levels; and (5) signing cooperation agreements with various local authorities and agencies. Before 2006, when MEM mandated its continuance, DRP provided US$ 1 million a year for this program on a voluntary basis.

28. In another voluntary effort to reduce blood lead levels in the community, DRP hired the consulting firm Gradient Corporation to perform a study on the human health risks in La Oroya. Based on Gradient's conclusions, Doe Run Peru began a series of complementary projects to reduce lead (and other particulate) emissions from the facility. The additional projects to reduce lead (and other particulate) emissions through chimneys or stacks included (1) installation of baghouse filters for the lead furnaces, the arsenic kitchen, and the lead foam reverberator furnace, (2) preparation of units 1, 2 and 3 of the Cottrell Process for the sintering plant, and (3) reducing particulate material from copper converters and from the Cottrell Process in the anode residue plant. Doe Run Peru also added an electrostatic precipitator to the Cottrell Central, which reduced particulate emissions by 23 percent. Combined with stopping one line roasters in the Zinc Circuit, the project created a 35 percent reduction in particulate emissions from the chimney.

29. The projects to reduce lead (and other particulate) fugitive emissions, in turn, included (1) repowering of ventilation systems A, B, C and D of the lead sintering plant, (2) closure of lead furnace buildings and foam plant, (3) management of lead plant fusion beds, (4) management of copper plant fusion beds, (5) management of nitrous gases at the anode residue plant, (6) a new ventilation system for the anode residue plant building, (7) reduction of recirculating fines

and (8) restriction on entry of concentrates. Doe Run Peru also added industrial sweepers and paved the roads to the different plants.

30. DRP implemented these complementary projects alongside its rapidly expanding PAMA projects, with the twin goals of better environmental performance at the Complex and reducing blood lead levels in its workers and the community.

E. DRP also Engaged in Numerous Additional Social and Public Health Projects to Help the Community

31. In addition to mandated and voluntary measures to reduce the Complex's environmental impact on the local community, DRP spent more than US$ 30 million on quality-of-life projects becoming one of the first companies in Peru to implement this type of voluntary corporate social responsibility program. DRP's social programs included:

- Offering special programs for the women from the communities: training programs focused on budget planning, child rearing, nutrition, and social responsibility, training a team of health promoters to educate the communities about health risks and orient pregnant women on pre-natal care, and extensive small business training;
- Instituting the Human and Social Ecology Program, which monitored the health of at-risk children and provided daily nutritional lunches;
- Sponsoring (1) training programs in animal husbandry targeted to the farming communities around La Oroya and (2) the Forestation and Andean Gardening program, in which Doe Run Peru and community participants planted more than 121,000 seedlings and 132,000 square meters of gardens by 2006;
- Founding the Ecological Recreation Center, a wildlife refuge and garden center with free access to the public;
- Upgrading several community facilities, including marketplaces, community centers, and educational facilities; and
- Spending over US$ 600,000 to rebuild the Central Highway that runs through La Oroya.

F. As the 10-Year Term to Complete the PAMA Approached, DRP Requested an Extension Because Certain Projects were Unexpectedly Complex and Because DRP had Directed Some Resources to More Urgent, Unanticipated Needs; MEM Granted an Unreasonably Short Extension and Imposed New Obligations

32. The original PAMA was based on limited data and engineering studies and MEM's own independent consultants had advised it that the PAMA would need to be implemented in a slow

and flexible manner if the Complex was to remain economically viable. And from the beginning, DRP endeavored to implement the original PAMA and design and implement additional projects that DRP identified as necessary to modernize the Complex and reduce its environmental impact. Despite expending financial and technical resources far beyond what Centromin and the MEM had originally projected, DRP realized as early as 2004 that the La Oroya Complex would not meet the current regulatory standards for lead without significantly more work, investment, and time.

33. Lead was the most immediate and urgent health issue. A consultant that DRP retained, Gradient, had identified soil and particulate emissions, especially fugitive emissions (*i.e.*, emissions leaving the plant from random points, such as leaky pipes or open windows, as opposed to from the stack) as the two primary sources of lead exposure. Under the Stock Transfer Agreement, Centromin was responsible for soil, and the original PAMA did not allocate funds or identify projects to reduce fugitive emissions. DRP thus emphasized the need to refocus its resources on reducing fugitive emissions.

