

PCA Case No. 2023-22

**IN THE MATTER OF AN ARBITRATION UNDER THE UNITED STATES – PERU TRADE
PROMOTION AGREEMENT, ENTERED INTO FORCE ON 1 FEBRUARY 2009**

- and -

**THE ARBITRATION RULES OF THE UNITED NATIONS COMMISSION ON
INTERNATIONAL TRADE LAW, AS REVISED IN 2013 (THE “UNCITRAL RULES”)**

- between -

BACILIO AMORRORTU (USA)

(the “Claimant”)

- and -

THE REPUBLIC OF PERU

(the “Respondent”, and together with the Claimant, the “Parties”)

PROCEDURAL ORDER NO. 10

(Confidentiality Protocol and Confidentiality Undertakings)

Tribunal

Hon. Justice Mr. David Unterhalter (Presiding Arbitrator)
Professor Bryan Schwartz
Mr. Hugo Perezcano Díaz

Registry

Permanent Court of Arbitration

3 October 2025

I. PROCEDURAL BACKGROUND

1. On 21 August 2025, the Tribunal issued Procedural Order No. 8 (Claimant's Applications to Admit Documents and Compel Production) ("PO8"), whereby it ruled on the Claimant's applications of 16 May and 13 June 2025 concerning, *inter alia* (i) the Claimant's request for admission into the record of documents (the "PO5 Documents") produced by the Respondent in accordance with Procedural Order No. 5 (Second Decision on Document Production), dated 6 February 2025 ("PO5"); and (ii) the Claimant's request for production of additional documents. The Tribunal's ruling in PO8 was as follows:
 - a. The Parties are instructed to confer and attempt to seek agreement on the terms of a confidentiality protocol governing the disclosure, handing, and use of the PO5 Documents in the context of these proceedings in accordance with the Tribunal's directions set out in paragraphs 27-28 above. They should revert to the Tribunal on this matter no later than Thursday, 28 August 2025.
 - b. The Respondent shall produce the following documents to the Claimant: (i) [REDACTED] (ii) Attachment 39; and (iii) and Doc 158. These documents shall be subject to the same level of confidentiality protection foreseen under paragraph 42 of PO5 for the PO5 Documents. The Parties are instructed to seek agreement on an appropriate confidentiality regime, which may be modelled on the First and Second Confidentiality Agreements entered as PO6 and PO7 by the Tribunal. They shall revert to the Tribunal no later than Thursday, 28 August 2025 to report the extent of their agreement, and their reasons for any remaining disagreement.
2. On 3 September 2025, the Parties submitted a draft Confidentiality Protocol and two Confidentiality Undertakings for the Tribunal's consideration in accordance with PO8. The Parties noted that they are "in full agreement regarding the documents' text, except for the provisions on the destruction of documents, which the Parties respectfully submit for the Tribunal's decision."
3. On 5 September 2025, the Tribunal (i) noted its understanding that the Parties' proposed Confidentiality Protocol and Confidentiality Undertakings corresponded to the confidentiality protocol foreseen under paragraph 135(a) of PO8; and (ii) requested the Parties to clarify whether such protocol and undertakings were also meant to govern the confidentiality regime applicable to the production of the documents the Respondent was ordered to produce under PO8, as foreseen under paragraph 135(b) of PO8.
4. On 8 September 2025, the Parties confirmed jointly that their proposed draft Confidentiality Protocol and Confidentiality Undertakings sought to govern "the disclosure, handing, and use of the documents that Peru produced (or will produce) pursuant to Procedural Orders Nos. 5 and 8, and which are sought to be admitted into the record."
5. On 16 September 2025, the Claimant requested the admission into the record of document "Attorneys' Eyes Only – DOC-OP8-1-001", which was produced by the Respondent pursuant to PO8 ([REDACTED]). According to the Claimant, "[t]his document is [REDACTED] connected to document "DOC-OP5-1-001, Attorney's eyes only," which is

