

OCT 03 2022

NO. S-227 894

VANCOUVER REGISTRY



IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED

AND

IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,
S.B.C. 2002, c. 57, AS AMENDED

AND

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
GREAT PANTHER MINING LIMITED

PETITIONER

PETITION TO THE COURT

ON NOTICE TO: Those parties set out in the attached **Schedule "A"**

This proceeding has been started by the Petitioner for the relief set out in Part 1 below.

If you intend to respond to this Petition, you or your lawyer must

- (a) file a Response to Petition in Form 67 in the above-named registry of this court within the time for Response to Petition described below, and
- (b) serve on the Petitioner
 - (i) 2 copies of the filed Response to Petition, and
 - (ii) 2 copies of each filed Affidavit on which you intend to rely at the hearing

Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the Response to Petition within the time for response.

TIME FOR RESPONSE TO PETITION

A Response to Petition must be filed and served on the Petitioner,

- (a) if you were served with the Petition anywhere in Canada, within 21 days after that service,
- (b) if you were served with the Petition anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the Petition anywhere else, within 49 days after that service, or
- (d) if the time for response has been set by order of the court, within that time.

1. The address of the registry is:

The Law Courts
800 Smithe Street
Vancouver, BC V6Z 2E1

2. The ADDRESS FOR SERVICE of the Petitioner is:

McCarthy Tétrault LLP
Barristers and Solicitors
Suite 2400, 745 Thurlow Street
Vancouver, BC V6E 0C5

**Attention: H. Lance Williams
Nathan Stewart
Forrest Finn**

EMAIL address for service: lwilliams@mccarthy.ca
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3. Name and office address of the Petitioner's lawyer:

(same as above)

CLAIM OF THE PETITIONER

PART 1 ORDER SOUGHT

1. The Petitioner, Great Panther Mining Limited (“**GPML**”), seeks an order substantially in the form of the draft order attached as **Schedule “B”** to this Petition (the “**Initial Order**”), granting, among other things, the following relief:

- (a) deeming service of the application for the Initial Order to be good and sufficient;
- (b) declaring that GPML is a company to which the *Companies’ Creditors Arrangement Act* (R.S.C., 1985, c. C-36) (“**CCAA**”) applies;
- (c) appointing Alvarez & Marsal Canada Inc. (“**A&M**”) as the monitor of GPML;
- (d) granting a charge (the “**Administration Charge**”) in the amount of CAD\$500,000.00 against GPML’s current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situated including all proceeds thereof (collectively, the “**Property**”), in favour of GPML’s counsel, the Monitor, and the Monitor’s counsel, to secure the payment of their respective fees, disbursements, and expenses incurred in connection with these CCAA proceedings;
- (e) granting a charge (the “**D&O Charge**”) against the Property, in favour of GPML’s directors and officers (collectively, the “**D&Os**”), up to the maximum amount of CAD\$150,000.00, as security for GPML’s obligations to indemnify the D&Os;
- (f) declaring that the Administration Charge and the D&O Charge (collectively, the “**Charges**”) rank in priority to all existing liens, security interests, encumbrances, or claims, with respect to, concerning, or as and against all of the Petitioners’ Property other than perfected security interests as at the date of the Initial Order;
- (g) approving the Post-Filing Asahi Agreement (as defined below) and authorizing and approving the payment by GPML in respect of debts incurred by GPML to Asahi (as defined below) relating to the period prior to the filing of the NOI (as defined below), as contemplated under the Post-Filing Asahi Agreement;

- (h) providing for a comeback hearing in respect of the relief granted under the Initial Order, on a date to be fixed by the Court (the “**Comeback Hearing**”); and
- (i) such further and other relief as may be sought by GPML.

PART 2 FACTUAL BASIS

Capitalized Terms and Currency References

1. The facts in support of this Petition are more fully set out in the Affidavit #1 of Sandra Daycock, sworn on September 28, 2022 (the “**Daycock Affidavit**”). Capitalized terms used but not otherwise defined in this Petition have the same meaning as ascribed to them in the Daycock Affidavit.

2. Unless otherwise noted, all references to monetary amounts in this Petition are in United States dollars (“**USD**”), which is the reporting currency of the Group (as defined below). Specifically, certain amounts are identified as being denominated in Brazilian reals (“**BRL**”) or Canadian dollars (“**CAD**”).

Daycock Affidavit at para. 18.