34. At the same time, DRP was on track to complete all of the projects in the original PAMA with the exception of constructing three sulfuric acid plants, which would help reduce SO_2 emissions. Although an important pollutant, SO_2 does not have the same negative impact on human health as lead. Developing sulfuric acid plants is a very time-intensive and expensive project. The original PAMA called for constructing two sulfuric acid plants. Under the PAMA schedule, this project was to be last, with construction beginning in 2003 and ending in 2006. During the planning and design process, DRP engineers discovered that the only design that could meet regulatory standards required constructing three separate sulfuric acid plants for three different circuits in the Complex. Constructing three separate plants would require more work, more money, and more time.

35. Under these circumstances, DRP requested a five-year extension to complete the PAMA. MEM granted DRP only two years and ten months. Even MEM's own experts advised it that this schedule was "very aggressive." At the same time, MEM imposed on DRP 14 new projects regarding fugitive emissions and converted over 60 voluntary public health projects into mandatory obligations.

G. By December 2008, DRP Had Completed All PAMA Projects Except for One of the Three Sulfuric Acid Plants, and Had Dramatically Reduced the Complex's Environmental Impacts

36. By January 2007, the original PAMA deadline, DRP had completed almost all of the PAMA projects, including the new projects that MEM had imposed as a condition of receiving the extension. By the end of 2008, DRP's total investment on the PAMA and related projects had increased to more than US$ 300 million—more than double the costs that Centromin and MEM had projected when they sold the Complex.

37. By late 2008, the only PAMA project remaining to be finished was the sulfuric acid plants, which had been totally redesigned in 2006. DRP worked diligently on this project, spending almost US$ 160 million on it in 2007 and 2008. By Fall 2008, DRP had completed the sulfuric acid plants for two of the Complex's three primary circuits. In addition, DRP had made good progress on the last sulfuric acid plant, which had required DRP to substantially redesign and overhaul its entire copper smelting process. DRP had completed the detailed engineering work for the redesign of its copper smelting operations, issued more than 90 percent of the purchase orders for the work on this project, including an order for a new state-of-the-art furnace, and had contracts for all of the preliminary and structural work. DRP also had issued requests for proposal for the final installation of the remaining mechanical and electrical equipment. By this point, DRP had completed more than 25 percent of the total construction work, including about 55 percent of the site work and almost 40 percent of the structural work.

38. At the same time, DRP was continuing work on the construction of the last sulfuric acid plant. This was also a complicated engineering task, requiring DRP to design essentially two separate facilities—one to clean the process gas (that is, to remove the particulate matter, heavy metals, and acid gases) and a second "gas contact and sulfuric acid production system" to convert the cleaned gas into commercial grade sulfuric acid. Here, again, DRP was making good progress: the detailed engineering work was virtually complete, more than three quarters of the contracts had been let, site work was more than 85 percent complete, and fully one-third of the mechanical and structural construction work had been completed.

39. DRP's efforts yielded remarkable environmental results when compared to the situation that it inherited from Centromin in 1997. For nearly 20 years, Peru had invested few, if any,

resources to limit the Complex's environmental impacts. Highly contaminated wastewater poured from the facility into the Mantaro and Yauli Rivers. Many of the smokestacks at the Complex lacked pollution control equipment, venting huge amounts of lead, arsenic, selenium, zinc, cadmium, SO_2 and other pollutants into the environment. What little pollution control equipment did exist was poorly maintained and badly needed repairs. More than 80 uncontrolled sources of fugitive emissions released additional pollution at low altitudes, causing concentrated particulate matter containing lead and other heavy metals to settle quickly over the inhabited areas surrounding the Complex.

40. The industrial wastewater treatment plant and storm water systems that DRP constructed had effectively eliminated liquid effluent discharges to the Yauli River and it brought other discharges into compliance with Peru's Class III water standards. At the same time, DRP dramatically reduced air emissions, bringing the emissions from significant emission control points (*i.e.*, stacks) into regulatory compliance. To put these results in context, DRP reduced particulate matter emissions from the main stack by 78 percent compared to 1997 levels. It reduced lead emissions from the main stack by 68 percent, and arsenic emissions decreased by 93 percent over the same period. Even SO_2 emissions had been reduced by 52 percent, even though the final SO_2 plant had not yet been completed.

41. In short, DRP's efforts had dramatically improved both water and air quality around the Complex.

H. The Global Financial Crisis Prevented DRP from Finishing the Last PAMA Project by October 2009; Peru Responded by Undermining DRP's Ability to Obtain Financing thereby Pushing it into Bankruptcy

42. During the Global Financial Crisis, the price for copper and other metals collapsed. The crash in metal prices wiped out the profits that DRP used to finance the PAMA projects. At the same time, DRP's lenders, themselves reeling from the financial crisis, refused to provide financing because of concerns about the tight PAMA deadline and because the government had launched a negative media campaign against DRP.