_____ is relevant and material to Mr. Amorrortu's claims, as more fully set out in RFPs No. 1 and 2, because _____

6. Also on 16 September 2025, the Respondent indicated that it did not object to the Claimant's request to admit [REDACTED] into the record. It rejected, however, "Claimant's characterization of the document in question. DOC-OP5-1-001 does not consist of [REDACTED]"

The Respondent also disputed “Claimant’s characterization of

7. On 18 September 2025, the Tribunal took note of the Parties' agreement to admit [REDACTED] into the record and noted that in line with paragraph 27 of PO8, it would permit the filing of such document into the record at the time of issuing Procedural Order No. 10, concerning the Confidentiality Protocol and Undertaking Proposed by the Parties on 3 September 2025.

8. Also on 18 September 2025, the Tribunal issued Procedural Order No. 9 (Third Confidentiality Agreement), whereby it entered as an order the Third Confidentiality Agreement agreed between the Parties at their request.

9. On 23 September 2025, the Parties informed the Tribunal that “[w]ith respect to the document production phase, the Parties had completed the meet-and-confer phase previously reported to the Tribunal. Peru confirms that it has fully discharged its production obligations pursuant to Procedural Order No. 8 and Claimant has reserved his right to address Peru’s production in his upcoming Reply. The Parties therefore respectfully request that the Tribunal declare the production phase of this proceeding closed”. Regarding certain pending revisions to the procedural calendar, the Parties reported that they had reached a full agreement, subject only to the Tribunal’s issuance of Procedural Order No. 10 and its availability for the hearing.

II. ANALYSIS

10. Reduced to its essence, the Parties' only remaining disagreement in respect of the Confidentiality Protocol concerns the question of whether any documents falling under the scope of such Protocol – which are defined therein as the “**Confidential Documents**” – should be destroyed (i) after the Tribunal has issued its Final Award and has addressed any ensuing requests for the correction of such Award or, alternatively, (ii) after the conclusion of a judicial action challenging the Final Award. In other words, the Parties disagree on whether the Confidential Documents may be used by the Claimant in any future judicial proceedings in which the Final Award is challenged.

11. The Respondent contends that it “did not consent to the use of the Confidential Documents in any other legal proceedings, and doing so exceeds the scope of the Arbitration. Allowing Claimant to use the Confidential Documents in legal proceedings other than this Arbitration would defeat the Tribunal’s orders and jeopardize the documents’ confidentiality”.

12. In turn, the Claimant's proposed language for the Confidentiality Protocol seeks to preserve the right to use the confidential documents in the context of "a judicial action challenging the Final

Award”. He states that this will ensure that “Claimant’s representatives have a complete and accurate record by which to assess the reasoning of the Tribunal’s Final Award”.

13. The Tribunal considers that, as a matter of due process, it has an obligation to ensure that its decisions do not curtail in any way the Parties’ right to challenge any award issued in this arbitration before a court of competent jurisdiction. In the Tribunal’s view, such right would be undermined if the Claimant was required to dispose of any documents forming part of the record of this arbitration before challenging an award, regardless of whether such documents are confidential. For instance, if any such documents were to be destroyed before a challenge is filed, the Claimant could be deprived of the factual foundation to substantiate his challenge. Requiring the destruction of such documents may similarly shield certain aspects of these arbitration proceedings from scrutiny by a competent court, impairing judicial review. As such, the Tribunal agrees with the Claimant that he should only be required to destroy any Confidential Documents after the conclusion of any potential judicial proceedings in which the Tribunal’s Final Award is challenged.
14. At the same time, however, the Tribunal is required to safeguard the confidentiality of the Confidential Documents. While the Tribunal may adopt measures to this effect while the arbitration is ongoing, it must also ensure that none of its decisions subject the Confidential Documents to disclosure once it becomes *functus officio*.
15. In this respect, the Tribunal has taken note that the Confidentiality Undertakings agreed by the Parties (i) include a declaration to the effect that the obligation to honour the confidentiality of the Confidential Documents will continue even after the arbitration has terminated; and (ii) shall be governed by the law of New York – the place of arbitration. In the Tribunal’s view, this provides sufficient assurance that the Parties will retain certain rights to enforce the Confidentiality Protocol and related Undertakings before a court of competent jurisdiction after the Tribunal’s mandate comes to an end.
16. The Tribunal’s decision on the above questions has been implemented in the Confidentiality Protocol and Confidentiality Undertaking set forth in **Annexes 1 and 2** to this Procedural Order.
17. Aside from the above matters, the Tribunal considers that the Confidentiality Protocol and related Confidentiality Undertakings require certain additional amendments.
18. First, in accordance with the Tribunal’s above decisions concerning the timing of the destruction of the Confidential Documents, paragraph 17 of the Parties’ proposed Confidentiality Protocol (now paragraph 19) has been amended to read, in relevant part, as follows (the Tribunal’s addition is identified in bold):

