

On behalf of the Applicants

CBE Philipps

First witness statement

11 July 2022

Exhibit CBEP1/AJM1

Claim No. _____

Company Registered No. 04343841

IN THE HIGH COURT OF JUSTICE

BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES

INSOLVENCY AND COMPANIES LIST (ChD)

IN THE MATTER OF PETROPAVLOVSK PLC

AND IN THE MATTER OF THE INSOLVENCY ACT 1986

**FIRST WITNESS STATEMENT OF
CHARLOTTE BERTHA ELISABETH PHILIPPS**

I, **CHARLOTTE BERTHA ELISABETH PHILIPPS** of Petropavlovsk PLC, 11 Grosvenor Place, Belgravia, London SW1X 7HH, **WILL SAY AS FOLLOWS:**

- 1 I am, and have been since 8 November 2019, an independent non-executive director of Petropavlovsk PLC (the “**Company**”) with the title Senior Independent Director.
- 2 I am a German law qualified lawyer and have extensive experience in corporate financing and equity transactions in Russia and in other transitional former Soviet and CMEA countries, principally focused on natural resources. Since 1993, I have spent time working in the former Soviet Union in a number of positions with the European Bank for Reconstruction and Development, latterly as Senior Banker for its Natural Resources Team. Later, I was appointed President and CEO of AIG Russia Century Fund, Moscow, which meant that I was based and lived in Moscow from 2006 to

2014. In addition, until May 2021, I was a member of the Strategy and Investment Committee of Inter RAO UES, Russia's largest integrated utility company.

- 3 I refer in this witness statement to the paginated bundle of true copy documents labelled "**CBEP1/AJMI**", which is the joint exhibit to this witness statement and to the first witness statement of Mr Allister Jonathan Manson dated 11 July 2022 ("**Manson 1**"), being one of the Proposed Administrators (as defined below). Unless otherwise indicated, any references in this witness statement to tabs or pages are references to the corresponding tabs or pages of that exhibit. I also refer to Manson 1, which I have had the benefit of reading in draft. Any reference to "we" hereafter refers to the Applicants or the Company's staff. Terms not defined in this witness statement have the meanings given to them in Manson 1.
- 4 I make this witness statement on behalf of the majority of the directors of the Company (the "**Applicants**") in support of the application for an administration order in respect of the Company (the "**Administration Application**") and an order that Mr Manson, Mr Trevor Binyon and Ms Joanne Rolls (together, the "**Proposed Administrators**"), each of Opus LLP ("**Opus**"), be appointed as administrators of the Company, should the Court make an administration order. I am authorised by the Applicants to do so following a meeting held on 11 July 2022 (the "**Meeting**") where a resolution was passed by the board of the Company by a majority in accordance with article 116 of the Articles to approve, among other things, the making of the Administration Application. A copy of the resolutions from the relevant board minute is at [Tab 82]. I confirm that the minute of the relevant meeting is in the process of being finalised and will be filed at Court as soon as it is available (redacted, where appropriate, for confidentiality reasons).
- 5 The facts and matters stated herein are either within my own knowledge, in which case they are true, or based on documents and information supplied to me as a non-executive director of the Company, in which case they are true to the best of my knowledge, information and belief.
- 6 As required by paragraph 18.1(5) of CPR Practice Direction 32, I can confirm that this witness statement has been prepared with assistance from the Company's solicitors (who until around 20 June 2022 were Weil Gotshal & Manges (London))

LLP (“**Weil**”) and who since then have been Joseph Hage Aaronson LLP (“**JHA**”), from leading and junior insolvency counsel, and from Infralex, the Company’s Russian lawyers. This assistance was provided via email, telephone and in person. In referring to any legal advice that the Applicants and/or the Company have received, the Applicants and the Company do not intend to, and do not, waive any privilege by such reference or otherwise.

A. SUMMARY

7 The Company is the parent company of a group of gold mining and exploration companies operating in the far east of Russia (I refer to the Company and its subsidiaries collectively as the “**Group**”). As a result of international sanctions and other restrictions relating to the Russian Federation’s invasion of Ukraine in 2022, the Group’s ability to operate its business has been seriously impaired and the Company is now unable to pay its debts as they fall due. This is because, as described in greater detail below:

7.1 Until recently, the Company’s main lender was Bank GPB (JSC) (“**GPB**”), one of Russia’s largest commercial banks. GPB provided a US\$ 200 million term loan to the Company (the “**Term Loan**”) and credit facilities of c. US\$ 86.7 million to certain of its subsidiaries in Russia (the “**Facilities**”). The Company also had a significant commercial relationship with GPB and its subsidiaries, who were major buyers of the Group’s gold.

7.2 On 24 March 2022 the UK government announced the imposition of 65 new sanctions targeting strategic industries, banks and business elites. GPB was one of six Russian banks which became subject to asset-freezing measures under the Regulations. As a result, the Company and its subsidiaries were unable to make payments to GPB and so defaulted on the Term Loan and the Facilities, which were in turn accelerated by GPB on 18 April 2022. The Group was also unable to sell gold to GPB (with which it had a contractual relationship of exclusivity).

7.3 In addition, the Company is the guarantor of a US\$ 500 million note due in November 2022 (the “**Notes**”) and US\$ 125 million in convertible bonds due in 2024 (the “**Convertible Bonds**”) issued by one of its subsidiaries. Default

under the Term Loan and Facilities triggered cross-defaults under the terms of those instruments.

- 7.4 During the course of April and May 2022 GPB assigned the Term Loan and the Facilities to unrelated third parties which are not sanctioned persons (and to which the Group could therefore, at least theoretically, make payments). Consequently, the Group has no current financial or commercial connection with any entity which is a designated person under the Regulations. However, ongoing sanctions and banking restrictions (as well as a general reluctance on the part of Western financial institutions to accept Russia-related business) have made it difficult for the Company's Russian subsidiaries to move funds to the Company to enable the Company to service its debts, such that it remains practically unable to meet its obligations to its creditors.
- 8 Once the possible impact of the sanctions regime on the Company's financial position started to become apparent in late February 2022, the Company sought to refinance its debt but this proved impossible. Consequently, from late March 2022 the Company began to explore a sale of its subsidiaries.
- 9 Following a marketing process undertaken in the course of April and May 2022 and competitive bidding by several interested parties, the Company and the Proposed Administrators have over the course of several weeks negotiated the terms of a potential sale of the operating subsidiaries to UMMC-Invest ("UMMC" and the "**Proposed Transaction**"). UMMC is the investment arm of the UMMC Group, one of Russia's largest producers of copper, zinc, precious metals and coal. UMMC had expressed an interest in purchasing the Company or its business late in 2021 but negotiations were interrupted by Russia's invasion of Ukraine in February 2022. Following the Company's default under the Term Loan, UMMC purchased that debt from GPB as part of what I understand to have been a "loan to own" strategy (in which the Company had no involvement and of which it had no prior knowledge). UMMC (and its wider corporate group) are not the target of any sanctions.
- 10 The main terms of the Proposed Transaction are outlined below. In essence, it is hoped that the consideration which it is envisaged that the Company would receive would enable it to meet its obligations to creditors in full although without there being

any surplus for shareholders. Given the difficult circumstances in which the Company now finds itself and the continuing deterioration of its business and financial position, the Applicants consider this to be a better outcome than would be achieved if the Company were to be put into liquidation.

- 11 Separately, on 7 July 2022 the Company received a non-binding offer from its largest shareholder, ‘Uzhuralzoloto Group of Companies’ JSC (“UGC” and the “**UGC Proposal**”) to restructure its debt and purchase its assets. This offer was the subject of some discussion at the Meeting, however the Applicants have not been able properly to consider its viability or merits in the time available, not least because the terms in which it was initially put to us were not entirely clear.¹ Our view is that the Company should be placed into administration without delay because it is insolvent. We anticipate that: (i) we and the Proposed Administrators will discuss the UGC Proposal with them further and seek to obtain from UGC the information required to evaluate it; and (ii) the Administrators will be able to reach a final view once appointed.
- 12 Accordingly, the Applicants seek to place the Company into administration so that the Proposed Administrators, once appointed, can implement a sale of its business quickly and efficiently, while that is still a viable option. This sale might be by way of the Proposed Transaction with UMMC, the UGC Proposal or some other as-yet unidentified opportunity. If for whatever reason a sale proves impossible, then the Applicants consider that the Company would have to be wound up (which we expect would result in a materially worse return for creditors).
- 13 The Company and the Proposed Administrators jointly notified the UK Office of Financial Sanctions Implementation (“**OFSI**”) of the intention to make the present application and to consider entering into the Proposed Transaction with UMMC (which was at the time of the letter the only offer on the table) on 29 June 2022. A further letter was sent on 5 July 2022 to correct and clarify certain matters. Copies of JHA’s letters to OFSI are at [**Tab 75 and 79**]. As explained in those letters, the Applicants’ provisional view based on legal advice received by the Company was

¹ I note that UGC, along with the Company’s other major shareholders, was invited to make a bid during the marketing process but chose not to do so. No criticism is intended by this statement, but it is hoped that it illustrates the difficulty we have had in understanding the UGC Proposal as at the time of filing.

(and remains) that the sale to UMMC would not involve any breach of sanctions, and accordingly that no licence from OFSI would be required. Despite that, the Applicants considered it prudent to give OFSI the opportunity to review the Proposed Transaction in advance, given the fact that the Group's assets are located in Russia as well as the fact of its prior relationship with GPB. Should OFSI take a different view to that of the Applicants, the Company would of course comply with any applicable requirements. As of the date of this witness statement, no substantive response has been received from OFSI. The Company intends to notify OFSI of the date of the hearing of this application once it is listed.

14 The decision to enter into the Proposed Transaction, a transaction with UGC or any other transaction would of course be for the Administrators once appointed. While I understand that the Proposed Administrators (having reviewed the advice received by the Company and taken their own advice) share the Applicants' provisional view that the Proposed Transaction (at least) would not require an OFSI licence, I also understand that they intend to seek the Court's guidance in this regard by moving an application for directions after their appointment. I therefore do not address the sanctions position in any detail in this statement, as I am advised that this will be addressed by the Proposed Administrators in due course.

15 In the remainder of this witness statement, I deal with the following matters:

15.1 **B.** The Company and the Group;

15.2 **C.** The Company's creditor profile;

15.3 **D.** Events leading up to the Administration Application;

15.4 **E.** Insolvency;

15.5 **F.** Marketing of the Company's assets;

15.6 **G.** Communication with shareholders;

15.7 **H.** The Proposed Transaction with UMMC;

15.8 **I.** The UGC Proposal;

- 15.9 **J.** Statutory purposes of administration;
- 15.10 **K.** Formalities;
- 15.11 **L.** Urgency; and
- 15.12 **M.** Request for an administration order.