43. Centromin and DRP agreed in the Stock Transfer Agreement that DRP's PAMA obligations would be deferred if the performance was "delayed, hindered or obstructed by…extraordinary economic alterations." This economic *force majeure* provision is not common in commercial agreements, but it was an important part of the agreement between Renco and Peru because a

significant decline in world metal prices would impede or even eliminate DRP's ability to finance its obligations under the Stock Transfer Agreement. It cannot be seriously disputed that the Global Financial Crisis was a *force majeure* event under the Stock Transfer Agreement, and Peru has never done so.

44. In February 2009, DRP lost its US$ 75 million revolving line of credit that provided day-to-day liquidity for its operations because DRP's lenders would not extend the credit agreement unless DRP obtained a formal extension of the October 2009 deadline to complete the final PAMA project.

45. Given that it was entitled to an extension under the Stock Transfer Agreement's economic *force majeure* provision and recognizing that it would be impossible to complete the last sulfuric acid plant before October 2009, DRP asked MEM for an extension on March 5, 2009. DRP also advised MEM that its concentrate suppliers would freeze shipments if DRP could not obtain an extension. Without concentrate, DRP would need to reduce operations at the Complex, which would only exacerbate DRP's financial condition.

46. Even though DRP was entitled to an extension under the economic *force majeure* provision, MEM demanded that DRP's debt of US$ 156 million to its parent, Doe Run Cayman, be 100 percent capitalized, and that Doe Run Cayman pledge 100 percent of its shares to DRP before MEM would even consider extending the October deadline. DRP and Doe Run Cayman agreed to these conditions in a Memorandum of Understanding ("MOU") if MEM would grant it an adequate extension, but MEM refused to sign the MOU. By now, Renco was concerned that Doe Run Cayman would capitalize the debt and pledge the shares and MEM then would grant only an unreasonably short deadline that would not prevent DRP from falling into bankruptcy. In that scenario, without its debt and having pledged its shares, Doe Run Cayman would lose all of its voting rights in the bankruptcy proceeding.

47. In May 2009, Peruvian Government officials made public comments declaring that DRP would not receive any PAMA extension, and, in June 2009, DRP was forced to suspend operations at the Complex. Without an extension, DRP could not obtain financing, without which DRP could not pay its concentrate suppliers. Without concentrate, the Complex could not operate.

48. After DRP ceased operations at the Complex, the Peruvian Government appointed a Technical Commission. That Commission concluded that a minimum 20-month extension was needed to

complete the last sulfuric acid plant and that additional time on top of that was required to obtain financing. A few months later, in September 2009, the Peruvian Congress passed a law granting DRP an extension of 30 months to complete construction of the last remaining environmental project.

49. This important extension soon became illusory and ineffective because MEM passed implementing regulations that undermined the new law's benefits. For example, the regulations required DRP, *inter alia*, to pay 100% of its gross proceeds into a trust that would only release funds after securing three months' worth of PAMA schedule obligations, thus making it virtually impossible for DRP to pay its workers or suppliers, or generally to operate the Complex.

50. Then, in February 2010, one of DRP's unpaid concentrate suppliers placed it into involuntary bankruptcy.

I. Peru Barred DRP from Restructuring and Forced its Liquidation

51. In Peru, the Bankruptcy Commission of The National Institute for Defense of Competition and Protection of Intellectual Property ("INDECOPI") is the legal body that administers bankruptcy proceedings. It is part of the Peruvian Executive branch. After DRP went into bankruptcy, Peru asserted a patently improper claim for US$ 163 million. MEM alleged that because DRP failed to complete last sulfuric acid plant within the timeframe that Peru and MEM had improperly refused to extend, MEM itself would be required to complete those projects. MEM further alleged, also improperly, that the amount of money estimated to complete the outstanding PAMA project constituted a "debt" of DRP to MEM and was accordingly a bankruptcy credit in the bankruptcy proceeding before INDECOPI.

52. That credit gave Peru nearly one third of all voting rights on the bankruptcy's creditors' committee. It also gave Peru the right to recover a large portion of DRP monies that should have gone to legitimate creditors, and it severely complicated DRP's efforts to address the obligations it owed to its legitimate creditors. Throughout the bankruptcy proceedings, Peru used its creditor voting rights to DRP's detriment by, among other things, voting against reasonable restructuring plans, including one proposed by Renco, and supporting a subsequent vote to liquidate DRP.