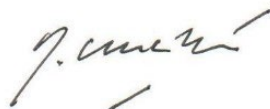
For the avoidance of doubt, no Party or individual who shall gain access to the Confidential Documents and the information contained therein by virtue of this Protocol and the Authorized Persons’ Confidentiality Undertakings may use the Confidential Documents or the information contained therein in any judicial or arbitral proceedings other than this Arbitration **and any potential subsequent judicial proceedings in which an award issued by this Tribunal is challenged.**

19. Second, the Respondent's proposed wording for the provisions of the Confidentiality Protocol governing the destruction of documents foresees that the deadline for the destruction of the Confidential Documents after the issuance of the Final Award shall be extended from 30 to 75 calendar days in the event of a request for the correction of the Final Award under Article 38 of the UNCITRAL Rules. The Tribunal considers that a similar extension would be warranted if either Party files a request for the interpretation of the Award in accordance with Article 37 of the UNCITRAL Rules, as well as a request for an additional award under Article 39 of the UNCITRAL Rules. Paragraph 14 of the Parties' proposed Confidentiality Protocol (now paragraphs 14-16), as well as the Confidentiality Undertaking set forth in **Annex 2**, have been amended accordingly.

III. THE TRIBUNAL'S ORDER

20. Having taken note of the Parties' submissions, the Tribunal hereby:
- a. ENTERS as an order the Confidentiality Protocol set forth in **Annex 1** to this Procedural Order and directs the Parties to abide by its terms forthwith.
 - b. In acknowledgement of the obligation to abide by the Confidentiality Protocol, DIRECTS the Parties to submit a signed copy thereof by **Wednesday, 8 October 2025**.
 - c. In accordance with the Confidentiality Protocol set forth in **Annex 1**, DIRECTS all Authorized Persons (as defined therein) to sign the Confidentiality Undertakings set forth in **Annexes 2 and 3** of this Procedural Order and provide copies of said undertakings by **Wednesday, 8 October 2025**.
 - d. As indicated in its communication of 18 September 2025, ADMITS into the record [REDACTED].
 - e. In accordance with paragraph 134 of PO8, DIRECTS the Claimant to file any application to admit into the record additional documents produced by the Respondent in accordance with PO8 no later than **Friday, 10 October 2025**.
 - f. Subject to the above, DECLARES the document phase of these proceedings closed.
 - g. Also in accordance with paragraph 134 of PO8, DIRECTS the Parties to finalize their discussions concerning a revised procedural calendar and revert to the Tribunal no later than **Friday, 10 October 2025** to report the extent of their agreement, and their reasons for any remaining disagreement.

Place of Arbitration: New York, United States of America

A handwritten signature in dark ink, appearing to read 'J. Unterhalter', is positioned above a horizontal line.

Justice David Unterhalter
(Presiding Arbitrator)

On behalf of the Tribunal

Annex 1

CONFIDENTIALITY PROTOCOL

Mr. Bacilio Amorrortu (“**Claimant**” or “**Mr. Amorrortu**”) and the Republic of Peru (“**Respondent**” or “**Peru**”) are the parties (jointly the “**Parties**”) in *Bacilio Amorrortu (USA) v. The Republic of Peru*, PCA Case No. 2023-22 (“**Arbitration**”).