B. THE COMPANY AND THE GROUP

Overview

- 16 The Company is incorporated and registered in England and Wales. It is listed on the premium listing segment of the Official List of the Financial Conduct Authority (the “FCA”) and admitted to trading on the main market for listed securities of the London Stock Exchange (the “LSE”). Until a dramatic fall in its share price in March 2022 following Russia’s invasion of Ukraine, the Company was also a constituent of the FTSE 250, FTSE 350 and FTSE All Share indices. The Company was removed from all FTSE indices as at 21 March 2022 (a copy of the relevant notice is at [Tab 19]). The Company has a secondary listing on the Moscow Stock Exchange (“MOEX”).
- 17 The Company has numerous subsidiaries. A structure chart for the Group as at 5 July 2022 is at [Tab 47]. Its operating subsidiaries are based near its assets in Russia. To date, the Group has sold almost all of its gold domestically in Russia.
- 18 The Company is the holding company of the Group. In summary, the Group consists of:
 - 18.1 38 entities, 24 of which are incorporated and based in Russia. Of the remaining entities, one is dormant (Guyana) and the remainder are based in the UK, Jersey, Cyprus and the Cayman Islands.
 - 18.2 The Group has three main gold exploration and production entities in Russia, JSC Pokrovskiy Mine, LLC Malomysrkiy Rudnik and LLC Albynskiy Rudnik. The rest of the Group’s Russian entities support these mines by providing exploration, research, engineering, construction, maintenance, transportation and other ancillary services.

- 18.3 The UK entities comprise six companies: the Company, three treasury entities and two intermediate holding companies. Three of the four Cyprus entities are intermediate holding companies; the fourth is dormant. The two Jersey entities, Petropavlovsk 2010 Limited and Petropavlovsk 2016 Limited, were used to issue the Notes and Convertible Bonds. The Cayman entity is dormant.
- 19 The Company (has opposed to the wider Group) has seven employees, all of whom are based in the UK. These are the company secretary and corporate counsel, the assistant company secretary, a head office accountant, an assistant accountant, an HR and compliance manager, an investor relations manager and an office manager.
- 20 There Company has five directors, all of whom act pursuant to letters of appointment. Two of the directors (Mr Cameron and Ms Philipps) are based in the UK and three are based in Russia.
- 21 The Company is a PLC listed on the premium listing segment of the Official List of the Financial Conduct Authority (the “FCA”) and admitted to trading on the London Stock Exchange’s (the “LSE”) main market for listed securities. Until a dramatic fall in its share price in March 2022 following Russia’s invasion of Ukraine, the Company was also a constituent of the FTSE 250, FTSE 350 and FTSE All Share indices. The Company was removed from all FTSE indices as at 21 March 2022. The Company has a secondary listing on the Moscow Stock Exchange (“MOEX”). As a result of its premium listing on the Official List of the FCA, the Company is subject to, among other things, ongoing obligations under the Listing Rules, the Disclosure Rules and Transparency Guidance issued by the FCA.
- 22 The trading price and market capitalisation are, as such, publicly available on a daily basis. We do have a recent list of shareholders however, given that it is a PLC, this is subject to constant change. The largest shareholder that we are aware of is Uzhuralzoloto Group of Companies (“UGC”) with 29.18%. We understand UGC to be controlled by Mr Konstantin Strukov (who also acts as President as UGC). UGC and Mr Strukov are not the subject of any sanctions.

De-listing

- 23 The Company’s solicitors and Infralex have advised in relation to the various listing requirements. If the Court is minded to grant the orders sought and place the Company into administration, it is envisaged that it would de-list: (i) its shares and the Convertible Bonds from the LSE; and (ii) the 2022 Notes from the GEM in advance of entering into the Proposed Transaction (if the listing on the GEM is not automatically suspended or cancelled as a result of the Company’s administration). It would also delist its shares from the MOEX.
- 24 In relation to the LSE listings, the Company has spoken with the FCA and expects to cancel the listings once the Company goes into administration. In relation to the GEM listing of the 2022 Notes, the intention is to liaise with the Irish regulator once the Company goes into administration. In relation to the MOEX listing, the intention is for the Company to approach the MOEX to request cancellation of the Company’s listing at the same time as the filing of the Administration Application and the suspension of the shares on the LSE.

Statutory Information about the Company

- 25 The Company’s overview page from Companies House is at [Tab 65]. The Company was incorporated on 20 December 2001 with the name ‘Excelsior Corporation PLC’ and company number 04343841. It changed its name to ‘Peter Hambro Mining PLC’ on 14 March 2002 and adopted its current name on 23 September 2009.
- 26 The Company’s share capital consists of 3,958,751,735 ordinary shares of £0.01 each with a total nominal value of £39,587,517.35, being fully paid up or treated as being fully paid up.
- 27 According to the monthly notice of significant shareholdings in the Company as at 30 June 2022 [Tab 49] the Company’s key beneficial or underlying shareholders include the joint-stock company ‘Uzhuralzoloto Group of Companies Joint Stock Company’ (“UGC”) and Prosperity Capital Management Limited (“Prosperity”). As at 30 June 2022, UGC held approximately 29.18% of the Company’s share capital and Prosperity held approximately 9.97%.

- 28 According to the TR-1: Standard form for notification of major holdings filed with the LSE on 4 July 2022 [**Tab 27**], UGC controlled 29.18% of the Company’s shares. As at the date of this statement, UGC is the Company’s largest shareholder.
- 29 The Company’s memorandum of association is at [**Tab 1**] and its articles of association, as filed at Companies House on 18 July 2020 (the “**Articles**”), are at [**Tab 9**]. The objects for which the Company was established were, among other things, to “*carry on business as a general commercial company.*”
- 30 The Company’s registered office is 11 Grosvenor Place, Belgravia, London SW1X 7HH, which is also its main administrative headquarters.
- 31 The Company’s directorship register from Companies House, as at 5 June 2022, is at [**Tab 66**]. The registered directorships are summarised below:

Name	Status	Date of appointment
James William Cameron Jr	Independent non-executive director (Chairman)	15 October 2018
Charlotte Philipps	Independent non-executive director (Senior Independent Director)	8 November 2019
Mikhail Irzhevsky	Independent non-executive director	16 April 2021
Evgenii Potapov	UGC’s nominee director pursuant to its relationship agreement with the Company dated 2 April 2020 (the “ UGC Agreement ”)	12 July 2021
Roman Deniskin	Independent non-executive director	11 April 2022

- 32 Although not a registered director, Mr Denis Alexandrov is the Chief Executive Officer of the Group. He was also a director of the Company from 1 December 2020 to 30 June 2021 but a resolution to re-elect him failed following shareholder pressure, believed to have been led by UGC, in the run-up to the Company’s annual general meeting on 30 June 2021, and he ceased to be a director on that date.

33 Until 1 July 2022, the Company’s auditors were MHA MacIntyre Hudson (“MHA”). MHA resigned on that date, following consultation with the Company, in order that they could be instructed by the Proposed Administrators to provide tax advice. As a result, the Company presently has no auditor.

Corporate Governance

34 The proceedings of the Company’s directors are governed by the Articles [Tab 9], and by the UGC Agreement as regards the role of UGC’s nominee director and associated rights.

35 The Company’s directors have delegated day-to-day management of the Group to the Group’s executive committee and senior management team. The executive committee’s terms of reference are at [Tab 11]. Certain functions have also been delegated to other specific committees. As an example, the audit committee’s terms of reference are at [Tab 12].

36 The terms of reference for the division of responsibilities between the Company’s Chairman (Mr Cameron), the Company’s Senior Independent Director (myself) and the Group’s Chief Executive Officer (Mr Alexandrov) are at [Tab 8].

37 At [Tab 13] is a schedule, as adopted on 31 August 2021, of matters that are reserved to the Company’s board. It includes, at paragraph 1.3, “*the making of any decision likely to have a material impact on the Company or Group from any perspective, including, but not limited to, financial, operational, strategic or reputational.*”

38 In relation to general meetings, the Articles provide that the board may convene a general meeting “*whenever it thinks fit*” [Tab 9]. Article 49 states that such a meeting “*shall be called by at least such minimum period of notice as is prescribed under the Statutes for the type of meeting concerned*” [Tab 9]. Under section 307A of the Companies Act 2006 (“CA 2006”), a “*traded company*” (such as the Company) must hold general meetings on 21 clear days’ notice unless, among other things, a special resolution has been passed allowing general meetings to be held on at least 14 clear days’ notice. A special resolution to that effect was proposed at the Company’s 2021 annual general meeting but did not pass.

39 The Company publishes regular press releases regarding, among other things, operational updates on the Group. Since the start of the conflict in Ukraine in February 2022, the Company has published press releases on 9 March [Tabs 17-18], 25 March [Tab 24], 30 March [Tab 25], 4 April [Tab 26], 11 April [Tab 30], 14 April [Tab 31], 20 April [Tab 39], 22 April [Tab 43], 29 April [Tab 48], 12 May [Tab 55], 16 May [Tab 58], 7 June [Tab 70], 27 June [Tab 73], 1 July [Tab 77], and 11 July [Tab 79]. The Company’s press releases are also released as announcements on the LSE, the MOEX and – to the extent that they relate to the Notes – the Global Exchange Market (“GEM”).

C. THE COMPANY’S CREDITOR PROFILE

No Secured Creditors

40 The Company has no secured creditors. The Company’s mortgage index from Companies House as at 5 June 2022 is at page [Tab 67]. There are no outstanding charges registered against the Company and there is therefore, based on advice from our legal advisors, no qualifying floating chargeholder.

41 I confirm that, as far as I am aware, there is no receiver or administrative receiver appointed to the Company or its assets.

Preferential creditors

42 The Company is in an ongoing dispute with HMRC regarding VAT liability. I understand that if tax payments are determined to be due then HMRC would be treated as a preferential creditor.

Unsecured Creditors

43 The Company has the following financial debts, all of which are unsecured².

(i) The Term Loan

² The Company’s expenses consist of the general operating costs associated with a listed group holding company, including listing fees, professional costs and directors’ costs.

- 44 The Company is the borrower in respect of a US\$ 200 million committed term loan facility (the “**Term Loan**”). The original lender was GPB. The Term Loan is guaranteed by four of the Company’s key operating subsidiaries. There are payments due of (i) US\$ 66 million on 31 December 2022; (ii) US\$ 66 million on 31 March 2023; and (iii) US\$ 68 million on 30 June 2023. Interest is payable on the 25th of each month. A copy of the facility agreement is at [Tab 6]. The Term Loan is governed by English law, with disputes to be referred to arbitration in Hong Kong (see clauses 37 and 38 at).
- 45 On 25 March 2022, an interest payment of US\$ 560,000 became due under the Term Loan. As discussed later in this statement, the Company could not make this payment as GPB was subject to financial sanctions imposed by the UK Government. As a result, on 18 April 2022 GPB gave notice to accelerate the Term Loan.
- 46 On 19 April 2022, GPB gave further notice that it had assigned its rights under the facility agreement to UMMC (the “**UMMC Assignment**”). Further interest payments fell due under the Term Loan on 25 April 2022, 25 May 2022 and 25 June 2022 which are also unpaid.
- 47 On or about 16 April 2022, shortly before the UMMC Assignment took place on 19 April 2022, the Company was informed of the proposed assignment. This was because the UMMC Assignment involved the replacement of GPB as Agent under the facility agreement by UMMC, which the Company as Borrower would be required to acknowledge. Accordingly, the Company was informed of the proposed assignment shortly before it was executed in the context of being asked to comment on the draft form of acknowledgement. For the avoidance of doubt, the Company had no involvement in the negotiations between GPB and UMMC.
- 48 The Applicants understand from subsequent discussions with UMMC regarding its purchase of the Term Loan that:
- 48.1 After the Company announced on 25 March 2022 (see press release at [Tab 24]) that it was unable to service its debt to GPB due to sanctions, UMMC (which, as noted above, had already been exploring an acquisition of the Company or its assets for some months at that point) approached GPB with a view to purchasing the Term Loan.