53. DRP opposed MEM's credit, and, in February 2011, the INDECOPI Bankruptcy Commission rejected the credit holding that MEM's claims were not a "debt" of DRP and therefore not a claim that could be recognized in the bankruptcy process. The INDECOPI Commission correctly explained that the regulatory objective of the PAMA is to cause the owner of mining activity to implement steps needed to reduce or eliminate emissions. The INDECOPI Commission further held that if the owner of the La Oroya Complex does not complete a PAMA project, then the applicable legislation does not provide for—much less obligate—MEM to complete that PAMA project. It therefore cannot constitute a bankruptcy credit.

54. MEM appealed the INDECOPI Commission's Resolution to the Bankruptcy Chamber of INDECOPI's Free Competition Tribunal (the "INDECOPI Tribunal"), the appellate body within INDECOPI, and, in November 2011, the INDECOPI Tribunal issued a resolution reversing the INDECOPI Bankruptcy Commission's prior resolution reasoning that the non-fulfillment of the single remaining PAMA project "generated a direct and immediate damage" and that the estimated costs needed to complete the PAMA projects were an appropriate estimate of that damage. This decision drew a sharp dissent from one of the INDECOPI Tribunal's members who explained that the estimated investment necessary to complete the PAMA at some future date does not constitute a valid bankruptcy credit, but that such non-completion merely permitted MEM to impose (i) pecuniary sanctions upon the mining company and/or execute the performance bonds constituted to guarantee the fulfillment of the project contained in the PAMA; and, (ii) should non-compliance persist, the provisional closure and, eventually, definitive closure of the mining deposit.

55. DRP challenged the INDECOPI Tribunal's resolution in an administrative action before the Peruvian judiciary, which assigned the case to the Fourth Transitory Administrative Court of Lima. The Fourth Administrative Court denied DRP's request for annulment of the INDECOPI Tribunal's resolution and therefore admitted MEM's $163 million bankruptcy credit. A special chamber of the Superior Court of Lima affirmed this decision in a 3-2 vote even though Peru's Attorney General's Office submitted an Opinion supporting DRP's position. DRP appealed that decision to the Supreme Court of Justice, the highest judicial body in the Peruvian judiciary.

56. On November 3, 2015, the Supreme Court summarily rejected DRP's appeal. Instead of ruling on the merits of DPR's argument, the Supreme Court held that DRP (and Doe Run Cayman,

which also participated in the appeal) had articulated why it considered the lower court's ruling to be incorrect, but that it had failed to offer a proposed rule that the Supreme Court could accept or reject and that DRP's appeal lacked "clarity and precision." The Court did not explain why DRP's position that "a breach of the PAMA does not create a credit in favor of the MEM" was insufficiently clear. With the Supreme Court's rejection of DRP's appeal, DRP exhausted all local remedies under Peruvian law against the MEM credit.

57. If the Supreme Court had granted DRP's appeal and nullified the MEM credit, consistent with the initial ruling by INDECOPI Commission, all of MEM's votes in the bankruptcy proceedings would have been declared invalid and DRP then could have attempted to restructure instead of liquidate (and do so without the US$ 163 million MEM credit, which is the largest credit in DRP's bankruptcy). In other words, when the Supreme Court rejected DRP's appeal in November 2015, Renco lost any chance of regaining control of its investment and avoid DRP's liquidation. As a result, Renco lost permanent control of its investment and the economic value of its investment in Peru.

IV. Peru's Conduct Breaches its Obligations under the Treaty

58. Chapter 10 of the Treaty applies to measures adopted or maintained by a Party relating to a covered investment.[5] The Treaty defines the term "investment" broadly as "every asset that an investor owns or controls, directly or indirectly, that has the characteristics of an investment, including . . . (a) an enterprise; (b) shares, stock, and other forms of equity participation in an enterprise; (c) bonds, debentures, other debt instruments, and loans; (d) futures, options, and other derivatives; (e) turnkey, construction, management, production, concession, revenue-sharing, and other similar contracts; (f) intellectual property rights; (g) licenses, authorizations, permits, and similar rights conferred pursuant to domestic law; and (h) other tangible or intangible, movable or immovable property, and related property rights, such as leases, mortgages, liens, and pledges; . . . ."[6] Renco's indirect ownership of DRP through its shareholding interest, DRP itself, and several legal rights related to those direct and indirect ownership interests qualify as covered investments under this definition.

[5] **Exhibit C-1**, Treaty at Article 10.1.

[6] *Id.* at Article 10.28 at 10-24 and 10-25.