The Parties have agreed that the following Confidentiality Protocol shall be adopted by the Tribunal as Procedural Order No. 10. This Confidentiality Protocol will govern the treatment and use of the documents that Claimant requested be introduced into the record on 16 May 2025 and 13 June 2025 following Respondent’s production pursuant to Procedural Order No. 5 (the “**PO5 Documents**”), as well as [REDACTED] and any other documents that Claimant may request to be admitted into the record pursuant to Procedural Order No. 8 (the “**PO8 Documents**” and together with the PO5 Documents, the “**Confidential Documents**”):

1. The Confidential Documents shall be designated as confidential material by (i) stamping the upper right hand corner of each page of the relevant document with the word “CONFIDENTIAL” in red; and (ii) including the word “CONFIDENTIAL” at the start of the name of each file pertaining to a Confidential Document.

2. The Confidential Documents shall be kept strictly confidential by any individual who has access to them throughout the Arbitration, as well as after the Arbitration has concluded. For the avoidance of doubt, any individual who has access to the Confidential Documents undertakes not to disclose or discuss the Confidential Documents or any information contained therein with any third party, including, without limitation, members of the media. Nothing in this Protocol requires the Respondent to withhold from the public information required to be disclosed by its laws.

3. Any individual who has access to the Confidential Documents must ensure that they have security measures in place to ensure that the Confidential Documents remain strictly confidential.

4. The Confidential Documents shall only be accessible to the individuals identified in paragraph 5 below, Respondent, Respondent’s representatives, experts, and witnesses, the Tribunal, and the PCA staff assigned to the Arbitration, with the exclusion of:

- a. the PCA IT team and other PCA administrative members; and
- b. the translation company reasonably agreed upon by the Parties to translate the Confidential Documents for purposes of submitting the translations in connection with the filings of the Reply and Rejoinder on Jurisdiction in this Arbitration. The Parties will agree on a reasonable translation company within seven (7) days of the issuance of this Protocol, for them to comply with the required translations, as detailed in Procedural Order No. 1, of the Confidential Documents.

5. Claimant has designated Francisco A. Rodriguez, Gilberto A. Guerrero-Rocca, Ana R. Ulseth, Franchesca Suber, Bacilio Amorrortu, Anibal Quiroga, and Monica Yaya (the “**Authorized Persons**”) as the individuals who, on his part, will require access to the Confidential Documents for purposes of the Arbitration.

6. The Authorized Persons must execute their respective Confidentiality Undertakings before obtaining access to any of the Confidential Documents. A copy of the signed Confidentiality Undertakings shall be submitted to the Tribunal within three (3) calendar days of their respective executions.

7. The Authorized Persons shall make every effort to comply with the terms of their respective Confidentiality Undertakings.

8. Peru will make the Confidential Documents accessible on a “viewing only” basis in the following manner to Authorized Persons Mr. Bacilio Amorrortu, Mr. Anibal Quiroga, and Ms. Monica Yaya: via the Box Platform and watermarked. The watermark is not to be so dark as to make it difficult to read. Authorized Persons Mr. Rodriguez, Mr. Guerrero-Rocca, Ms. Ulseth, and Ms. Suber shall also have access to this Box folder.

9. Confidential Documents may be submitted to the record of the Arbitration as factual exhibits accompanying a written pleading subject to the following:

- a. Confidential Documents shall be designated pursuant to paragraph 1 above.
- b. Confidential Documents and the unredacted versions of the written pleading and corresponding index shall be uploaded to the Box Platform. For submissions including the Confidential Documents, a separate subfolder will be created and

only Claimant's representatives, Respondent's representatives, the Tribunal, and the PCA staff assigned to the Arbitration, excluding the PCA's IT team and unnecessary administrators, will be granted access to this Box subfolder. The Parties will agree to increase the security measures of the subfolder to the maximum extent allowed by the Box Platform, for purposes of restricting access to this folder.