- 48.2 UMMC wanted to acquire the Company's debt with a view to converting that debt to equity (a "loan to own" strategy, as referred to above). GPB was (so UMMC understood) motivated to sell the Term Loan because it recognised that the Company was prevented from meeting interest payments or repaying the principal by sanctions, and so hoped to realise some value rather than keeping a bad debt on its books or having to take steps to enforce against the Company.
- 48.3 The consideration paid by UMMC to GPB for the assignment was the face value of the debt without any discount. This has been paid in full and no further sums are due to GPB. There are no provisions that would allow the assignment of the Term Loan to be unwound.
- 48.4 GPB considered that it was required to accelerate the Term Loan prior to making the assignment to UMMC because of a provision in the facility agreement which makes any assignment by the lender subject to borrower consent unless the borrower is in default. I understand this to be a reference to clause 22.2 of the facility agreement, which provides that *"[t]he consent of the Borrower is required for an assignment or transfer by an Existing Lender, unless the assignment or transfer is: [...] (3) made at a time when an Event of Default, a Lender Sanctions Event or a Borrower Sanctions Event has occurred and is continuing."*
- 49 The Company has requested a copy of the assignment agreement between GPB and UMMC but this has not yet been provided. As and when it is received, the Company would of course ensure that the Proposed Administrators see it so that they can consider it in the context of evaluating the Proposed Transaction.
- 50 On 27 June 2022, the Company wrote to GPB to ask it to confirm that: (i) it no longer holds any rights under either the Term Loan or the Facilities, and that no further consideration (including contingent consideration) is or might become due to GPB from any party as a result of the assignments to UMMC and Nordic; and (ii) it does not currently hold, and has no interest in, any debt or other security relating to the Company or the Group. On 28 June 2022, GPB provided both confirmations. A copy of this correspondence is at [Tab 74].

(ii) The Notes

51 The Company is a guarantor in respect of a US\$ 500 million note (of which c. US\$ 304 million remains outstanding) due 14 November 2022 and issued by one of the Company's Jersey subsidiaries, Petropavlovsk 2016 Limited (i.e. the Notes). The Notes are guaranteed further by three of the Company's key operating subsidiaries in Russia. Interest is payable semi-annually on 14 May and 14 November of each year. The Trust Deed is at [Tab 2], the Offering Memorandum is at [Tab 3] and the Deed of Guarantee is at [Tab 4].

52 The Notes are listed on the GEM in the Republic of Ireland.

(iii) The Convertible Bonds

53 The Company is the guarantor in respect of US\$ 125 million convertible bonds (of which c. US\$ 33 million plus interest remains outstanding) due in 2024, issued by one of the Company's Jersey subsidiaries, Petropavlovsk 2010 Limited (the "Convertible Bonds"). Interest is payable quarterly on 3 January, 3 April, 3 July and 3 October. The Trust Deed is at [Tab 5] and the Offering Memorandum is at [Tab 7]. The Convertible Bonds are listed on the Official List of the LSE.

54 An interest payment of approximately US\$ 688,000 fell due on 3 April 2022 in respect of the Convertible Bonds. Although the directors had given instructions that this payment should not be made in light of the Company's financial position, the payment was processed on 31 March 2022 due to an internal administrative error. An interest payment of circa US\$ 680,000 was missed on 3 July 2022.

55 The acceleration of the Term Loan and/or the Facilities (as discussed below) and/or caused a cross-default under the terms of the Notes and the Convertible Bonds.³ Accordingly, the Company sent event of default notices to the Trustee for the Notes (Citibank, N.A., London Branch ("Citi")) and the Trustee for the Convertible Bonds (Apex Corporate Trustees (UK) Limited ("Apex")) on 21 April 2022. On 29 April 2022, the Company published a press release about the event of default notices

³ See the prospectus in respect of the Notes [Tab 3] at clause 9(c); and the prospectus in respect of the Convertible Bonds [Tab 7] at clause 12(c).

[**Tab 48**]. On 29 April 2022, the Company also published the press release as an announcement on the GEM in the Republic of Ireland with respect to the Notes.

56 Apex and Citi emailed the Company to confirm receipt of the event of default notices on 26 and 27 April 2022 respectively. Apex has since confirmed that it has notified the holders of the Convertible Bonds. On 30 June 2022 and 11 July 2022 Citi and Apex were notified of further events of default under the Notes and Convertible Bonds.

(iv) Intragroup arrangements

57 There are a number of intragroup arrangements entered into for treasury purposes, in which the Company acts as both a lender and a borrower.

58 I am informed by the CFO that, as at 30 June 2022, the Company had aggregate claims of approximately US\$ 1,446.67 million (total principal and accrued interest) against Group subsidiaries and aggregate liabilities of approximately US\$ 1,451.26 million (total principal and accrued interest) owing to Group subsidiaries. As discussed later in this statement, the Company's material assets consist of its shares in the Group's operating subsidiaries and cash balances.

(v) Other liabilities

59 Having made enquiries of the CFO, I am aware of the following additional liabilities (or possible liabilities) of the Company, including:

59.1 Contractual entitlements due to existing employees (including redundancy pay if they are made redundant) in the region of £529,000;

59.2 A claim by a former employee for wrongful dismissal and breach of contract, which we are advised may result in a liability of up to £125,000; and

59.3 Trade creditors of approximately £5.9 million (a significant proportion of which relates to outstanding professional fees).

The Facilities

- 60 Separately from the Term Loan, GPB also made available c. US\$ 86.7 million in credit facilities (the “**Facilities**”) to certain of the Company’s subsidiaries in Russia. The Facilities are not a liability of the Company but are nonetheless relevant to the marketing of the Company’s subsidiaries, as discussed below, because any sale would be subject to the subsidiaries’ liabilities in respect of the Facilities.
- 61 On 18 April 2022, GPB gave notice to accelerate the Facilities (further details are set out below). On 12 May 2022, the relevant subsidiaries were notified by GPB that it had assigned the Facilities to Nordic LLC (“**Nordic**” and the “**Nordic Assignment**”) [Tab 56]. The Nordic Assignment is referenced in the Company’s press release dated 16 May 2022 [Tab 58]. The Company was aware of GPB’s intention to assign the debt due under the Facilities before that assignment (i.e. the Nordic Assignment) took place, in that the Company was informed on or about 9 May 2022 that it should expect to receive notification of an intended assignment shortly although the identity of the counterparty was still not known. The Company did not know that the debt would be assigned to Nordic until its subsidiaries were notified of this by GPB on 12 May 2022.
- 62 The Applicants’ and Proposed Administrators’ investigations suggest that Nordic is an investor in distressed debt which has been active in the market since 2015. We further understand that Nordic purchased the Facilities from GPB for a significant discount to face value. Other than as stated above, the Applicants had no prior knowledge of the Nordic Assignment and no involvement in it. We assume that Nordic sought to purchase the debt after becoming aware of the Group’s difficulties in respect of the Facilities, and/or having become aware that the Company was marketing its operating subsidiaries for sale. As noted above, GPB has now confirmed that it has no remaining interest in the Facilities.
- 63 Under the Facilities, the Lender has an option to purchase 100% of the Group’s gold production.⁴ As per the Company’s press release on 12 May 2022 [Tab 55], following the imposition of sanctions GPB provided a limited waiver allowing the Group to sell to other buyers. Since the Nordic Assignment, the relevant subsidiaries

⁴ See the revolving credit line agreement with Malomyr Mine [Tab 15], clauses 4.12-4.13. An identical provision appears in the other Facilities agreements.

have approached Nordic for similar waivers to allow them to sell to third parties and Nordic has provided these waivers.

D. EVENTS LEADING UP TO THE ADMINISTRATION APPLICATION

UK sanctions

64 I explain in this section the impact on the Company of the imposition of sanctions by the UK in response to Russia's invasion of Ukraine in February 2022. My understanding of the sanctions themselves is based on advice from the Company's lawyers.

65 On 24 March 2022, the UK government announced the imposition of 65 new sanctions targeting strategic industries, banks and business elites. The UK government targeted six Russian banks, including GPB, each of which became subject to asset-freezing measures under the Russia (Sanctions) (EU Exit) Regulations 2019 (the "**Regulations**"). An extract of GPB's designation for the purposes of the Regulations appears at [**Tab 42**].

66 On the same day, OFSI, a part of HM Treasury with responsibility for UK sanctions measures, issued General Licence INT/2022/1424276 (the "**General Licence**"), which applies to dealings with certain banks, including GPB. A copy of the General Licence appears at [**Tab 23**]. Pursuant to the General Licence, persons are permitted to wind down any transactions with relevant banks to which they are a party including the closing out of any positions. The General Licence took effect from 24 March 2022 and expired on 23 April 2022.

67 The prohibitions and requirements imposed by the Regulations apply within the territory of the UK and in relation to the conduct of all UK persons wherever they are in the world. This means that Regulations apply to: (i) all individuals and legal entities within the UK's territory; and (ii) all UK nationals and legal entities established under UK law irrespective of where their activities take place.

68 Accordingly, the Regulations apply to the Company, as well as to any individual director or employee of the Company who is a UK national or resident in the UK. OFSI guidance suggests that the Regulations may also apply indirectly to actions

taken by the Company's non-UK incorporated subsidiaries, to the extent that such actions are taken at the direction of the Company. In that context, the Company has instructed its subsidiaries to comply with UK sanctions.

69 Although the Company is not a designated entity under the Regulations (and nor is any member of the Group), the UK sanctions have nevertheless adversely affected the Company's position and viability.

70 First, third parties are wary of dealing with the Company (given its links to Russia) in the current sanctions landscape and from a reputational perspective. This is the case even in respect of longstanding counterparties and service providers. For example, since February 2022, the Company's public relations agency, brokers and payroll services provider have all terminated their relationships with the Company; the English law firm providing employment law advice to the Company has resigned; and the health insurance group which had provided cover to the Company's UK employees declined to renew the policy on expiry (with the Company unable to identify any replacement cover). Further, Citi has indicated that it is also considering terminating its banking relationship with the Company. This is the Company's only operational bank account outside of Russia. There is no alternative banker of which the Company is aware that is willing to do business with the Company in the UK, so the Company has had to look abroad, including as far afield as Mauritius, but has not yet succeeded in opening another account.

71 Secondly, the Group had substantial commercial and financial relationships with GPB and its subsidiaries. GPB was one of the Group's two main bankers (the other being Citi) and, as explained above, the largest buyer of the Group's gold. Those relationships ended suddenly following the imposition of sanctions.⁵ GPB was, until the UMMC Assignment in April 2022 and the Nordic Assignment in May 2022, the lender in respect of the Term Loan and the Facilities. The UK sanctions prevented the Company from making an interest payment of US\$ 560,000 that fell due on 25 March 2022 in respect of the Term Loan. As a consequence of that non-payment:

⁵ For the sake of completeness, I would mention that the Group has also previously used Raiffeisenbank for letters of credit and Sberbank, Asian-Pacific Bank and VTB Bank as transaction banks. Certain Group subsidiaries have also recently opened accounts with Expobank.