59. Section A of Chapter 10 sets out various substantive protections that Peru is obligated to afford to U.S. investments. The Treaty provides, *inter alia*, that Peru must (i) accord U.S. investments fair and equitable treatment and full protection and security,[7] (ii) treat U.S. investors and investments no less favorably than it treats its own investors and investments,[8] and (iii) not expropriate or nationalize U.S. investments, either directly or indirectly, through measures equivalent to expropriation or nationalization, except for a public purpose, in a non-discriminatory manner, on payment of prompt, adequate, and effective compensation, and in accordance with due process of law.[9]

60. Section B of Chapter 10 of the Treaty grants a U.S. investor the right to submit to arbitration any investment dispute between an investor and Peru for breach of the Treaty obligations contained in Section A of Chapter 10 of the Treaty.[10]

61. For the reasons set forth below, Peru's misconduct violates international law and the Treaty. Its actions and omissions continue to harm and impair Renco's substantial investment in the La Oroya Complex, and deprived Renco of its investment altogether without fair compensation.

A. Peru's Pattern of Unfair and Inequitable Treatment of DRP Violates Article 10.5 of the Treaty

62. Peru has engaged in a pattern of unfair and inequitable treatment in violation of Article 10.5 of the Treaty by, *inter alia*, imposing on DRP additional environmental projects and requirements, which increased the amount of time and money that DRP was required to spend, while simultaneously and improperly refusing to timely grant DRP the additional time needed to fulfill these obligations.

63. Indeed, in addition to the actual project costs vastly exceeding Peru's initial estimates in 1997, the actual environmental infrastructure that existed at La Oroya at the time of the transfer caused DRP to spend additional sums and to do additional projects that were not originally anticipated, which became mandated by the government through resolutions. When DRP

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7 *Id.* at Article 10.5(1).

8 *Id.* at Article 10.3.

9 *Id.* at Article 10.7(1).

10 *Id.* at Articles 10.16(1)(a)(i)(A).

reasonably sought an extension of time in light of the changes required by Peru, Peru granted only a limited extension and imposed additional and onerous obligations upon DRP.

64. In part due to this short time-frame and these additional projects, DRP was understandably unable to complete the final PAMA project and reasonably sought a second extension in 2009, which the Ministry of Energy and Mines unreasonably refused. When the Congress of the Republic of Peru finally granted the extension by passing Law 29410, the Ministry of Energy and Mines improperly deprived DRP of the full benefits of the law by issuing harassing and onerous implementing regulations targeted at DRP that DRP could not possibly meet.

65. Moreover, during all of this time, Peru engaged in a smear campaign in the press against Renco and DRP. For example, during a time in which Peru knew that DRP was attempting to negotiate agreements with creditors and obtain financing, Peruvian President Alan Garcia stated in the press that he intended to cancel DRP's license to operate, stating that, "A company that abuses the country or plays games like Doe Run should be stopped." Regarding negotiations between DRP and the government over reopening the Complex, Garcia was quoted as saying that the government "will not allow a firm to blackmail the country." Moreover, Peruvian Minister of Energy and Mines, Pedro Sanchez stated that, regardless of media statements made by the company, it "should be clear that they will not re-contaminate La Oroya as they have done before." Peru's statements to the press were intended to create an erroneous public opinion that DRP was responsible for the contamination of La Oroya and remiss in its remediation obligations.

66. Peru's unfair refusal to timely grant reasonable PAMA extensions and its disparaging public campaign against Renco and DRP have created a hostile investment environment and prevented DRP from securing new financing necessary to resume operations of the Complex.

B. The Peruvian Judiciary's Failure to Nullify a Patently Improper Credit by MEM Constitutes Both a Denial of Justice and a Breach of Article 10.5

67. The credit that MEM asserted in DRP's bankruptcy is patently absurd. When DRP failed to complete its last PAMA project before the deadline that MEM improperly failed to extend, MEM did not incur any obligation to complete that project itself. The best evidence of that is that to this day—some several years after asserting the credit—MEM has not taken a single step towards completing the last sulfuric acid plant. Judicial reasoning that is so incoherent that

it can only be explained by either incompetence or improper bias constitutes a denial of justice under customary international law. International legal authorities uniformly recognize that denials of justice violate the fair and equitable treatment standard.

C. Peru Indirectly Expropriated Renco's Investment Through Measures Tantamount to Expropriation

68. Peru repeatedly imposed new and expensive environmental obligations on DRP at the same time that it refused to grant DRP reasonable extensions to complete those environmental projects and undermined the few extensions that Peru belatedly granted. At the same time, Peru publically disparaged DRP's reputation and frustrated its ability to obtain needed financing. All of these acts placed DRP in a precarious, unnecessary, and unwarranted financial condition, which put it at risk of bankruptcy.