Corporate Structure and Overview of the Group

3. GPML is a Canadian mining company, based in Vancouver, British Columbia, which conducts its operations through a number of directly and indirectly wholly-owned Canadian and foreign subsidiaries (GPML and its subsidiaries are collectively referred to as, the “**Group**”).

Daycock Affidavit at para. 3.

4. In addition to its foreign operating and non-operating subsidiaries, GPML currently has four non-operating Canadian subsidiaries, which are not petitioners in these proceedings: Great Panther Coboro Holdings Ltd. (“**Coboro Holdings**”), Great Panther Mining (Brazil) Limited (“**GPM Brazil 1**”), Great Panther Mining (Brazil 2) Limited (“**GPM Brazil 2**”), and Great Panther Peru Holdings Ltd. (“**Peru Holdings**”, Coboro Holdings, GPM Brazil 1, GPM Brazil 2, and Peru Holdings are collectively referred to as, the “**Canadian Subsidiaries**”).

Daycock Affidavit at para. 3.

5. GPML is a corporation incorporated pursuant to the laws of the Province of British Columbia, as are each of the Canadian Subsidiaries. The registered office and head office of

- (c) the Guanajuato Mine Complex (“**GMC**”), the Topia Mine, and the El Horcón and Santa Rosa projects (collectively, the “**Mexican Properties**”), all located in Mexico, which were sold effective August 4, 2022 (as discussed below).

Daycock Affidavit para. 7.

Overview of Mining Operations and Projects

Brazil (Tucano Mine)

9. The Group is currently focused on the restructuring of the Tucano Mine. The Tucano Mine is a gold mine producing gold doré, a form of semi-pure gold alloy bars. At present, one hundred percent (100%) of the gold doré produced at the Tucano Mine is transported to Canada and sold to Asahi Refining Canada Ltd. (“**Asahi**”), as described in further detail below. The Tucano Mine site includes a tenement portfolio covering nearly 200,000 hectares in the prospective Vila Nova Greenstone belt, which is solely controlled by GPML, through certain wholly-owned indirect subsidiaries. The mine site is comprised of a series of eight open pit mines, an underground project, a processing plant capable of processing 10,000 tonnes per day, and a tailings storage facility.

Daycock Affidavit at para. 8.

10. Primary mining activities at the Tucano Mine are conducted by third-party mining contractors. From the acquisition of the Tucano Mine until early 2022, the sole third-party mining contractor at the Tucano Mine was U&M Mineração e Construção S.A. (“**U&M**”). A replacement contractor (“**MINAX**”) was retained in January 2022, with both contractors initially working concurrently in separate pits.

Daycock Affidavit at para. 20.

11. Pursuant to the Refining Agreement NO: BC-2018/10/13, dated July 1, 2019, as amended by amending agreements dated as of December 19, 2019, December 16, 2020, September 20, 2021, and September 23, 2022 (collectively, the “**Refining Agreement**”), between Asahi, as refiner, and GPML, as customer, GPML agreed to deliver 100% of the gold doré produced at the Tucano Mine to Asahi for refining. The Refining Agreement was originally entered into for a term of one (1) year and is extended on a yearly basis.

Daycock Affidavit at para. 21.

12. In September 2021, GPML entered into the Gold Prepayment Agreement, dated September 20, 2021 (the “**Prepayment Agreement**”), between GPML, as seller, Asahi, as buyer, and Mina Tucano Ltda (“**Mina Tucano**”), as operating company. Pursuant to the Prepayment Agreement, Asahi advanced a \$20 million advance (the “**Asahi Advance**”) in consideration for the equivalent value in gold, to be delivered over a 12-month period in installments of equal value commencing in April 2022. The prepaid gold is sold at a 0.5% discount to the spot price of gold at the time of delivery and is used to offset repayments of the Asahi Advance (additional gold delivered to Asahi, which is not prepaid, is not sold at a discount). The agreement also provides exclusivity on refining and gold sales for 100% of the remaining production of the Tucano Mine during the term of the Prepayment Agreement.

Daycock Affidavit at para. 22.