- c. A redacted version of the written pleading and index shall be prepared by the Party submitting the written pleading or index to remove all references to, cites to, or quotes from the Confidential Documents within ten (10) business days following the submission of the written pleading or index, and the redacted versions will be uploaded to the relevant Box folder at this time.
- d. Anyone with accesses to the written pleading or index pursuant to Procedural Order No. 1 or other decision by the Tribunal but who is not included in paragraph 4 above shall only have access to the redacted versions of the written pleading or index describe in paragraph 9(c) above.
- e. Claimant's representatives are allowed under this Protocol to share the unredacted written submissions and related reports and witness statements with the Authorized Persons via email.

10. A redacted version of subsequent written pleadings or submissions (including PowerPoint presentations) shall be prepared and uploaded to the Box by the Party submitting the written pleading or submission to remove all references to, cites to, or quotes from the Confidential Documents within ten (10) business days following the relevant submission. Anyone with access to the written pleading or submission pursuant to Procedural Order No. 1 or other decision by the Tribunal but who is not included in paragraph 5 above shall only have access to the redacted version of the submission. The unredacted versions of the written pleading or submission shall be uploaded to the Box Platform in a separate subfolder and only Claimant's representatives, Respondent's representatives, the Tribunal, and the PCA staff assigned to the Arbitration, excluding the PCA's IT team and unnecessary administrators, will be granted access to this Box subfolder. The Parties will agree to increase the security measures

of the subfolder to the maximum extent allowed by the Box Platform, for purposes of restricting access to this folder.

11. Confidential Documents may be used during a hearing or procedural meeting subject to the following:

- a. The Confidential Documents shall be protected from disclosure by holding relevant parts of the hearing “in private,” instead of publicly. For the avoidance of doubt, this provision supersedes paragraph 10.3 of Procedural Order No. 1 insofar as parts of the public hearing where Confidential Documents or information contained therein are discussed will be held privately.
- b. The privacy of the hearing shall not exclude transcribers or interpreters. If the PCA’s IT personnel is required for the proper functioning of the “private” portion of the hearing, they shall not be excluded. All individuals that participate in the “private” portions will need to sign a Confidentiality Undertaking, to be agreed upon by the Parties.
- c. The privacy of the hearing shall be achieved, when necessary, through the exclusion of certain hearing participants, moderation of the video feed or recording, and the redaction of relevant parts of the transcripts.
- d. The term “moderation” means that the video feed or recording will be muted and the screen will show a sign indicating that the hearing is temporarily held “in private.”
- e. At any time during the hearing, the Parties or Tribunal may request that a part of the hearing be held in private. To this effect, the Party or Tribunal member shall orally alert the Tribunal or other Tribunal members each time it intends to refer to or use the Confidential Documents or any information contained therein. If a Party has an objection to the request, it shall immediately alert the Tribunal, which shall hear the Parties and decide on the matter. The discussion between the Parties and the Tribunal shall be held privately and excluded from the recording.

- f. The request for moderation of the video recording or feed shall be made before the Confidential Documents or information contained therein are discussed, addressed, or shown at the hearing (whether by the counsel, witness, or expert).
- g. If a request for the hearing to be held in private is granted, all hearing participants who are not included in paragraph 5 above must exit the hearing room and the video recording or feed shall be moderated before the hearing resumes.
- h. Resumption of the non-confidential part of the hearing shall be orally requested by the same Party or Tribunal member that made the confidentiality request or by the other Party, if it deems it necessary.

12. Any written pleading, procedural order, Tribunal decision, Award, transcript, recording, or other document or file that is subject to paragraphs 10.2 and 10.5 of Procedural Order No. 1 shall be redacted or edited before it is published to remove references to, cites to, or quotes from the Confidential Documents or the information contained therein.