69. After one of DRP's creditors placed DRP in bankruptcy, Peru asserted large and baseless credits that gave it unjustified, creditor voting rights in DPR's bankruptcy proceeding. Peru used that improper influence to defeat DRP's reasonable, restructuring plans and to support a subsequent vote to liquidate DRP. As a result, Renco lost control of its investment, indirect ownership of its investment's assets, and the entire economic value of its investment in Peru. That constitutes an indirect expropriation in violation of Article 10.7 of the Treaty.

V. Agreement to Arbitrate

70. In the event "that a disputing party considers that an investment dispute cannot be settled by consultation and negotiation," Article 10.16(1) of the Treaty provides that:

> (a) the claimant, on its own behalf, may submit to arbitration under this Section a claim
> (i) that the respondent has breached
> (A) an obligation under Section A,
> (B) an investment authorization, or
> (C) an investment agreement;
> and
> (ii) that the claimant has incurred loss or damage by reason of, or arising out of that breach…

71. The investor concerned may submit such a claim to arbitration under the UNCITRAL Arbitration Rules.[11]

72. The Treaty sets out a few additional requirements and suggestions before an arbitration can be brought, all of which have been met here.

73. In Article 10.17 of the Treaty, Peru "consents to the submission of a claim to arbitration under this Section in accordance with this Agreement." Under the Treaty, a party may pursue arbitration if (a) it has provided written notice of its intention to submit the claim to arbitration ("notice of intent") at least 90 days before submitting any claim to arbitration,[12] and (2) six months have elapsed since the events giving rise to the claim.[13] In addition, the Treaty suggests that the parties should initially seek a resolution through consultation and negotiation.[14]

74. Each of these requirements and suggestions has been met here. On August 9, 2011, Renco initiated an arbitration under the Treaty, asserting claims for breach of the Treaty and breach of investment agreements. By decision dated July 15, 2016, the Tribunal that had been empaneled to hear those claims dismissed them on a technical jurisdictional ground and without prejudice to refiling them.

75. In its Notice of Arbitration in that arbitration, Renco provided the waiver of the right to initiate or continue legal proceedings before other fora concerning the measures alleged to breach the Treaty, as required by the Treaty, but Renco included a reservation that it was not waiving the right to bring claims before another forum if they were dismissed on jurisdictional or admissibility grounds. Although Peru easily could have done so much sooner, Peru waited until nearly four years had passed and after Renco had spent several millions dollars preparing a full merits memorial before arguing that the Tribunal lacked jurisdiction because the reservation in Renco's Notice of Arbitration meant that Renco had failed to waive all of the claims that the Treaty required it to waive.

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11 **Exhibit C-1**, Treaty at Articles 10.16(3)(c) and 10.16(4).

12 *Id.* at Article 10.16(2).

13 *Id.* at Article 10.16(3).

14 *Id.* at Article 10.15.

76. Renco disagreed that its reservation violated the Treaty's terms, but it offered, in the alternative, to cure any defects in its waiver should the Tribunal disagree. Renco also noted that Peru had not suffered any prejudice from Renco's reservation and that Peru would not suffer any prejudice if the Tribunal allowed Renco to cure any defect. Renco also noted that over 100 years of jurisprudence before the PCIJ and ICJ supported its position that a party in a legal proceeding governed by international law may cure technical and non-prejudicial jurisdictional defects during the course of the proceeding. Renco further explained that, unlike Peru, Renco would suffer prejudice if the Tribunal dismissed its claims. In addition to the delay and waste of having to initiate a new arbitration, the U.S.-Peru Trade Promotion Agreement contains a three-year statute of limitations. Renco initiated that arbitration in 2011, and Peru had succeeded, over Renco's objections, in forcing four years of delay via various procedural shenanigans. If the Tribunal dismissed Renco and forced it to refile, Renco would face a risk that Peru would then raise new temporal objections that would not have been viable with respect to claims that were submitted to arbitration in 2011.

77. In response, Peru argued that Renco could not cure any defect in its waiver without Peru's consent and that Peru would not consent to any cure regardless of whether Renco had suffered any prejudice. Instead, Peru demanded that the arbitration be dismissed for lack of jurisdiction. The United States submitted a Non-Disputing State Party Submission supporting Peru's position. Peru also failed to represent that it would not raise any temporal objections should Renco refile its claims.