13. Among other things, pursuant to the Prepayment Agreement:

- (a) Asahi made the Asahi Advance available to GPML, as a prepayment facility in the amount of \$20 million, to be satisfied by offsetting the Asahi Advance against future gold deliveries, or alternatively by cash settlement, equal to \$1,666,666.67 per month, commencing in April 2022 and ending in March 2023;
- (b) GPML agreed to cause Beadell (Brazil) Pty Ltd. (“**Beadell Brazil 1**”) and Beadell (Brazil 2) Pty Ltd. (“**Beadell Brazil 2**”) to execute a pledge of one hundred percent of the *quotas* (equivalent to equity interests) in Mina Tucano, as security for the repayment of the Asahi Advance. This step was completed pursuant to the Quota Pledge Agreement, dated as of September 20, 2021, between Asahi, as pledgee, Beadell Brazil 1 and Beadell Brazil 2, as quotaholders, and Mina Tucano, as intervening party (the “**Quota Pledge Agreement**”);
- (c) GPML agreed to sell, on an exclusive basis, one hundred percent (100%) of gold doré produced at the Tucano Mine to Asahi, at the London Bullion Market Association (“**LBMA**”) spot price less point five percent (0.50%) for prepaid gold, and otherwise at the LBMA spot price; and
- (d) GPML agreed to pay interest to Asahi on the outstanding principal at the rate of LIBOR plus 4.75% per annum.

Daycock Affidavit at para. 23.

14. The Prepayment Agreement is governed by the laws of the Province of Ontario. The Quota Pledge Agreement is governed by the laws of the Federative Republic of Brazil. The events of default under the Quota Pledge Agreement include, among others, if any insolvency proceeding is instituted by or against GPML, the occurrence of an event of default under the Prepayment Agreement, or a material breach of the Refining Agreement. Upon an event of default under the Quota Pledge Agreement, Asahi is entitled to take certain enforcement actions with respect to the *quotas* (equivalent to equity interests) in Mina Tucano.

Daycock Affidavit at para. 24.

15. The main operating permit for the Tucano Mine expired on November 9, 2021, but the permit remains valid until the completion of the ordinary course renewal process. On November 8, 2021, GPML received a letter from the applicable regulatory authority for the Tucano Mine, the Amapá State Environmental Agency (“**SEMA**”), confirming that GPML’s renewal request complied with the requisite application process, and the permit was officially extended from November 9, 2021 until completion of the renewal process.

Daycock Affidavit at para. 25.

16. Mina Tucano is also a defendant in various lawsuits and legal actions in Brazil relating to environmental matters. Certain regulatory proceedings are ongoing, as described in further detail in the Daycock Affidavit.

Daycock Affidavit at para. 26.

Peru (Coricancha Mine)

17. GPML acquired its wholly owned interest in the Coricancha Mine by acquiring, through a subsidiary, all issued and outstanding shares of Great Panther Coricancha S.A. (“**Coricancha S.A.**”) (then named Nyrstar Coricancha S.A.), which was completed effective June 30, 2017, by way of a share purchase agreement (the “**Coricancha Purchase Agreement**”). Coricancha S.A. was formerly an indirect subsidiary of Nyrstar N.V. (“**Nyrstar**”). The Coricancha Mine is a past producing mine which has historically produced mineral concentrates which include gold, silver, copper, lead, and zinc. The mine was initially placed on care and maintenance by its previous owners in August 2013.

Daycock Affidavit at para. 27.

18. A proposed modified mine closure plan (the “**Proposed Modified Mine Closure Plan**”) was initially submitted in 2016, prior to GPML obtaining an interest in the Coricancha Mine. GPML, as successor to the Nyrstar Parties (as defined below), sought approval from the Ministerio de

Energía y Minas (“**MEM**”) of Peru with respect to a modification to the existing remediation plan, in accordance with the recommendations of an independent consultant, SRK Consulting (Canada) Inc. (“**SRK**”), which recommended that *in situ* reclamation is preferable from a technical perspective to preserve the stability of nearby areas. GPML has changed the scheduling of the ongoing remediation efforts pending a decision from the MEM regarding the Proposed Modified Mine Closure Plan. The MEM’s review and ultimate approval has been delayed for many years, which in the view of the Group’s management, is primarily a result of the unsettled political environment in Peru.

Daycock Affidavit at para. 28.

19. The Group filed a Preliminary Economic Assessment (“**PEA**”), which outlined the potential for three million silver equivalent ounces annual production at the Coricancha Mine, in July 2018. In June 2019, a bulk sampling program was completed, which produced certain concentrates and confirmed the key operating assumptions contained in the PEA. In 2019 and 2020, an initial mining and processing campaign was conducted at the Coricancha Mine. Upon completion of the initial mining program, Coricancha Mine remained on care and maintenance to preserve its value while the Group evaluated its options.

Daycock Affidavit at paras. 29 - 30.