- 71.1 On 18 April 2022, GPB sent the Company a notice of default and acceleration in respect of the Term Loan and declared that all amounts outstanding under the Term Loan (amounting to US\$ 201 million) were immediately due and payable [Tab 35].⁶ GPB also gave notice that it intended to resign as agent in respect of the Term Loan and appoint UMMC as its successor agent [Tab 36].
- 71.2 In addition, on the same date GPB sent a notice of acceleration to the relevant Group subsidiaries in respect of the Facilities stating that they were due for repayment on 26 April 2022 [Tabs 32,33,34]. As noted above, GPB assigned the Facilities to Nordic on 12 May 2022 [Tabs 56].
- 71.3 On 19 April 2022, GPB sent a resignation notice to the Company [Tab 37] and UMMC sent a letter to the Company confirming that GPB had transferred its rights in relation to the Term Loan to UMMC [Tab 38]. UMMC indicated that it was interested in purchasing certain of the Company's subsidiaries and that it would suspend all debt recovery actions in respect of the Term Loan until 9 May 2022 to allow time to explore and finalise a potential sale.
- 71.4 As noted above, the acceleration of the Facilities and/or the Term Loan caused a cross-default under the terms of the Notes and the Convertible Bonds and the directors have given notice to that effect to the Trustees of the Notes and the Convertible Bonds.
- 72 In addition, the sanctions have hampered the Group's ability to raise funds through selling gold. First, the Group is obviously unable to make sales to sanctioned entities (including GPB, which had in the past been the primary buyer through its option under the Facilities, described above). Secondly, the prices that the Group can achieve for its gold on the Russian domestic market have been significantly depressed both by the effect of sanctions and by related fluctuations in the currency market, while it has proven practically impossible to sell on the international market. Russian government restrictions also limit the pool of potential buyers within Russia. To illustrate the

⁶ I note without waiving privilege that the Company did consider with its lawyers whether it could raise a defence of illegality and seek a declaration from the English Court in that regard to resist GPB's acceleration of the loan, given that the relevant default was the result of sanctions having been imposed on GPB. This was not considered practical, not least since it was considered unlikely that the Russian courts would accept such a defence should GPB remain as Lender and seek to enforce its security against Group assets in Russia.

effect of these difficulties, the Group has recently sold some gold to Lentabank (a well-established Russian gold-trading bank that is not subject to sanctions) to raise cash for operating expenses but was forced to sell at below the cost of production. Certain of the Company's subsidiaries therefore currently hold a stock of physical gold but very little cash. I understand from the CFO that, as at 11 July 2022, they held approximately US\$ 9.4 million in cash in total.

73 Finally, I understand that it has become difficult, if not impossible, to obtain parts and equipment required for gold mining and processing where those are manufactured by western companies. For example:

73.1 The pressure oxidation plant uses control valves (a crucial piece of equipment without which the plant cannot function) manufactured by companies based in Utah and Texas. Due to the harsh environment within the plant, these valves need regular repairs and spare parts. Until the imposition of recent sanctions, these parts were regularly ordered from the manufacturers and delivered to the plant in Russia. The latest order was due to be delivered in late March to early April 2022, but has apparently been blocked by customs authorities at the Port of Houston without explanation. It is unclear when, if ever, this shipment will be released. In light of these difficulties, the Group has been looking for alternative suppliers of spare parts and repair kits.

73.2 It has become extremely difficult to service or replace the excavators and Caterpillar trucks used in mining operations, which are built outside Russia, and the price of (increasingly scarce) spare parts in Russia has risen dramatically.

73.3 The Russian companies in the Group will shortly be forced to migrate their IT systems away from Microsoft products due to the unavailability of support within Russia.

Russian restrictions

74 I understand from Infracore that, in Russia, there is currently a general moratorium on bankruptcy. The moratorium prohibits the commencement of insolvency proceedings

against Russian obligors. However, the moratorium can be voluntarily waived by a company.

- 75 On 3 May 2022, GPB (as then-Lender under the Facilities) wrote to Atlas Mining LLC, one of the Company’s subsidiaries and the manager/director for many of the Group’s other subsidiaries. GPB’s letter stated that, in the absence of proposals to repay the Facilities, it intended to exercise its right under the Facilities to prevent the Group selling gold to third parties. GPB also reserved its right to enforce repayment of the Facilities through court proceedings.
- 76 On 11 and 13 May 2022, the Group’s four main operating companies – Pokrovskiy Rudnik JSC, Albynskiy Rudnik LLC, Malomirskiy Rudnik LLC and TEMI LLC – waived the moratorium. These waivers are mentioned in the Company’s press release dated 12 May 2022 [Tab 55]. The subsidiaries waived the moratorium despite an express instruction from the Company that they should not do so. I understand that the subsidiaries chose to waive the moratorium despite that instruction because the relevant boards believed that it would mitigate the risk of GPB enforcing its contractual right to prevent gold sales to (non-sanctioned) third parties. The result of the waivers, however, is that the relevant subsidiaries’ creditors in Russia can take enforcement steps against those entities. This includes UMMC and Nordic LLC as the present lenders under the Term Loan and Facilities respectively, and holders of the Notes and Convertible Bonds.
- 77 In addition, the Applicants are advised that there are Russian sanctions in place which restrict the ability of joint stock companies and limited liability companies to make payments to counterparties in jurisdictions designated as “hostile”, including the UK, without prior approval from the relevant government authority. Among other things, this prevents the relevant subsidiaries from paying dividends or making loans to the Company (in the case of loans, either for operational purposes or to service foreign debt) without authorisation.⁷

⁷ In the case of dividend payments above a certain very low threshold (less than US\$ 200 per month at current rates), authorisation is required from the Russian Ministry of Finance with the approval of the Central Bank. In the case of loan payments, authorisation is required from the Government Commission for the Control of Foreign Investments in the Russian Federation.

78 On 24 June 2022, following an application by Pokrovskiy Mine JSC, the Ministry of Finance granted that subsidiary approval to distribute a total of US\$ 16.2 million to the Company as a dividend. While helpful, obtaining this approval was not straightforward: Pokrovskiy Mine JSC relied in its representations to the Ministry of Finance on the fact that the funds were needed by the Company to pursue an orderly administration process and the approval was granted on that understanding. The Applicants expect that it will not be possible to obtain further approvals to upstream funds from the subsidiaries to the Company. In addition, the Company may face practical difficulties in finding a bank willing to accept the transfer of US\$ 16.2 million from Pokrovskiy Mine JSC's Russian bank.

79 The combined effect of the above is that, other than in accordance with the limited approval from the Ministry of Finance set out above, the Company's Russian subsidiaries cannot practically move funds to the Company to enable it to service its debts. They are prevented from doing so by the bankruptcy moratorium and the Russian sanctions (or, for the entities that have waived the moratorium, by the sanctions alone).

Potential imposition of further measures by the Russian Duma

80 I understand, based on advice from Infraclex, that the Duma (Russian parliament) may impose countermeasures, by way of an amendment to Article 201 of the Russian Criminal Code, which would make it a criminal offence for individuals within Russia to comply with Western sanctions measures. I am informed by Infraclex that a bill seeking to amend the Criminal Code in that way was introduced on 7 April 2022 which has not yet completed its passage through the Duma.

81 If such a law is passed, it would make it a criminal offence for the Russian members of the Company's board of directors or Group employees to comply with UK sanctions measures to the detriment of the Company's Russian subsidiaries.

Imposition of further Western sanctions

82 On 26 June 2022, the UK, US, Japan and Canada announced a ban on new imports of Russian gold: see the HM Government press release at [Tab 72]. These measures

make it more difficult for the Group to seek to export its gold and thus to achieve a better price than is available in the Russian market.

Attempted refinancing discussions

83 The Company has extensively investigated various options for refinancing the Group's debt and it is apparent that there are none available in the current environment that would resolve all of the outstanding debt issues.

84 First, a key stumbling block to securing a refinancing is that, for obvious reasons, no lender would be willing to refinance the Notes or the Convertible Bonds while the Company is in default under the Term Loan and the Facilities and those debts are accelerated. This means that the Group was looking to refinance approximately US\$ 738 million in debt at once.

85 The Company approached a number of Western banks, all of whom were unwilling to provide significant financing because the Group's assets were located in Russia.⁸ On the other hand, the larger Russian banks most likely to be able to take on a refinancing of this scale were, as mentioned earlier, subject to UK sanctions. Accordingly, the Company could not engage with those entities to discuss a potential refinancing. The Company contacted a number of smaller Russian banks not subject to UK sanctions but none was willing to refinance such a large debt on its own. For example, the Group approached Rosbank to seek a refinancing of \$300m of debt (being the Term Loan and the Facilities), but Rosbank advised that this deal would be too large for one bank, suggesting that a syndicate of banks might be required.⁹ Other banks simply said that it would not be possible.¹⁰

86 Secondly, and more fundamentally, I understand from the Group's CFO that no Russian bank is willing to refinance a non-resident entity from the UK, being a

⁸ The Company approached Unicredit, Societe Generale, Raiffeisenbank and Commerzbank.

⁹ We note that, shortly after the Company made this approach, the controlling shareholder of Rosbank Vladimir Potanin was made subject to UK sanctions. In our view this illustrates the difficulty we have faced in seeking to refinance the Company's debt in a deteriorating geopolitical environment.

¹⁰ The Company also approached the Russian Regional Development Bank, Bank Saint Petersburg, Citibank Russia, Tinkoff Bank, AK BARS Bank, Novikombank, Asian-Pacific Bank and Expobank among others, with no success.

country designated as “hostile” by the Russian government, which would apply to the Notes and the Convertible Bonds. As mentioned, the Russian banks are unlikely to agree to refinance the Term Loan and the Facilities if the Notes and Convertible Bonds remain unresolved (and vice versa).

87 Accordingly, despite the Group’s best efforts, no bank that we have contacted has agreed to provide a refinancing of the scale needed. A refinancing does not appear possible and, in any event, would clearly not be possible within the timescale needed to pay the accelerated debts or perhaps even to refinance the Notes at maturity.

E. INSOLVENCY

88 I believe that the combination of the above factors means that the Company is, or is likely to become, unable to pay its debts.

88.1 First, sanctions, other restrictions and a reluctance by Western financial institutions to undertake Russia-related business have meant that the Company has been unable to agree a refinancing of the Company’s and the Group’s financial liabilities.

88.2 Secondly, the Lender has given notice of acceleration of the Term Loan and declared that all amounts outstanding under the Term Loan (amounting to US\$ 201 million) are immediately due and payable. The Lender has also accelerated the Company’s subsidiaries’ liabilities under the Facilities.

88.3 Thirdly, neither the Company nor its subsidiaries have anything like sufficient funds available to pay sums now due either under the Term Loan or under the Facilities. Nor is the Company in a position to pay interest falling due on the Notes or to pay the principal on maturity.