78. In its Decision, the Tribunal held that Renco's reservation did not comport with the terms of the waiver obligation under the Treaty. The Tribunal agreed that a consistent line of PCIJ and ICJ caselaw supported Renco's position regarding the ability to cure technical jurisdictional defects, but stated that Peru's position constituted a *lex specialis* since the United States had agreed with Peru. As a result, the Tribunal felt compelled to dismiss Renco's claims.

79. At the same time, the Tribunal criticized Peru's conduct in the arbitration:

> The Tribunal has been troubled by the manner in which Peru's waiver objection has arisen in the context of this arbitration. The arbitration had already been on foot for quite some time before Peru filed its Memorial on Waiver in July 2015. By this stage over four years had passed since Renco filed its Notice of Arbitration; the Tribunal had already issued Procedural Order No.1 which recorded the agreed briefing schedule for the arbitration; Renco had filed its Memorial on Liability; the Parties

had exchanged voluminous submissions in connection with Renco's challenge to the scope of Peru's Preliminary Objections; and the Tribunal had issued a substantive decision on December 18, 2014 in relation to the Scope of Peru's Preliminary Objections under Article 10.20(4). Clearly, it would have been preferable for all concerned if Peru had raised its waiver objection in a clear and coherent manner at the very outset of these proceedings. Instead, they emerged piecemeal over a relatively lengthy period of time.

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Renco's Notice of Arbitration was filed on April 4, 2011 and its Amended Notice of Arbitration was filed on August 9, 2011. Both documents contained Renco's waiver, including the reservation of rights. Yet Renco's compliance with the formal and material requirements of Article 10.18(2)(b) was not put in issue until Peru filed its Notification of Preliminary Objections on March 21, 2014, nearly three years after Renco had submitted its claims to arbitration.

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The Tribunal has concluded that Renco failed to comply with the formal requirement of Article 10.18(2) and that it has no power to allow Renco to cure this defect (as noted above, one member of the Tribunal did not join in this conclusion) or to sever the reservation of rights. However, the consequences for Renco may be extreme in the following scenario. If Renco should decide to file a new Notice of Arbitration accompanied by a "clean" waiver, Peru may be minded to argue that Renco's claims have become time-barred because more than three years have elapsed since Renco first acquired knowledge of the breaches alleged under Article 10.16(1) of the Treaty.

In these circumstances, while the possible operation of a 3 year time bar on the facts of this case cannot change the analysis of Article 10.18(2)(b) (i.e. the analysis must be the same, even if the objection had been raised at the outset of the arbitration), the question which arises is whether Peru's conduct with regard to the late raising of its waiver objection rises to the level of an abuse of rights. The test to be applied is whether Peru has sought to raise this objection for an improper motive or — as Renco puts it, whether Peru is seeking to evade its duty to arbitrate Renco's claims under the Treaty rather than ensure that its waiver rights are respected or that the waiver provision's objectives are served.

Having considered the issue with great care, the Tribunal has concluded that, in raising its waiver objection, Peru has sought to vindicate its right to receive a waiver which complies with the formal requirement of Article 10.18(2)(b) and a waiver which does not undermine the object and purpose of that Article. In so finding, the Tribunal does not accept the contention that Peru's waiver objection is tainted by an ulterior motive to evade its duty to arbitrate Renco's claims. Indeed, Peru has no duty to arbitrate Renco's claims under the Treaty unless Renco submits a waiver which complies with Article 10.18(2)(b).

> In reaching this conclusion, the Tribunal does not wish to rule out the possibility that an abuse of rights might be found to exist if Peru were to argue in any future proceeding that Renco's claims were now time-barred under Article 10.18(1). To date, Peru has suffered no material prejudice as a result of the reservation of rights in Renco's waiver. However, Renco would suffer material prejudice if Peru were to claim in any subsequent arbitration that Renco's claims were now time-barred under Article 10.18(1).
>
> While this Tribunal cannot prevent Peru from exercising in the future what it then considers to be its legal rights, the Tribunal can, and it does, admonish Peru to bear in mind, if that scenario should arise, Renco's submission that Peru's conduct with respect to its late raising of the waiver objection constitutes an abuse of rights. In the unanimous view of the Tribunal, justice would be served if Peru accepted that time stopped running for the purposes of Article 10.18(1) when Renco filed its Amended Notice of Arbitration on August 9, 2011.[15]