13. The Authorized Persons shall (i) destroy any copies of the Confidential Documents and/or any other document in their possession that references, cites, or quotes from the Confidential Documents or the information contained therein and (ii) certify that they have complied with their obligation to destroy the Confidential Documents and/or any other document in their possession that references, cites, or quotes from the Confidential Documents pursuant to this Confidentiality Protocol and the terms of their respective Confidentiality Undertakings.

14. The Authorized Persons, the Tribunal and the PCA shall destroy any copies and transcriptions of the Confidential Documents in their possession within thirty (30) calendar days of the issuance of the Final Award by the Tribunal or, in the event that one of the Parties submits a request for correction or interpretation of the Final Award or for an additional award pursuant to Articles 37-39 of the UNCITRAL Rules (2013), within seventy-five (75) calendar days of the Final Award issued by the Tribunal in the Arbitration.

15. The Authorized Persons, the Tribunal and the PCA shall implement all necessary measures to ensure that any other document remaining in their possession that references, cites, or quotes from the Confidential Documents or the information contained therein remains strictly confidential.

16. The Authorized Persons, the Tribunal and the PCA shall certify in writing that they have complied with paragraphs 14 and 15 of this Confidentiality Protocol and submit their written certification to the Parties, the Tribunal and the PCA (i) within thirty (30) calendar days of the issuance of the Final Award by the Tribunal; or (ii) within seventy-five (75) calendar days of the Final Award issued by the Tribunal in the Arbitration if either Party submits a request for correction or interpretation of the Final Award or for an additional award pursuant to Articles 37-39 of the UNCITRAL Rules (2013); or (iii) if a judicial action challenging the Final Award is filed, within 30 days after the conclusion of such judicial action.

17. To the extent that any provision in the Authorized Persons' respective Confidentiality Undertakings is not explicitly included in the paragraphs above, this Confidentiality Protocol incorporates those provisions by reference.

18. The inadvertent disclosure of any of the Confidential Documents, part thereof, or information contained therein, in violation of any of the provisions of this Protocol or the Authorized Persons' Confidentiality Undertakings shall not be deemed a waiver or impairment of any claim of privilege or protection. On receiving notice that any of the Confidential Documents, part thereof, or information contained therein, have been inadvertently disclosed, the relevant Party or individual shall promptly return all such materials, as applicable, destroy all copies, extracts or summaries thereof, and certify that the destruction has been completed within two (2) calendar days of receiving the notice.

19. The Republic of Peru reserves all rights with respect to the Confidential Documents and the information contained therein. No rights in respect of the Confidential Documents and the information contained therein are granted to any other Party or individual, except as stated in this Protocol and the Authorized Persons' Confidentiality Undertakings, and no obligations are imposed on the Republic of Peru in respect of the Confidential Documents and the information contained therein other than those expressly stated in this Protocol and the Authorized Persons' Confidentiality Undertakings. For the avoidance of doubt, no Party or individual who shall gain access to the Confidential Documents and the information contained therein by virtue of this Protocol and the Authorized Persons' Confidentiality Undertakings may use the Confidential Documents or the information contained therein in any judicial or arbitral proceedings other than this Arbitration and any potential subsequent judicial proceedings in which an award issued by this Tribunal is challenged. For the avoidance of

doubt, the Confidential Documents do not include information that: (i) becomes generally available to the public other than as a result of a breach by a Party to this Protocol; (ii) is already in the receiving Party's possession, provided that such information is not known by the receiving Party to be subject to a contractual or legal obligation or confidentiality to the disclosing Party; or (iii) becomes available to the receiving Party on a non-confidential basis from a source other than the disclosing Party, provided that such source is not known by the receiving Party to be bound by a contractual or legal obligation of confidentiality to the disclosing Party.

20. Any dispute arising from the Authorized Persons' respective Confidentiality Undertakings shall be submitted to the Tribunal while the Arbitration is ongoing before a Final Award is issued. The Tribunal may consider any breach of the Confidentiality Undertakings in its Final Award and decision on costs.

21. The submission or lack of submission of a dispute arising from this Confidentiality Protocol to the Tribunal while the Arbitration is ongoing before a Final Award is issued does not waive or preclude or bar any other dispute resolution or enforcement mechanism that may be pursued after the Arbitration has terminated.