89 In this section, I refer to the following documents:

89.1 the Group’s last annual report made up to 31 December 2020 [**Tab 10**] (the “**Group Annual Report**”);

89.2 the Group’s consolidated balance sheet as at 31 December 2020, as set out at page 155 of the Group Annual Report (the “**Group Balance Sheet**”);

89.3 the Company's balance sheet for the year ended 31 December 2020, as set out at page 204 of the Group Annual Report (the "**Company Balance Sheet**"); and

89.4 the Group's interim financial report for the period 1 January 2021 to 30 June 2021 [**Tab 14**] (the "**Interim Report**").

90 I also rely on unaudited management accounts prepared for internal use, in order to present the position so far as possible as at the date of this statement.

91 I note that, on 7 June 2022, the Company extended its previous accounting period end date from 31 December 2021 to 28 February 2022. This is because: (i) since the majority of the board first began to consider that the Company was or might become insolvent in March 2022, our attention has been focussed on refinancing the Group's debts and/or achieving an orderly sale of the business, such that we have not been able to spend the required time overseeing the preparation of accounts; and (ii) the Company owed money to its former auditor and was not in a position to pay them, such that obtaining audited accounts was not practically possible. As noted above, the auditor has now resigned.

Balance Sheet Insolvency

92 To the best of my knowledge, information and belief, the published balance sheet position of the Group and the Company is as follows:

92.1 Based on the Group Balance Sheet and as at 31 December 2020, the Group had assets of US\$ 1,731 million, liabilities (including contingent and prospective liabilities totalling US\$ 7.5 million) of US\$ 1,059 million and net assets of US\$ 672 million.

92.2 Based on the Company Balance Sheet and as at 31 December 2020, the Company had assets of US\$ 1,540 million, liabilities (including contingent and prospective liabilities) of US\$ 1,640 million and net liabilities of US\$ 100 million [**Tab 10**].

93 Having consulted with Mr Stanislav Ploshchenko, the Group's Chief Financial Officer ("**CFO**"), and to the best of my knowledge, information and belief, as at 30

June 2022, the Company had assets (listed at book value) amounting to approximately US\$ 1,619 million; liabilities (including contingent and prospective liabilities) of US\$ 1,703 million; and net liabilities of US\$ 84 million. Meanwhile, the Group had assets (listed at book value) amounting to approximately US\$ 1,675 million; liabilities (including contingent and prospective liabilities) of US\$ 1,002 million; and net assets of US\$ 673 million. I am not aware of any material changes in assets or liabilities since that date. The Company is a holding company with relatively stable assets (in the form of shareholdings) and liabilities (which stem from various financing contracts).

Cash Flow Insolvency

- 94 As at the date of the Administration Application, the Company has the following major liabilities which are due and payable:
- 94.1 The Term Loan which has been accelerated amounting to US\$ 202.5 million inclusive of accrued interest.
 - 94.2 The Notes which are due and payable due to the acceleration of the Term Loan and the Facilities. US\$ 304.3 million in principal is outstanding plus interest of approximately US\$ 16.6 million.
 - 94.3 The Convertible Bonds which are due and payable due to the acceleration of the Term Loan and the Facilities. US\$ 33 million in principal is outstanding plus interest of approximately US\$ 794,000.
- 95 Even without acceleration of the Term Loan and the cross-default on the Notes and the Convertible Bonds:
- 95.1 An interest payment of approximately US\$ 12.36 million was due on the Notes on 14 May 2022. The Company was unable to make this payment as the Group does not have sufficient funds available. On 15 May 2022, the Company also gave notice of the events of default to the holders of the Notes [Tabs 57]. A press release dated 16 May 2022 in relation to the non-payment is at [Tab 59].

95.2 The Company currently has no way to repay the Notes at maturity in November 2022, when the full-face amount of c. US\$ 304 million plus interest will fall due.

96 The Company's cash holdings are as follows:

96.1 US\$ 2.6 million in Citi GPB and USD accounts as at 25 June 2022.

96.2 US\$ 25 million held in the Company's account at Bank GPB International S.A. in Luxembourg ("**GPB Lux**"). I note that:

- (i) On 22 April 2022, under the General Licence the Company requested a transfer of those funds to the Bank of Cyprus account of one of the Company's Cypriot subsidiaries, Petropavlovsk (Cyprus) Limited. This is because Citi would not accept the funds into the Company's account in London.
- (ii) I understand that Bank of Cyprus refused those funds and they were returned to GPB Lux.
- (iii) I understand that these funds are therefore currently in the Company's GPB Lux account.
- (iv) The Company expects to have to seek a licence to withdraw them in light of the UK sanctions regime and the expiry of the General Licence. The licence application is discussed in Manson 1. For all practical purposes, therefore, the Company does not currently have access to these funds.

96.3 US\$ 2 million deposited in the client account of BDO, former advisors to the Company.

97 At [Tab 43] is a press release dated 22 April 2022 summarising the Company's sales and productions results and providing a corporate update for the quarter ending 31 March 2022. The press release noted that the Group had an unaudited cash balance, as of 31 March 2022, of US\$ 71.8 million. However, a large part of the Company's subsidiaries' funds has been spent since that date on running the Group's business. I

understand from the CFO that the approximate monthly cash needs of the Group's Russian subsidiaries are (a) RUB 4 billion (or US\$ 47 million as at the relevant exchange rate on 26 May 2022) plus (b) RUB 700 million (or US\$ 11 million as at the relevant exchange rate on 26 May 2022) of capital expenditure. The Company's management report dated 9 June 2022 is at [Tab 71, p9], including a monthly cashflow forecast estimating that the Company will run out of cash in September 2022.

98 Further, the Company is unlikely to gain any support from its subsidiaries in respect of meeting its liabilities. I understand from the CFO that, as at 11 July 2022, the subsidiaries held US\$ 9.4 million in cash and approximately 410kg of gold bars. Further, I would note although the Group has gold in stock, the gold is insufficient to meet the Group's liabilities:

98.1 Due to the sanctions landscape, the Group has been practically limited to selling gold on the Russian domestic market, where the price is currently depressed. By way of illustration, the 410kg of gold in stock would sell for approximately US\$ 22.9 million on the international market but only US\$ 21.3 million on the Russian domestic market.

98.2 The Group is selling the gold it holds at below its cost of production to service its operational needs. For example, on 29 June 2022 200kg of gold was sold, on 4 July 2022 another 50kg was sold and on 7 July 2022 a further 250kg was sold to service operational needs, thereby reducing the gold in stock held by the Group to 410kg.

98.3 However, the revenue generated by such sales is insufficient to meet the Group's need:

- (i) As set out in the press release dated 22 April 2022 [Tab 43], total Q1 2022 gold production was 103.0koz and gold sales totalled 89.8koz in Q1 2022.
- (ii) The average realised gold price during the period was US\$ 1,871/oz. (being the average of the London Bullion Market Association (LBMA))

price in January and February 2022 and the fixed Bank of Russia price of RUB 5,000 for March 2022).

- (iii) I am informed by the CFO that from April 2022 onwards, due to the absence of export sales, the Group could sell only to the commercial banks at the Bank of Russia's daily fixed price, which is approximately 15% below the LBMA price.
- (iv) Due to the approximately 33% decrease in the value of the RUB against the USD since the beginning of the war in Ukraine, the current RUB sales price is approximately RUB 2,660 per gram.
- (v) Finally, given the increase in the Group's average cash cost of producing gold (from RUB 2,750 per gram before the Ukraine invasion to RUB 4,453 per gram as at the date of this statement), it is clear that the Group is in no position to repay its debts or to service its capital expenditure.

99 As a result, the Company is unable to meet its debts as they fall due.

F. MARKETING OF THE COMPANY'S ASSETS

Instruction of advisors

100 In light of the Company's financial position and the (then potential) acceleration of the Term Loan and resulting cross-default in respect of the Notes and the Convertible Bonds, in late March 2022 the Company sought to engage advisors to explore a potential sale of the Company's subsidiaries. A copy of the Company's press release dated 14 April 2022 on the potential sale is at [Tab 31]. The press release noted that it was not clear what return, if any, may be secured for shareholders or the holders of the 2022 Bonds or the Convertible Bonds as a result.

101 The Company engaged AlixPartners UK LLP ("**AlixPartners**") to advise on restructuring options and insolvency and (if necessary) to act as administrators in respect of the Company.

102 On 19 April 2022, shortly after it had acquired the Term Loan, UMMC expressed an interest in purchasing certain of the Company's subsidiaries. Thereafter, AlixPartners

and the Company's legal representatives engaged with UMMC's representatives to negotiate a potential transaction.

103 In tandem with the negotiations mentioned, AlixPartners advised that the Company should obtain an independent valuation and conduct a parallel marketing exercise to give the directors comfort that any transaction would be at the best available price. To that end, the Company engaged:

103.1 Kroll Advisory Ltd ("**Kroll**"), to carry out an independent valuation of the Company's subsidiaries; and

103.2 Hannam & Partners ("**Hannam**"), an independent investment bank, to undertake a marketing process in respect of the Company's assets.

104 As explained below, AlixPartners subsequently resigned and the Company engaged BDO LLP ("**BDO**") and then Opus to act as proposed administrators instead.

Valuation

105 Kroll carried out a valuation of the Company's assets and, in particular, its three primary mines (Pioneer, Malomir and Albyn) and the pressure oxidation hub (a gold ore processing plant). A copy of their report dated 2 May 2022 is at [Tab 50]. The report concludes that those assets have a fair market value of between US\$ 458 million and US\$ 621 million.

Marketing process

106 As a preliminary step, in the period from 14 to 22 April 2022, Hannam contacted 29 prospective purchasers to invite expressions of interest. In late April 2022, almost all were sent a 'teaser' memorandum [Tab 40] that described, on the basis of public information, the Company's assets. As part of this exercise, Hannam also contacted certain of the Company's shareholders (including UGC) and a number of large mining enterprises, investors and high net worth individuals. The fact that the Company was considering a sale has also been well publicised (for example, I refer to the press release dated 16 May 2022 [Tab 58]) and, by this stage, third parties had already contacted the Company/its advisors to express interest and ask to be included in any sales process.