80. On August 12, 2016, four weeks after the Tribunal issued its Partial Award in Jurisdiction, Renco provided Peru with two new Notices of Intent to Commence Arbitration. In the first, which concerns this arbitration, Renco stated that it would refile some of the treaty claims that the prior Tribunal had dismissed. Specifically, Renco would refile its claims regarding Peru's treatment of DRP during the PAMA process. And Renco informed Peru that it intended to assert two new treaty claims that ripened in 2015, namely Peru's denial of justice for failing to nullify MEM's improper credit and Peru's indirect expropriation by forcing DRP's liquidation. Renco further informed Peru that it would not assert any claims regarding Centromin's and Peru's failure to honor their obligations to assume all liability with respect to the litigation against Renco in the United States. Instead, Renco would pursue claims regarding those measures in a separate arbitration under the Stock Transfer Agreement and related Guaranty.

81. On November 10, 2016, which was 90 days after Peru received Renco's two Notices of Intent to Commence Arbitration, the parties executed a Consultation Agreement. In that Agreement, the parties agreed to discuss a potential negotiated settlement of their disputes and they agreed that the time that passed while that Consultation Agreement was in effect could not be used against Renco for purposes of any temporal objections. That Consultation Agreement expired on February 28, 2017. Two weeks later, on March 14, 2017, the parties executed a Framework Agreement, which set forth similar terms, including an agreement that the time that passed while that Framework Agreement was in effect could not be used against Renco for purposes of

[15] **Exhibit C-3**, *The Renco Group v. Peru*, Case No. UNCT/13/1, Partial Award on Jurisdiction, July 15, 2016, at ¶¶ 123, 180-88.

any temporal objections. On March 14, 2018, the parties executed a Framework Agreement Addendum that extended the "Consultation Period" under these agreements to March 31, 2018. After that date, counsel for Peru represented to Renco on several occasions that Peru considered that these agreements remained in effect, but then failed to execute a formal extension of the Framework Agreement or engage in meaningful discussions regarding this issue.

82. On August 29, 2018, counsel for Renco emailed counsel for Peru noting that Peru had failed to execute an extension to the Framework Agreement for the last five months. Counsel for Renco further requested that Peru inform Renco by September 5, 2018 whether it agreed to engage in the expert process contemplated under the Stock Transfer Agreement. On September 5, 2018, Peru executed the extension to the Framework Agreement. This extension provided that the Framework Agreement would continue indefinitely and that either party could terminate it with ten days' notice. On October 10, 2018, Peru informed Renco that it was terminating the Framework Agreement.

83. This history demonstrates that Renco has attempted to resolve this dispute with Peru before initiating this arbitration; that the 90-day notice period has expired; and that more than six months have lapsed since the events giving rise to Renco's claims.

84. Finally, in this proceeding, Renco is asserting claims on its behalf under Article 10.16.1(a). As required by Article 10.18(2)(i) of the Treaty, Renco hereby waives any right to initiate or continue before any administrative tribunal or court under the law of any Party, or other dispute settlement procedures, any proceeding with respect to any measure alleged to constitute a breach referred to in Article 10.16.

VI. Number of Arbitrators; Claimant's Party-Appointed Arbitrator; Proposed Language and Place of Arbitration

85. Article 10.19(1) of the Treaty provides that the tribunal shall be comprised of three arbitrators, one arbitrator appointed by each of the disputing parties and the third, who shall be the presiding arbitrator, appointed by agreement of the disputing parties.

86. Claimant, Renco, hereby appoints Horacio A. Grigera Naón as its party-appointed arbitrator. Mr. Naón may be contacted at:

5224 Elliott Road
Bethesda, Maryland 20816
Phone: (202) 436-4877
(301) 229-1985
Email: Hgnlaw@gmail.com
hgrigeranaon@yahoo.com

87. Renco proposes that the arbitral proceedings be conducted in English, and that the place of arbitration be fixed in The Hague, Netherlands.

VII. Request for Relief

88. Claimant Renco requests a final award against Peru granting the following relief:

a. An award for all damages caused to Renco as a result of Peru's breaches of the Treaty;

b. An award of moral damages to compensate Renco for the non-pecuniary harm that Renco has suffered due to Peru's violations of the Treaty;

c. An award to Renco of all costs associated with this proceeding, including attorneys' fees;

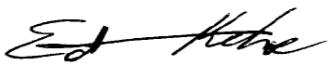
d. An award of both pre- and post-award interest until the date of payment; and

e. Any other relief that the Tribunal deems just and proper.

89. Claimant reserves the right to amend or supplement the present Notice of Arbitration, to make additional claims, and to request such additional or different relief as may be appropriate.

Dated: October 23, 2018

Respectfully submitted,



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