

2<sup>nd</sup> June 2020

## USD 4.65 million Litigation Funding Agreement

- Litigation Funding Agreement signed with Litigation Capital Management Limited to support Claim to Arbitration against Government of Tanzania
- Agreement allows for up to USD 4.65 million to support legal costs associated with the Claim
- All monies advanced through the facility are non-recourse and only repayable in the event of a successful Claim where monies are recovered
- Due Diligence activities underway to review the merits of the Claim and are well advanced
- Following successful completion of Due Diligence, the next step is to execute a Funding Confirmation Notice confirming the facility is available to be drawn down

Indiana Resources Limited (ASX: IDA) ('Indiana' or the 'Company') provides the following update on litigation funding activities in relation to its majority shareholding position in Ntaka Nickel Holdings Ltd ("NNHL", incorporated in the United Kingdom) and the Ntaka Hill Nickel Project located in the Nachingwea Property in south-eastern Tanzania (the "Project"). Indiana is the manager of the Joint Venture for the Project and is leading activities with regards to this matter in liaison with the Board of NNHL. Further background is contained in the latter part of this release.

Following the release of an Information Memorandum in March 2020 that outlined the Claim and the basis on which NNHL believes it is entitled to compensation, there were several litigation funding firms who expressed interest in providing funding to support litigation activities.

The Company is pleased to advise that it has now finalised a Litigation Funding Agreement ("LFA") for **USD4,653,400** with Litigation Capital Management Limited ("LCM") - a firm listed on the Alternative Investment Market ("AIM") of the London Stock Exchange. The terms of the LFA (other than as set out in this announcement) are confidential.

### Company Comment

**Indiana's Executive Chairman Bronwyn Barnes said:** *"I am incredibly pleased that we have secured a litigation funding agreement with LCM that can cover legal costs in bringing our Claim to Arbitration against the Government of Tanzania. Due Diligence activities have commenced to review the merits of the Claim and I look forward to updating shareholders on progress in due course."*

*The fact that we now have a funding solution where litigation is funded by an experienced and dedicated party and costs will not be borne by Indiana's shareholders is a concrete step in preparing for arbitration to commence as soon as possible.*

*LCM is one of the world's most reputable litigation finance companies and its willingness to support our claim is a tremendous vote of confidence. The agreement with LCM clearly demonstrates that we are sharing the risk and reward with a litigation funding partner and that makes solid commercial sense for the Company.*

*I remain very disappointed that no response has been received from the Government of Tanzania to our correspondence on this important issue, and in the absence of any engagement, we will continue to prepare our case for potential arbitration."*

## **Next Steps**

With the LFA now executed, LCM has two months to complete detailed due diligence and further review the merits of the Claim. Due Diligence activities are well advanced and on successful conclusion the Parties can move to complete a Funding Confirmation Notice, which provides for monies to be progressively drawn down from the financing facility to meet expenses associated with the Claim. A detailed budget has been approved as part of the LFA, which confirms all expected legal and ancillary costs associated with the arbitration process.

The Funding Confirmation Notice will provide up to USD 4.65 million in non-recourse financing which is only repayable to LCM in the event of a successful Claim or settlement of the Dispute that results in the recovery of any monies. If there is no settlement or award, then LCM is not entitled to any repayment of the financing facility.

In return for the providing the financing facility, LCM shall be entitled to receive either repayment of any funds drawn plus 10% of the funding facility or an amount equal to between 1.25 and 5 times the amount of any funds drawn from the funding facility, whichever is greater and depending on the time frame over which funds have been drawn.

If LCM reasonably considers that the merits of any Claim, upon advice from counsel or a third party solicitor, are no longer satisfactory, or, that any Claim is no longer economically viable LCM may terminate the LFA by providing five (5) Business Days written notice. In this instance the Company will not be required to immediately repay any funds already drawn and can engage with the new funder to provide funding support for the Claim.

Indiana remains focused on trying to bring a swift settlement to the current dispute with the Government of Tanzania and remains open to working together on a collaborative settlement outcome. However, in the absence of any correspondence in relation to this matter from the Government, the Company has advanced preparations to lodge a Claim to Arbitration with the International Centre for Settlement of Investment Disputes ("ICSID"), part of the World Bank.

The quantum of any Claim for compensation may include, but will not be limited to:

- the value of historic investment made by Indiana in Tanzania;
- the value of the project at the time that tenure was expropriated; and
- damages the Company has suffered as a result of Tanzania's acts and omissions.

The Company is not able to make any comment in relation to the potential quantum of any claim for compensation at this point.