- 107 Hannam then carried out a two-stage marketing process:
- 107.1 Hannam’s process letter dated 20 April 2022 for ‘Stage 1’ is at [Tab 41]. In this stage, all prospective purchasers who had, after receiving the ‘teaser’ memorandum, engaged with Hannam about the possible sale were asked to submit non-binding indicative offers by 20:00 GMT on 29 April 2022.
- 107.2 Hannam’s process letter dated 4 May 2022 for ‘Stage 2’ is at [Tab 53]. In this stage, Hannam determined which of the parties that had submitted an effective indicative offer would continue to participate in the process. The selected parties, after entering into confidentiality agreements with the Company, received access to a data room on 4 May 2022. Hannam and Weil worked with the selected parties on due diligence, regulatory approvals, the sale documents and proof of funding. Final bids were due on 16 May 2022.
- 108 For the sake of completeness, the data room mentioned above was opened to all parties at 02:10 GMT on 4 May 2022. It was closed by the provider, DataSite, at 9:00 GMT on 6 May 2022 due to sanctions-related concerns. After discussions with AlixPartners, DataSite reinstated the data room at 16:18 GMT on 8 May 2022. I am informed by Hannam that DataSite agreed on 19 May 2022 to extend access to the data room for a further period of 10 days expiring on 29 May 2022.
- 109 Following the expiry of the ‘Stage 1’ deadline, four parties submitted effective indicative offers. These were: (a) UMMC, which is the assignee of the Term Loan; (b) an international mining group (“**Bidder 2**”), which is unnamed in this statement due to confidentiality restrictions; (c) a foreign state-owned entity (“**Bidder 3**”); and (d) a joint bid from one of the Company’s creditors and a related entity (“**Bidder 4**”). It was not possible to progress the indicative offer from Bidder 3, the foreign state-owned entity, as it failed to respond to Hannam’s initial queries. In addition, based on advice from Infralex, Russian laws would have prohibited a sale of gold assets to such an entity. Bidder 4 chose to not progress their bid in light of the proposed transaction timeline.
- 110 In ‘Stage 2’, the Company and its advisors engaged with UMMC’s and Bidder 2’s representatives to progress their respective proposals. I outline the negotiation process

with those parties below but, in summary, Bidder 2 withdrew from the process for what I understood to be commercial reasons.

111 UMMC's bid was therefore the only remaining bid at the end of the marketing process. That being so, since late April 2022 the Company has, with the assistance of its advisers, sought to negotiate the terms of an SPA with UMMC. Since their instruction, the Proposed Administrators have also been closely involved in discussions with UMMC, on the understanding that if a sale is concluded it will have to be concluded by the administrators once appointed.

G. COMMUNICATION WITH SHAREHOLDERS

112 The Company has endeavoured to be transparent with the market, including its shareholders, about the fact that it is in financial difficulty and has been exploring a sale of its business. The Company has repeatedly disclosed in the press releases referred to above that it is or may become insolvent, that it is exploring a sale, and that it was possible that such a sale would result in a nil return for shareholders.

113 The Applicants have also discussed the Proposed Transaction directly with a number of the Company's largest shareholders and sought to address their queries and objections, as follows.

UGC

114 As noted above, the Company's largest shareholder is UGC which, at 30 June 2022, reportedly held approximately 29.18% of the Company's share capital. The Applicants have considered and responded to various queries raised by UGC and its nominee director, Mr Potapov, as follows.

115 On 3 May 2022, Mr Potapov emailed the board (in advance of a board meeting held that day) to set out various concerns in relation to the proposed administration and possible sale to UMMC. In particular, Mr Potapov suggested that the Proposed Transaction might constitute a breach of Russian Federal Law No. 57-FZ relating to investment in strategic assets. UGC's concerns were discussed during the 3 May 2022 board meeting, as recorded in the minute of that meeting at [Tab 51].

- 116 On 9 May 2022, the Chairman wrote to Mr Potapov (via the Company Secretary, Ms Murray) referring to Mr Potapov’s 3 May letter and the board meeting on that date. The Chairman explained the Applicants’ view (on the basis of Russian legal advice received by the Company) that the Russian strategic investment law was not engaged. He also explained that the Applicants had made exhaustive efforts to identify an alternative to administration but that it had become clear that there was none.
- 117 On 11 May 2022, Mr Potapov responded to the Chairman’s email of 9 May raising further queries in relation to the Russian legal analysis referred to therein and, among other things, stating that *“I cannot agree that directors have made exhaustive efforts to seek an alternative to the potential administration of company”* and urging the board to reconsider seeking to place the Company into administration.
- 118 On 16 May 2022, Mr Potapov sent a letter by email to the board (in advance of a board meeting proposed to be held on 17 May 2022) summarising UGC’s reservations about the proposed appointment of administrators and the sale of the operating subsidiaries. He suggested that the Company instead explore options to service overdue debts, evaluate the possibility of subsidiaries making cashflow dividend distributions to the Company, negotiate with bondholders, implement a plan to *“transfer the jurisdiction of [the Company] from the United Kingdom to Russia”* and negotiate with UMMC *“on an offer to buy back shares”*. He also suggested, among other things, that Kroll’s valuation of the Company was too low. On 19 May 2022, Mr Potapov wrote to the company secretary, Ms Murray, to ask that his position in relation to the valuation be made more clear in the minute of the 3 May board meeting. The minute was amended to reflect his comments. By a separate email on 19 May, he also asked the board several questions regarding the draft SPA.
- 119 By letters dated 17 May 2022 and 20 May 2022, the Chairman responded to Mr Potapov’s letter of 16 May and subsequent communications with the board. The Chairman’s letters summarised the board’s consideration of alternatives to the administration of the Company and a sale of its operating assets, and explained the majority of the board’s conclusion that there was no realistic scope for a refinancing and that administration and entry into the Proposed Transaction was the only practical way in which the Company could repay its creditors in full. These letters explained the Applicants’ view that the proposals set out in Mr Potapov’s 16 May letter had no

reasonable prospect of success, not least because the Company simply did not have access to the cash to enable it to service its debts and thus avoid insolvency in the way suggested by Mr Potapov, nor was a transfer of the Company's domicile to Russia feasible.

- 120 On 20 May 2022, Ms Murray also replied to Mr Potapov's email of 19 May raising questions regarding the draft SPA with UMMC, and provided responses to his queries.
- 121 On 4 June 2022 (prior to the extension of the accounting reference date mentioned above), the directors of the Company received a requisition notice [Tab 62] and statement from UGC requesting that, pursuant to CA 2006 section 338, the Company give its members entitled to receive notice of its next annual general meeting notice of certain ordinary resolutions to be tabled at that meeting. The proposed resolutions included, among other things, the removal of the Company's existing directors, with the exception of UGC's nominee director, Mr Potatpov. The requisition notice included a statement from UGC to be circulated to the Company's members noting UGC's opposition to putting the Company into an administration process.
- 122 On 1 July 2022, Mr Potapov wrote to the board to ask that the election of UGC's candidates to the board be considered at the Meeting on 4 July 2022.
- 123 On 5 July, Mr Potapov wrote to the board to: (i) request a board meeting to discuss the appointment of UGC's proposed board members; (ii) request that any decision to apply for administration be postponed to allow time for discussion of further restructuring options; and (iii) outlining certain options which UGC considered ought to be pursued instead of administration (being changing the domicile of the Company, rejecting UMMC's offer and carrying out a debt refinancing).
- 124 On 7 July 2022, the Chairman wrote to Mr Potapov to suggest that UGC's proposals be discussed at the meeting already scheduled for 11 July 2022. The letter reiterated, however, that as matters stood the Applicants did not see an alternative to administration given the Company's insolvency.

125 Also on 7 July 2022, shortly after the Chairman sent that letter, we received the UGC Proposal. This letter and our subsequent correspondence with UGC are set out below in **Section [x] (*The UGC Proposal*)**.

126 A copy of the correspondence with Mr Potapov/UGC is at [**Tab 52**].

Prosperity

127 On 8 April 2022, Mr McDonald of Prosperity (which as at 30 June 2022 owned approximately 9.97% of the Company's share capital) wrote to the board regarding the Company's press release of 30 March 2022 in relation to its debt portfolio. He suggested that the Company seek to service its debt to GPB and its outstanding bonds.

128 On 6 May 2022, the Chairman wrote to Mr McDonald in response to his letter of 8 April. The Chairman referred to subsequent press releases and explained that sanctions made it impossible for the Company to pay GPB, and that GPB had since accelerated the Term Loan and Facilities and assigned the Term Loan to UMMC.

129 On 6 June 2022, Prosperity wrote to the Company to express, among other things, its opposition to the proposed sale of the Company's assets and the proposed administration.

130 By a letter sent on 30 June 2022 (but mistakenly dated 28 June 2022), the Chairman responded to Prosperity's 6 June letter. The Chairman explained the Company was in default under the Term Loan, the Facilities, the Notes and the Convertible Bonds, that it was unable to obtain funds from its subsidiaries to enable it to meet its debt obligations, and that while diligent efforts had been made to refinance the Company's debt these had proved unsuccessful.

131 A copy of the correspondence with Prosperity is at [**Tab 29**].

Match Liquidity

132 On 5 April 2022, the board received a letter from Mr Singh on behalf of Match Liquidity DMCC ("**Match**"), which the email explained owned 2.5% of the Company's outstanding shares. The email referred to the Company's press releases

and other public sources relating to the Company's debt position, encouraged the board to explore refinancing the Company's debt, and sought information regarding the Company's agreements with GPB.

133 On 7 April 2022, Ms Murray responded asking Match to complete a section 793 notice disclosing Match's interest in the Company. This was provided by Mr Singh on 12 April 2022. Further correspondence regarding Match's shareholding took place on 13-14 April 2022.

134 On 17 May 2022, the board received an email from Mr Singh on behalf of Match, which was stated to represent "*a club of significant minority shareholders*". The letter referred to further press releases explaining that the Company was unable to service its debt and expressed Match's view that "*the Group and its subsidiaries have sufficient resources to cover the interest payments, so our conclusion is that the Group and its board of directors' act against the interests of equity holders.*"

135 On 20 May 2022, Ms Murray responded to Mr Singh on behalf of the board. This email explained that the Company did not have sufficient resources to meet its debt obligations, that the Term Loan had been accelerated and that this had triggered cross-defaults under the terms of the Notes and Convertible Bonds of which the Company was guarantor. The email also set out the steps that the Company had taken to refinance its debt, but noted that this had proved extremely challenging.

136 A copy of the correspondence with Match is at [Tab 28].

Other shareholder communications

137 On 16 May 2022 the Company received a short email from Mr Carlo Jimenez who identified himself as representing the "Pavel Shareholders Group" and threatened legal action against the board of directors. The email asked: "*We have a product, which you confirmed that you can now sell to a new buyer so why is the BOD still stating that there will be an asset sale? In the April RNS on Q1 results, BOD mentioned that POG had \$71m cash so how did POG miss the coupon payment of \$12M due on 14th May, 2022?*"

138 The Company has no knowledge of “Pavel Shareholders Group” or Mr Jimenez and has not yet responded to this email. We note, however, that the suggestion that the Company had access to cash to make the interest payment of US\$ 12.36 million under the Notes which fell due on 14 May 2022 is incorrect. The Company’s 22 April 2022 press release recorded that “*Cash (unaudited) as of 31 March 2022 was US\$71.8m*”, which was a reference to Group cash (not Company cash). I am told by the CFO that:

138.1 On 31 March 2022 the Company held approximately US\$ 39 million in cash at bank, whilst the Russian subsidiaries held approximately US\$ 33 million.

138.2 Of the US\$ 39 million in the name of the Company, US\$25 million was (and is) held in the Company’s account with GPB Lux. As explained above, the Company tried to transfer these funds in April 2022 but was unable to do so. This cash remains in the Company’s account in GPB Lux and it is anticipated that a licence will need to be sought to move it.

138.3 Between 1 April and 16 May 2022, the cash balance of the Company has decreased by approximately US\$ 7.4 million. The Company also made a VAT payment to HMRC in this period of US\$ 700,000.