* * *

Annex 2

CONFIDENTIALITY UNDERTAKING

We, Francisco A. Rodriguez, Gilberto A. Guerrero-Rocca, Ana R. Ulseth, and Franchesca Suber of Reed Smith LLP, hereby attest that the documents to be provided by Foley Hoag LLP to us on [+INSERT DATE+] (“**Documents**”) are subject to the confidentiality provisions issued by the Tribunal in Procedural Order No. 10, dated 3 October 2025 (“**PO10**”) in the matter of *Bacilio Amorrortu (USA) v. The Republic of Peru*, PCA Case No. 2023-22 (“**Arbitration**”).

We hereby declare and undertake:

- (i) to review the confidentiality provisions governing the Documents that were adopted by the Tribunal in PO10 in the Arbitration;
- (i) to store the Documents in keeping with the security measures and protocols agreed by the Parties in the Arbitration whereby Reed Smith will utilize ethical walls, via a managing computer software program called Intapp Walls, to restrict access to electronic and physical files pertaining to the representation of Claimant Bacilio Amorrortu in this Arbitration, excluding the following Authorized Persons: Mr. Francisco Rodriguez, Mr. Gilberto Guerrero-Rocca, Ms. Ana R. Ulseth, and Ms. Franchesca Suber;
- (ii) not to use the Documents for any purpose other than for the legal representation of Claimant Bacilio Amorrortu in this matter;
- (iii) not to disclose or share copies of the Documents, either electronically or physically, with anyone that is not a signatory of this Confidentiality Undertaking;
- (iv) not to discuss the Documents, any part thereof, or the information contained therein with anyone other than the Authorized Persons identified by the Tribunal in PO10;
- (v) to destroy any copies, transcriptions, notes, or other reproduction of the Documents, be it partial or complete, in my possession (i) within thirty (30) calendar days of the issuance of the Final Award by the Tribunal; or (ii) within seventy-five (75) calendar days of the Final Award issued by the Tribunal in the Arbitration if either Party submits a request for correction or interpretation of the Final Award or for an additional award pursuant to Articles 37-39 of the UNCITRAL Rules (2013); or (iii) if a judicial action challenging the Final Award is filed, within 30 days after the conclusion of such judicial action;
- (vi) to implement all necessary measures to ensure that any other document remaining in our possession that references, cites, or quotes from the Documents or the information contained therein remains strictly confidential, with the only exceptions being those identified in the Protocol’s paragraphs ++ and ++; and
- (vii) to certify in writing that points (v) and (vi) above have been completed and to submit our written certification to the Parties and the Tribunal in the Arbitration and to the PCA (i) within thirty (30) calendar days of the issuance of the Final Award by the Tribunal; or (ii) within seventy-five (75) calendar days of the Final Award issued

by the Tribunal in the Arbitration if either Party submits a request for correction or interpretation of the Final Award or for an additional award pursuant to Articles 37-39 of the UNCITRAL Rules (2013); or (iii) if a judicial action challenging the Final Award is filed, within 30 days after the conclusion of such judicial action.

We further agree and attest that our obligation to honour the confidentiality of the Documents will continue even after the Arbitration has terminated.

This Confidentiality Undertaking shall be governed by the law of New York.

Any dispute arising from this Confidentiality Undertaking shall be submitted to the Tribunal in the Arbitration while the Arbitration is ongoing before a Final Award is issued. The Tribunal may consider any breach of this Confidentiality Undertaking in its Final Award and decision on costs.

The submission or lack of submission of a dispute arising from this Confidentiality Undertaking to the Tribunal while the Arbitration is ongoing before a Final Award is issued does not waive or preclude or bar any other dispute resolution or enforcement mechanism that may be pursued after the Arbitration has terminated.

A copy of this Confidentiality Undertaking, once executed, shall be sent to the Parties and the Tribunal in the Arbitration.