## **Background to LCM**

LCM specialises in investments relating to the global disputes market and has an unparalleled record in providing disputes finance that is driven by its disciplined project selection criteria and robust risk management. As one of the world's first litigation funders, LCM has assisted hundreds of companies to achieve significant recoveries from claims that, without LCM, would not have been pursued due to the associated costs and risks.

## **Background to Claim**

In July 2017, the Government of Tanzania introduced wide-ranging and severe amendments to the Mining Act 2010, which, *inter alia*, abolished the legislative basis for the Retention Licence classification with no replacement classification.

On 10 January 2018, Tanzania published the Mining (Mineral Rights) Regulations 2018. Under Regulation 21 of these Regulations, Tanzania cancelled all Retention Licences issued prior to 10 January 2018 at which point they ceased to have any legal effect. The rights over all areas under Retention Licences, including the Retention Licence held for the Project, were immediately transferred to the Government of Tanzania.

During the time from January 2018 to December 2019, the Company actively engaged with the Tanzanian Minister for Energy and Minerals and the Mining Commission in an effort to resolve a suitable tenure mechanism for the Project Licence to be reinstated.

A submission presented to the Government in May 2018 included an application for a Prospecting Licence as recommended by Government Officials.

Following numerous visits to Tanzania and meetings with the Minister for Energy and Minerals, Mining Commission and other senior government officials, a further submission was presented to the Minister for Energy and Minerals and the Mining Commission in October 2019 that outlined a four-year work programme and a US\$8-11 million proposed budget to progress the Project. At a meeting on 9 December 2019 with the Minister for Energy and Minerals, the Mining Commission and other senior government officials, the Chairman of Indiana was reassured that the Company's historic investment would be respected and the Government would shortly advise a process to agree an appropriate tenure for the Project.

At all times Tanzanian Government representatives reassured Company representatives, including Indiana Board members that visited Tanzania for the purpose of collaborative engagement with the Government, that the historic investment of the Company would be recognised and that our rights would be respected and protected.

On 19 December 2019, the Mining Commission of Tanzania announced a public invitation to tender for the joint development of areas covered previously by Retention Licences (the **"19 December Tender"**). It was a condition of the 19 December Tender that the successful bidder compensate the previous Retention Licence holder for its exploration costs incurred. This public invitation was not sent to the Company but was advertised on the website for the Ministry of Energy and Minerals.

On 20 December 2019, the Mining Commission of Tanzania announced a revised public invitation to tender (the **"20 December Tender"**). The 20 December Tender removed the condition that the successful bidder compensate the previous retention licence holder for its exploration costs incurred.

Through the measures described above, it is now clear that Tanzania has removed the ownership of the Project from NNHL and its local subsidiary (the **"Investors"**), and in doing so has breached its obligations to the Investors under the UK-Tanzania BIT (the **"BIT"**) and international law. These include, but are not limited to:

- a) Tanzania's obligation not to nationalise or expropriate the Investors' investments or subject them to measures having effect equivalent to nationalisation or expropriation without prompt, adequate and effective compensation under Article 5(1) of the BIT;

- b) Tanzania's obligation to accord fair and equitable treatment to the Investors' investments under Article 2(2) of the BIT.

Article 8(3) of the BIT provides that the Investors may submit the dispute to the International Centre for the Settlement of Investment Disputes ("ICSID") if the Investors and Tanzania are unable to reach an agreement concerning the dispute within six months of the dispute arising (in this instance from the date of the Investors' dispute notice being 14 January 2020). ICSID is an arm of the World Bank and the treaty underlying the institution, the ICSID Convention, has been ratified by 154 States. An award issued by ICSID is enforceable in any one of those 154 member States as if it were a judgment of one of their own courts. Partly because of this, States have overwhelmingly and historically complied voluntarily with the payment terms of such awards.

Consequently, a Notice was delivered to the President of Tanzania, H. E. The Hon John Magufuli, to the Tanzanian Solicitor General and to the Tanzanian Ministry of Energy and Minerals on 14 January 2020, that a dispute had arisen in relation to the Investors' investment in the Ntaka Hill Nickel Project. In delivering that Notice the Investors notified Tanzania of the commencement of the abovementioned six-month period.

The Notice of Intent is necessary in order to preserve the Company's rights to initiate arbitration should a resolution with the Tanzanian Government not be reached.

Further information on the Ntaka Hill Nickel Project, including historical exploration reporting and releases relating to development studies, can be found at the Company's website [www.indianaresources.com.au](http://www.indianaresources.com.au)

#### **Ends**

*This announcement is authorised for release to the market by the Chairman of Indiana Resources Limited with the authority from the Board of Directors. For further information, please contact:*

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