138.4 As a result, as at 16 May 2022, the Company held approximately US\$ 7.3 million in accessible cash.

138.5 The ability for the Company to receive dividends from its Russian subsidiaries is limited, as explained above. In any event, on 16 May 2022 the subsidiaries held a total of approximately RUB 100 million in cash (approximately US\$ 1.6 million).

The Applicants’ position

139 The Applicants entirely understand the shareholders’ frustration at the unfortunate position in which the Company finds itself. Having given careful consideration to their concerns and suggestions, however, they remain firmly of the view (which they have endeavoured to explain to the shareholders) that a sale of the Company’s business is the best solution for the Company’s stakeholders as a whole. The Company is simply not able to service or to refinance its debt for the reasons

explained above, and as such the Applicants see no viable way for the Company to continue as a going concern.

H. THE PROPOSED UMMC TRANSACTION

140 UMMC’s final offer letter dated 16 May 2022 is at [Tab 59]. A copy of the most recent form of the draft share sale deed (the “Draft SPA”), under negotiation between the Company, UMMC and the Proposed Administrators, is at [Tab 78].

141 I understand that, if the Proposed Administrators choose to pursue a transaction with UMMC once appointed, they will provide full details in this regard to the Court in due course. I do not therefore recount the terms of the Draft SPA, or the process by which the current draft has been arrived at, in this statement. We consider that it may, however, be helpful for the Court if we explain our understanding of who UMMC are.

142 As noted above, UMMC is the investment arm of the UMMC Group. They have been a major player in the Russian metals and mining sector for many years and I have been aware of them since the start of my career. In the context of UMMC’s purchase of the Term Loan and approach to purchase the Company’s assets, the Applicants have made further enquiries and have put various queries to UMMC. We understand that:

142.1 UMMC was established in 1999 and developed into an industrial holding company with 80,000 employees across 40 companies.

142.2 In 2021, UMMC generated approximately USD 13.2 billion in revenue and approximately USD 3.6 billion EBITDA.

142.3 Since late 2021, UMMC has sought to expand its gold mining operations. In this regard, apart from its approach to the Company, in 2022 UMMC sought to purchase GV Gold, another Russian gold mining group. UMMC applied for and was granted consent to purchase GV Gold by the Russian Federal Antimonopoly Agency, but in the event the deal did not complete.

142.4 The group is privately owned. We are informed by UMMC that its current ultimate beneficial owners are seven individuals with direct or indirect shareholdings ranging from 25% to 2.5%. There is no majority or controlling

shareholder. We are aware of press reports that Mr Iskander Makhmudov and Mr Andrei Bokarev, both prominent Russian businessmen, were interested in the group until recently and held positions on the holding company's board of directors. The same reports indicate that both individuals exited the group in March 2022. An example is at [Tab 20]. We also note that Mr Bokarev was subsequently designated as a sanctioned person by the UK on 13 April 2022.

143 A presentation regarding the UMMC Group dated January 2022 (provided to us by UMMC) is at [Tab 16].

144 The Company's advisers have confirmed that no member of the UMMC Group is the target of any sanctions.

Relevance of sanctions

145 As noted above, the Company has:

145.1 Notified OFSI of the Company's intention to apply for an administration order and of the Proposed Administrators' intention, if appointed, to consider entering into the Proposed Transaction; and

145.2 Provided the Proposed Administrators with copies of the legal advice received by the Company relating to the potential relevance of sanctions to the Proposed Transaction.

146 I understand that these matters will be addressed by the Proposed Administrators and may be the subject of a separate application by them for directions. Accordingly, I do not deal with them here.

I. THE UGC PROPOSAL

147 As noted above, UGC is the Company's largest shareholder. We understand that UGC is controlled by Mr Konstantin Strukov, a successful Russian businessman.

148 UGC has been fully apprised of the Company's financial difficulties since they began and the Company has sought to engage with it constructively throughout. UGC was among the 29 parties invited by Hannam to bid for the Company or its assets in the

marketing process which took place in April-May 2022, but at that time chose not to make an offer.

- 149 On 7 July 2022 (but erroneously dated 6 July), we received a letter from UGC (signed by Mr Strukov) outlining the UGC Proposal. This is at **[Tab 52]**. In summary, the letter contains a preliminary (and expressly non-exhaustive and non-binding) offer for UGC to: (i) procure repayment of the Term Loan and the Facilities; (ii) buy out other shareholders at *"a current ... trading price"*; (iii) procure the *"transfer and subsequent restructuring and repayment"* of the Notes and Convertible Bonds. The offer was expressed to be subject to several conditions, including the resignation of all non-Russian members of the board, the appointment of three replacement directors, due diligence by UMMC, the replacement of the CEO by Mr Deniskin, binding documentation being agreed, and regulatory approval.
- 150 On the same day, the Chairman responded to UGC's letter **[Tab 52]**. His letter sought further detail on UGC's offer (in line with that which would have had to be provided had UGC participated in the formal marketing process) on an urgent basis, so that the board could consider it at the Meeting on 11 July 2022. The letter concluded by noting that if (as appeared likely) the board were to resolve to apply to Court for the appointment of administrators, then UGC would be free to continue discussions with the administrators once appointed.
- 151 On 9 July 2022, Mr Strukov replied to the Chairman in a letter which was expressed to be without prejudice, and which I accordingly do not refer to further.
- 152 On 11 July 2022, the Company received an email from Mr Potapov stating: *"UGC and other shareholders have received an offer from a reputable third-party investor, AFK Sistema. Attached is a copy of the first page of the offer. For obvious reasons, I cannot share the full copy, but the intention is to acquire control and restructure the entire debt of the company. This is yet another strong argument to postpone the decision on the appointment of the administrator and let the shareholders to help the company to solve the situation."* A copy of this email and its attachment is at **[Tab 81]**.
- 153 Our view is that that further discussion with UGC is properly a matter left to the administrators once appointed. We are not in a position to, and do not, express any

view on the merits of this proposal (as compared to the Proposed Transaction with UMMC or otherwise).

J. STATUTORY PURPOSES OF ADMINISTRATION

154 I am advised by the Company's solicitors that the statutory purpose of an administration is to:

154.1 rescue the company as a going concern;

154.2 achieve a better result for the company's creditors as a whole than would be the case in the liquidation of the company; and/or

154.3 realise the property of the company for the benefit of one or more of its secured or preferential creditors.

155 The Court will note from the statements of consent [**Tab 84**] and Manson 1 that the Proposed Administrators consider that one or more of the objectives set out at paragraph 3(1) to Schedule B1 to the Insolvency Act 1986 is reasonably likely to be achieved by placing the Company into administration. In particular, the Proposed Administrators are of the view that it is reasonably likely that an administration order will either (i) achieve a better result for the company's creditors as a whole than would be likely if the company were wound up (without first being in administration) or (ii) will result in the realization of property in order to make a distribution to one or more preferential creditors, being certain of the Company's English tax obligations.

156 The Applicants agree with the contents of Manson 1 such that in their view that an administration order is reasonably likely to achieve the purpose of administration. This is on the basis that once the Company enters administration the Proposed Administrators will seek to effect a sale of the Company's business which it is hoped will result in the creditors of the Company being paid in full. After exhaustive efforts to refinance, the directors are aware of no other available option than a sale or liquidation.

157 If a sale of the business does not take place, the Applicants believe that the outcome will be a worse outcome for creditors as a whole. In particular, Infralex have advised that:

- 157.1 If Russian bankruptcy proceedings are commenced against the Company's subsidiaries (as is a real risk following the waiver of the Russian moratorium on bankruptcy, as explained above), then holders of the Notes and Convertible Bonds will need to apply to have their claims included in the registers of the relevant subsidiaries' creditors before becoming entitled to receive any proceeds from a liquidation. In order to do so, the creditors would have to either: (i) obtain an LCIA arbitration award against the debtor company in accordance with the arbitration agreements contained in the relevant instruments and then apply to the Russian court for such arbitration award to be included in the registers; or (ii) apply to the Russian court directly for their claims to be included in the registers without those claims having been confirmed by an arbitral tribunal. In that case, the Russian court would be required to interpret and apply English law to determine the validity of the creditors' claims.
- 157.2 In either case, but particularly if arbitration were pursued prior to an application to the Russian court, the process would take time and there is a material risk that insolvency proceedings in relation to the subsidiaries would be concluded before all creditor claims are included in the registers.
- 157.3 Also, in either case, there is a risk that the guarantees provided by the subsidiaries to secure the Company's debt are challenged before the Russian court by other creditors or the court-appointed receiver in bankruptcy. The outcome of such challenge is difficult to predict and carries a risk for the bondholders.
- 157.4 An even greater risk for non-Russian creditors of the subsidiaries is that creditors within Russia seek to take enforcement action against the Russian subsidiaries outside of insolvency proceedings. A creditor within Russia can apply to freeze a debtor's assets until its debt is repaid. Russian law provides protection for other creditors in that situation by permitting them to apply to court for the winding-up of the debtor, to prevent the first creditor being treated preferentially. In order to initiate insolvency proceedings, however, the holders of the Notes and Bonds would need to obtain a binding money judgment or award against the debtor recognised by the Russian court. In

contrast, as explained above, if insolvency proceedings are already in train, then it is at least theoretically possible for creditors to apply for inclusion on the register on the basis of a debt which is not yet the subject of an award. In this scenario, accordingly, it is likely to be more difficult for non-Russian creditors of the Group effectively to pursue their claims in Russia.

K. FORMALITIES

Board Resolution

158 A copy of the resolutions passed at the Meeting is at [Tab 82]. As mentioned, the minute of the relevant meeting is in the process of being finalised and will be filed at Court as soon as it is available.

159 I would highlight that:

159.1 Per article 113 of the Articles [Tab 9], the directors of the Company must receive reasonable notice of a board meeting, which may be summoned by one director or the company secretary at the request of a director. The notice may be given to the director personally, by word of mouth or sent in writing to them at their last known address (or any other address given by them to the Company for that purpose). Notice of the Meeting was first emailed to all directors by the Company Secretary on 29 June 2022 at 11:22 BST for a meeting expected to be convened on 4 July 2022 at 17:00 BST. The calendar invitation for the meeting expressed that the meeting was being called to consider the filing of an application for an order of administration of the Company. The meeting was postponed to 11 July 2022 at 16:00 BST by update to the calendar invitation issued at 18:34 BST on 3 July 2021. The formal for the meeting was issued by the Company Secretary by email on 10 July 2022 at 17:30 BST. I consider this to have been reasonable notice and in line with prior practice for previous board meetings.

159.2 Per article 114 of the Articles [Tab 9], the quorum for a Company board is two persons, each being a director or an alternate director. The Meeting was attended by Mr Cameron, Ms Philipps, Mr Irzhevsky, Mr Deniskin and Mr Potapov and was, therefore, quorate.

159.3 Per article 116 of the Articles [**Tab 9**], any decisions of the directors or questions arising at any board meeting shall be determined on a majority-vote basis. The resolutions at the Meeting were approved by the board, with the approval of a majority of the directors in attendance.