Signed: _____
Francisco A. Rodriguez

Gilberto A. Guerrero-Rocca

Ana R. Ulseth

Franchesca Suber

Date: [+INSERT DATE OF SIGNATURE+]

Annex 3

CONFIDENTIALITY UNDERTAKING

I, [+INSERT FULL NAME+], [+IN THE CASE OF CLAIMANT’S EXPERTS, INSERT PROFESSIONAL AFFILIATION+], hereby attest that the documents to which I will be granted viewing access by Foley Hoag LLP on [+INSERT DATE+] (“**Documents**”) are subject to the confidentiality provisions issued by the Tribunal in Procedural Order No. 10, dated 3 October 2025 (“**PO10**”) in the matter of *Bacilio Amorrortu (USA) v. The Republic of Peru*, PCA Case No. 2023-22 (“**Arbitration**”).

I hereby declare and undertake:

- (i) to review the confidentiality provisions governing the Documents that were adopted by the Tribunal in PO10 in the Arbitration;
- (ii) to respect and abide by my restricted, viewing-only access to the Documents;
- (iii) not to download, print, take pictures or screenshots of, transcribe, or otherwise reproduce the Documents;
- (iv) not to use the Documents for any purpose other than for reviewing, analyzing, and synthesizing of the information contained in the Documents as they pertain to Claimant Mr. Bacilio Amorrortu’s claims in the Arbitration, rebuttals to Peru’s Statement of Defense (including any witness statements or expert reports provided by Peru), and as it pertains to my role in this Arbitration as Claimant/expert. This includes use of the Documents for the purpose of preparing for, and serving as a testifying witness/expert at the Final Hearing in this Arbitration;
- (v) not to discuss the Documents, any part thereof, or the information contained therein with anyone other than the Authorized Persons identified by the Tribunal in PO10, with the exception of being allowed to render testimony in relation to the Documents at the Final Hearing in this Arbitration;
- (vi) to implement all necessary measures to ensure that any document in my possession that references, cites, or quotes from the Documents or the information contained therein remains strictly confidential throughout the Arbitration as well as after it has been concluded; and
- (vii) to certify in writing that point (vi) above has been completed and to submit my written certification to the Parties and the Tribunal in the Arbitration within fifteen (15) calendar days of the Final Award issued by the Tribunal in the Arbitration.

My execution of this Confidentiality Undertaking is a prerequisite to my review of any of the Documents.

I further agree and attest that my obligation to honor the confidentiality of the Documents will continue even after the Arbitration has terminated.

This Confidentiality Undertaking shall be governed exclusively by the law of New York, as the law of the seat of this Arbitration. I acknowledge that this does not exclude any liability under Peruvian law that may arise from a breach of this Undertaking Agreement through the unauthorized disclosure of Confidential Documents. For the avoidance of doubt, the Confidential Documents do not include information that: (i) becomes generally available to the public other than as a result of a breach by a Party to this Protocol; (ii) is already in the receiving Party's possession, provided that such information is not known by the receiving Party to be subject to a contractual or legal obligation or confidentiality to the disclosing Party; or (iii) becomes available to the receiving Party on a non-confidential basis from a source other than the disclosing Party, provided that such source is not known by the receiving Party to be bound by a contractual or legal obligation of confidentiality to the disclosing Party.

Any dispute arising from this Confidentiality Undertaking shall be submitted to the Tribunal in the Arbitration while the Arbitration is ongoing before a Final Award is issued. The Tribunal may consider any breach of this Confidentiality Undertaking in its Final Award and decision on costs.

The submission of a dispute arising from this Confidentiality Undertaking to the Tribunal while the Arbitration is ongoing does not waive or preclude or bar any other dispute resolution or enforcement mechanism that may be pursued after the Arbitration has terminated.

A copy of this Confidentiality Undertaking, once executed, shall be sent to the Parties and the Tribunal in the Arbitration.

Signed: _____
[+INSERT FULL NAME+]

Date: [+INSERT DATE OF SIGNATURE+]