20. The Group completed further exploration efforts in 2021 which also showed promising results, however reaching a positive investment decision with respect to recommencing operations was challenging for a number of reasons, including:

- (a) the political situation in Peru had become increasingly unsettled, particularly since 2021, with multiple cabinets having been appointed in rapid succession and the government generally viewed as unfriendly towards investment and resulting in a lack of clear direction on the Proposed Modified Mine Closure Plan;
- (b) in May 2021, Coricancha S.A. received a notice from the Peruvian tax authority regarding a tax claim with respect to unpaid taxes and related fines of a leasing company which previously owned the Coricancha Mine, which is not an affiliate of the Group, from its 2001 tax year. The amount claimed is approximately \$20.0 million. The Group believes that the probability of the claim resulting in liability for Coricancha S.A. is remote. However, the Group expects legal processes to take several years to reach a conclusion, and this has added legal cost and uncertainty to the asset; and

- (c) in August 2021, the Peruvian government passed a law which would increase the closure bond requirements to include progressive closure costs. Final regulations have not yet been published.

Daycock Affidavit at para. 31.

21. Given the above-mentioned uncertainties and a desire to focus capital deployment on the Tucano Mine, since 2021 the Group has engaged in an ongoing attempt to market and sell the Coricancha Mine. Political uncertainty has made the sale process challenging and in the interim, the high cost of environmental stewardship has been a cash drain to the company. The Group's estimated expenditures with respect to the Coricancha Mine, on an annual basis, are in excess of \$8,000,000 per year since it was acquired in 2017.

Daycock Affidavit at para. 32.

22. The Group has undertaken the reclamation of certain legacy tailings facilities located at the Coricancha Mine, pursuant to a remediation plan approved by the MEM (as the Proposed Modified Mine Closure Plan has not yet been approved). As part of the purchase of the Coricancha Mine, GPML entered into an agreement with Nyrstar International B.V., Nyrstar Netherlands (Holdings) B.V., and their parent company Nyrstar (collectively, the "**Nyrstar Parties**") for the reimbursement of the cost of these reclamation activities. The terms of this agreement are set out in further detail in the Daycock Affidavit. Given the Group's desire for flexibility with respect to the future of the mine and certainty regarding the scope of environmental liabilities, the Group and the Nyrstar Parties agreed to settle their respective obligations under the Coricancha Purchase Agreement pursuant to a settlement agreement made as of June 16, 2022.

Daycock Affidavit at paras. 33 - 34.

23. On September 13, 2022, GPML signed a non-binding letter of intent (the "**LOI**") with Newrange Gold Corp. ("**Newrange**") to sell one hundred percent (100%) of the shares of GPML's Peruvian subsidiaries, Coricancha S.A. and Silver Peru, for a total purchase price of \$750,000. The LOI is subject to various conditions precedent, including the completion of definitive documentation, Newrange obtaining financing, and receipt by GPML and Newrange of all necessary third-party consents and approvals (including court approval, either in this proceeding or the existing proceeding under the BIA).

Daycock Affidavit at para. 36.

24. Assuming that the LOI closes, the sale of the Coricancha Mine is anticipated to significantly improve the Group's cashflow as a result of reduced carrying costs incurred in connection with the mine's environmental issues and care and maintenance status. If the LOI does not close for any reason, the Group will have to consider other options, including a review of insolvency and transfer options under Peruvian law.

Daycock Affidavit at para. 37.

Mexican Properties

25. On June 29, 2022, GPML entered into a Share Purchase Agreement (the "**Share Purchase Agreement**") with Guanajuato Silver Company Ltd. to sell 100% of its then subsidiary Minera Mexicana el Rosario, S.A. de C.V. ("**MMR**"), which holds the Mexican Properties. The Mexican Properties produced concentrates containing silver, gold, lead, and zinc, for sale to metal traders or directly to smelters and refiners that extract the metals from the concentrates.

Daycock Affidavit at para. 38.

26. The sale of MMR pursuant to the Share Purchase Agreement closed on August 4, 2022. Prior to the completion of the sale, the Mexican Properties had been operating on a cash flow negative basis for a number of years. While GPML has retained three active Mexican subsidiaries after the closing of the Share Purchase Agreement, the Group does not currently conduct any significant operations in Mexico. Specifically, GPML has three Mexican subsidiaries with some remaining operations, being Coboro Minerales Coboro Minerales de Mexico, S.A. de C.V. ("**Coboro Minerales**"), Metalicos de Durango, S.A. de C.V. ("**Metalicos de Durango**") and, Minera de Villa Seca, S.A. de C.V. ("**Minera de Villa Seca**"). Metalicos de Durango and Minera de Villa Seca's remaining activities are minimal and relate to certain lease and tax obligations. As well, Coboro Minerales holds certain properties in Mexico which GPML believes hold some value, although the amount is uncertain at this time. GPML is in the process of evaluating its approach to the remaining Mexican subsidiaries, which may include a wind-down, disposition, or other transaction.