159.4 Per article 117 of the Articles [**Tab 9**], any director or their alternate may participate in a meeting of the board by means of conference telephone or any other form of communications equipment, by a series of telephone calls from the Chairman of the meeting or by exchange of communication in electronic form addressed to the Chairman of the meeting. The Meeting was held via Microsoft Teams, initiated by the Chairman and Company Secretary from the Company's registered office in London.

Insolvency proceedings

160 As far as I am aware, no other insolvency proceedings have been commenced against the Company.

161 On 11 July 2022, JHA conducted a search of Companies House, the Insolvency and Companies List of the Royal Courts of Justice, and the London, Edinburgh and Belfast Gazettes for the insolvency history of the Company. A copy of the GlobalX search is at [**Tab 83**].

162 There is no record of insolvency proceedings having been commenced in the UK in respect of the Company and I am not aware of any winding-up petitions having been issued against the Company to date.

The proposed administrators, consents to act and function

163 As discussed earlier in this statement, AlixPartners were initially engaged to act as the proposed administrators. However, I understand from the Company's solicitors that, on 8 May 2022, the US government announced further sanctions which prohibit any US persons from providing accounting, trust and corporate formation, and management consulting services to any person in the Russian Federation. Although the Company is incorporated in England and Wales, a large part of the Group's business is conducted in Russia. Accordingly, AlixPartners (which has offices and

members in the US) took the view that it was unable to continue acting for the Company and informed the Company that it was obliged to resign by phone call to the Company Secretary and Chairman on 9 May 2022, followed by written notice of termination on 10 May 2022.

164 Following AlixPartners' resignation, the Company engaged BDO to act as the proposed administrators on 15 May 2022. The Company terminated the engagement of BDO on 17 June 2022 after BDO indicated that they were unwilling to proceed with an appointment as planned due to risk considerations.

165 The Company has since engaged Opus. Opus is an English limited liability partnership owned by its partners in the UK, and hence is in a different position from AlixPartners. Opus was engaged on 17 June 2022 (albeit certain documents and information were provided in advance of that under confidentiality agreements).

166 The Applicants propose that Proposed Administrators, each of Opus, be appointed as administrators of the Company, should the Court make an administration order.

167 The Proposed Administrators' statements and consent to act are at [Tab 84]. The Proposed Administrators' consents state that they have had a prior professional relationship with the Company on the basis that, among other things, their firm, Opus was engaged by the Company with effect from with effect from 17 June 2022, albeit certain information was provided in advance of that date under the terms of a standard non-disclosure agreement.

168 If the Proposed Administrators are appointed, the Applicants intend that any of the powers of the Proposed Administrators may be exercised by any of them individually.

Centre of Main Interests

169 I confirm that as mentioned the Company's registered office is at 11 Grosvenor Place in London and that England is the place where the Company conducts the administration of its interests on a regular basis and is therefore ascertainable by third parties such that, as I am advised by the Company's solicitors, its centre of main interests is here. By way of example, at [Tab 56] is correspondence dated 12 May 2022 from a third party, GPB (as defined above and discussed further below), which

is addressed to the Company's London address. The letters to the Company referred to at paragraph [102] below were also each addressed to the Company's London address. At [Tab 85] and [Tab 64] are copies of the Company's letterhead and website contact details, both of which refer to its London address. In addition, the Company's press releases are uploaded to its website by the Group's Head of Communication, who is based in London. The "Investor Relations/PR" contact details on the website provide a UK telephone number and the London address – a screenshot is at [Tab 63].

- 170 For the sake of completeness, I note that three of the Company's directors are based in Russia (one of whom Mr Deniskin, was only appointed on 11 April 2022). The Chairman, Senior Independent Director and Company Secretary are based in England.
- 171 I am advised by the Company's solicitors that the administration proceedings will be "COMI proceedings" (as that term is defined by rule 1.2(2) of the Insolvency (England and Wales) Rules 2016 (SI 2016/1024) (the "**Insolvency Rules 2016**")).

Service and Notice requirements

- 172 I am informed by the Company's solicitors that pursuant to the Insolvency Rules 2016 and paragraph 12(2) of Schedule B1 of the Insolvency Act 1986:
- 172.1 under Rule 3.8(3) of the Insolvency Rules 2016, service is not required on the Company;
- 172.2 the Proposed Administrators have agreed to dispense with service (as set out in Manson 1);
- 172.3 there is no person who has or may be entitled to appoint a receiver, administrative receiver, or administrator as a qualifying floating charge holder in relation to the Company; and
- 172.4 there is no winding up petition or petitioner to be served.
- 173 As noted earlier, the Company has published regular and freely available press releases on its website and on the relevant stock exchanges about operational issues and recent developments affecting the Group.

174 Following the Meeting, the Company intends to publish a press release on its website (which will also be released on the LSE and Interfax & Prime (for the MOEX) notifying unsecured creditors and shareholders that the board of directors has resolved for the Company to be placed into administration.

175 The Company will publish a further press release on its website (which will also be released on the LSE and Interfax & Prime (for the MOEX) confirming the date of the hearing of the Administration Application once that date is known. In addition, the Company Secretary has been in regular contact with the FCA in recent weeks (as the Company is listed) and has given the FCA advance warning of the Administration Application. The FCA has not objected.

L. URGENCY

176 The Applicants respectfully ask the Court to make the orders sought on an urgent basis, for the following reasons.

177 First, an asset sale is the only viable way which has been identified whereby the Company might be able to pay its creditors in full. So far as the Proposed Transaction with UMMC is concerned, UMMC's original offer letter of 16 May 2022 [**Tab 59**] stated that its offer remained open for 30 days following the date of that letter, that is to 15 June 2022. We were subsequently able to persuade them to extend this deadline to 5 July 2022.

178 When it became clear that the Administration Application would not be filed until 11 July 2022, we sought confirmation from UMMC that they are willing to allow some further time for the Proposed Administrators to take office consider their offer further. This has led UMMC to send a letter dated 30 June 2022 [**Tab 76**] granting what they describe as "*the final extension*" (original emphasis) of their offer until 12 July 2022. I respectfully refer the court to the full text of this letter, but UMMC explain their concerns about the deterioration of the business due to:

178.1 The limited ability of the Group to sell gold;

178.2 The risk of creditor enforcement due to the inability of the Company and the Group to service their debts;

- 178.3 The impact of the current situation on local management, who are not incentivised to focus on the future of the business; and
- 178.4 Potential further shifts in the political and economic environment that may make it impossible to conclude the Proposed Transaction.
- 179 This is consistent with my own understanding of the position of the business of the Group. In this regard I am informed by the CFO that as long as Group companies remain in default of their financial obligations, it is impossible for them to obtain any operational credit or finance, which is placing immense strain on the Group's cashflow since the Group is now having to prepay the full amount due under most new procurement contracts, whereas it used to pay in arrears. As is made clear by the waiver of the moratorium on bankruptcy, it also appears that the Company's ability to exert effective control over its subsidiaries is at risk.
- 180 Second, but related to the concerns expressed by UMMC as described above, the Group's ability to operate is presently significantly impaired and deteriorating. In particular, any delay increases the very real risk that a sale would be disrupted by creditor action against the Group:
- 180.1 As noted earlier in this statement, certain of the Group's Russian subsidiaries have (contrary to the Company's direction) waived the moratorium on bankruptcy filing in Russia. As a consequence, creditors can now take enforcement action against those subsidiaries.
- 180.2 The longer we wait before a sale is completed, the more likely that such enforcement action takes place and the more difficult it will be to complete a sale at the value available through the Proposed Transaction. For example, the underlying assets of the Russian subsidiaries is gold material in Russian soil. Enforcement against those subsidiaries could risk the relevant entities losing the relevant mining licences. This, in turn, would be highly detrimental to the value of the Company.
- 180.3 The Court's attention is drawn to the following pressures faced by the Group and the Company from both external and internal creditors:

- (i) On 26 April 2022, the Company’s subsidiary Atlas Mining LLC, on behalf of Pokrovskiy Mine JSC and Malomyrskiy Rudnik LLC as creditors, wrote to the Company and Petropavlovsk Rouble Treasury Limited [Tabs 44-46]. Its letters requested that these entities confirm they would continue to fulfil their obligations as borrowers under certain rouble (RUB) intercompany loans, in light of the press release published by the Company on 14 April 2022 [Tab 31].
- (ii) On 6 May 2022, UMMC wrote to the guarantors under the Term Loan, including Malomyrsky Rudnik LLC [Tab 54], requesting certain information (including any security issued by the guarantor or any off-balance sheet obligations in excess of RUB 7 million).
- (iii) On 23 May 2022, the Company Secretary was informed by a law firm that has acted for the Company that it intends to issue a statutory demand in relation to unpaid legal fees. This demand has now been issued.
- (iv) On 23 May 2022, Nordic – the assignee in respect of the Facilities – sent the Company a letter asking for proposals in respect of the Facilities, reserving its rights on the full repayment of the loan. Enforcement of the Facilities against the relevant Group companies is likely to diminish the value of the Company’s shares in the Group. [Tab 60].

181 Third, the Company’s directors’ and officers’ liability insurance policy (“**D&O Insurance**”) expired on 1 May 2022. The Company had been working to find replacement insurance cover, but was unable to do so in the London market. The Company has taken out D&O Insurance with a provider in Russia, which covers the UK-based directors of the Company as well as the Company’s and the subsidiaries’ directors in Russia. Without this replacement cover, the Company’s directors would likely not have remained in office, which risked disrupting the marketing and sales process that was being carried out at the time. Nonetheless, there are potential difficulties with the UK-based directors of the Company recovering under this cover

in a timely way or at all. Accordingly, the directors want to avoid a situation where they continue to remain in office with limited D&O Insurance cover.

182 In addition, I would highlight that there is an upcoming deadline for the Company to give notice of its annual general meeting (which must be held within six months of the accounting reference date). As explained above, the Company recently extended its accounting reference period from ending 31 December 2021 to 28 February 2022 [Tab 69]). As a consequence, the deadline for the Company to give notice of its annual general meeting is 8 August 2022. I understand that, if the Company fails to hold its annual general meeting, CA 2006 section 336 provides that each director of the Company will potentially incur criminal liability. To be clear, the Applicants are not seeking to avoid holding an AGM and have, as explained above, engaged with interested shareholders in relation to the proposed administration and sale. We also note that UGC and/or Prosperity could convene a shareholders' meeting on their own if so advised but have not done so. The Applicants' position is simply that preparing for an AGM is: (i) impossible without audited accounts, which the Company is not able to obtain without paying its auditors, which the Applicants do not consider to be appropriate in the present circumstances; and (ii) would be an unnecessary distraction from achieving their primary aim of placing the Company into an orderly insolvency process.

183 For all the reasons set out in this section of this statement, and in particular UMMC's stated position that their offer to purchase the business will only be available for acceptance until 12 July 2022, we consider that there is a very limited window for the administrators, once appointed, to conclude that particular transaction if they are minded to do so.

M. REQUEST FOR AN ADMINISTRATION ORDER

184 In the circumstances and for the reasons set out in this witness statement and Manson 1, the Applicants respectfully request that the Court make the order sought.

STATEMENT OF TRUTH

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Signed:  .

CHARLOTTE BERTHA ELISABETH PHILIPPS

Date: 11 July 2022