Daycock Affidavit at paras. 38, 42.

27. Initial negotiations regarding the Share Purchase Agreement related to the sale of the Mexican Properties anticipated a closing in June 2022 or earlier, with a targeted closing date of May 2022. The sale of the Mexican Properties resulted from a series of events, including inability

of the Group to obtain a formal response regarding certain required mining permits, which the Group had sought since 2018 (and which, as of the time of sale, had still not been received).

Daycock Affidavit at para. 39.

28. During the negotiations and pre-closing period with respect to the Share Purchase Agreement, the Mexican Properties required significant, ongoing expenditures by GPML, which contributed to the deterioration of the Group's liquidity position. The closing of the Share Purchase Agreement was delayed due to various concerns regarding due diligence and regulatory issues.

Daycock Affidavit at para. 41; see also, paras. 39 - 40.

29. GPML may be entitled to additional payments under the Share Purchase Agreement upon the fulfilment of certain specified conditions, based upon production at the Mexican Properties and the price of silver. The aggregate maximum amount of such payments is approximately \$2.0 million. The timing and likelihood of fulfilment of the conditions is currently uncertain and GPML does not anticipate receiving the payments in the short term. GPML received an initial working capital adjustment upon closing of the Share Purchase Agreement based on estimated working capital on the closing date of August 4, 2022. Under the Share Purchase Agreement, the parties have ninety (90) days to agree on the post-closing working capital adjustment based on actual working capital as at August 4, 2022. Any amount due to the purchaser according to this adjustment will form a claim against GPML.

Daycock Affidavit at para. 43.

Liquidity Issues and Need for Creditor Protection

30. GPML, and consequently the Group, is currently experiencing an acute liquidity crisis. The current liquidity crisis has developed rapidly during the current fiscal quarter, despite a number of actions taken by the Group in an effort to reduce their ongoing obligations and to obtain sufficient liquidity to support their short-term needs.

Daycock Affidavit at para. 44.

31. As described in further detail below, the primary issues driving GPML's liquidity crisis include:

- (a) ongoing operational challenges related to geotechnical instability at the most productive of the eight Tucano Mine pits, known as Urucum Central South (the

- “UCS Pit”), which resulted in significant expenditures in 2021 on “pushback” activities (as discussed below) without significant metal production;
- (b) the residual impact of a BRL currency hedge entered into in 2019, which caused the Group’s opening cash position in 2021 to be approximately \$21.6 million lower than it would have been if the Group had remained unhedged;
 - (c) atypically heavy rainfall at the Tucano Mine site which has accelerated the need for expenditures regarding tailings dam expansion and water management;
 - (d) inflationary pressures, particularly with respect to the Group’s Brazilian operations, which have significantly increased operational costs;
 - (e) contractor mobilization delays at the Tucano Mine, primarily due to equipment availability issues, which have resulted in a decrease in revenue and production;
 - (f) significant costs involved in maintaining the care and maintenance of the Coricancha Mine, which requires major expenditures to address environmental issues; and
 - (g) delays in the closing of the sale of the Mexican Properties which caused additional unanticipated capital outlays.

Daycock Affidavit at para. 45.

Historical Background and Initial Operational Issues

32. As noted above, GPML acquired the Tucano Mine on March 5, 2019. Mining in northern Brazil is affected by seasonal weather, with the majority of production occurring in the second half of the year, primarily due to the occurrence of heavy rains in the first half of the year.

Daycock Affidavit at para. 46.

33. On or around October 6, 2019, a geotechnical incident occurred which required the suspension of mining at the UCS Pit, for safety reasons. As a result of wall instability detected at the UCS Pit, the Group temporarily ceased operations at that pit and accelerated its production from two other pits, known as Urucum North and Urucum South. Productivity at these pits was lower than expected due to various factors, including unusually high rainfall, increased pit

congestion due to more constrained mining geometries, and the smaller blasts required in order to separate ore and waste at the Urucum North and Urucum South sites.

Daycock Affidavit at para. 47.

34. Nonetheless, the Group had a successful year in 2020 despite the COVID-19 pandemic, due to record production in Brazil and a favourable gold price environment. Upon the completion of initial material offloading scheduled in the UCS Pit, full mining activities resumed in the pit by November 2020. The Group's cash position at December 2020 was \$63.4 million, and would have been significantly higher if the Group had not commenced a BRL/USD hedging strategy in the fourth quarter of 2019 and first quarter of 2020 to reduce exposure to any appreciation in the BRL. The BRL at the time was at or near record lows relative to the USD, however it continued to weaken over the course of 2020 and GPML realized losses on BRL/USD forward contracts totalling \$21.6 million in 2020 and a further \$3.5 million in the first quarter of 2021.

Daycock Affidavit at para. 48.

35. In May 2021, the UCS Pit experienced a new instability event, which required another temporary cessation of mining operations. To address instability at the UCS Pit, the Group started the execution of a "pushback" operation in the west pit wall (the "**Initial Pushback**"), in which waste was removed from the UCS Pit and the pit wall was resurfaced to increase safety. In October 2021, while the Initial Pushback was still in execution, the UCS Pit had another larger instability event. Accordingly, mining was halted for safety reasons and the Group did not realize any significant metal production from the pit in late 2021 or early 2022 as had been planned. The Group also engaged SRK to perform further reviews and evaluations of the pushback design. SRK completed a full review in early 2022 of the various layers of information collected for the geotechnical investigation of the UCS Pit and provided a revised pushback design which was scheduled to be mined for the second half of 2022, once the rainy season was past.

Daycock Affidavit at para. 49.

36. As a result of the October 2021 instability event in the UCS Pit, the entire Tucano Mine plan was re-sequenced. The Group shifted its focus to another pit, which is referred to as "**AB1**". The resequencing to the AB1 pit in early 2022 required substantial stripping prior to the commencement of production, which in turn required further capital expenditure. This was unlike

the resequencing performed in early 2020 after the first 2019 UCS instability event, where alternative pits with higher grades and relatively lower strip ratios were available.

Daycock affidavit at para. 50.

37. In addition to the UCS Pit issues, the primary mining contractor in 2021, U&M, was unable to provide mining equipment at the availability rates that had been anticipated by the Group, as a result of the unavailability of necessary replacement parts and increases in the price of available parts. Due to these performance issues, GPML determined during the second half of 2021 that it would replace U&M with MINAX as the contractor at the Tucano Mine. The replacement of a mining contractor is a significant undertaking, as the replacement contractor requires time to fully mobilize its operations. During the first half of 2022, MINAX and U&M operated in parallel at different pits, pending the completion of MINAX's mobilization efforts.

Daycock Affidavit at para. 51.

38. Brazil has recently experienced significant inflation in the cost of certain key goods required to conduct gold mining operations, including with respect to diesel fuel, cyanide (which is required for the production of gold doré), and labour costs, contributing to a lower operating margin at the Tucano Mine.

Daycock Affidavit at para. 52.

Initial Attempts to Address Liquidity Issues

39. In August 2021, GPML formed a special committee of its board of directors (the "**Special Committee**") to evaluate options for a transformative transaction (whether by acquisition, merger, joint venture or otherwise) in Brazil which would maximize shareholder value. The Special Committee was also tasked with exploring the potential sale of the Group's Mexican and Peruvian properties. The Special Committee retained an outside advisor to assist with this process.

Daycock Affidavit at para. 53.

40. In September 2021, GPML obtained the Asahi Advance (as described above) in the amount of \$20,000,000, and MMR obtained the Samsung Advance (as defined and described below) in the amount of \$5,000,000. At that time, the Group anticipated that its working capital needs would be met, through a combination of the aforementioned debt financing and production revenues, by the fourth quarter of 2021.

Daycock Affidavit at para. 54.

41. Due to the low production from the UCS Pit and heavy capital expenditures required to re-sequence GPML's mining plan, as described above, the Group did not have sufficient funds available to it to complete the required work while continuing with its planned exploration program and the development of an underground project which were considered critical to the achievement of GPML's strategy to make the Tucano Mine profitable. To raise the necessary funds to fund exploration and underground development and to supplement working capital (without obtaining additional debt financing and thereby further constraining cash flow), GPML determined that the best available option would be to conduct an equity raise (the "**Equity Raise**").

Daycock Affidavit at para. 55.

42. The Equity Raise was completed by way of a bought deal offering of common shares, in the fourth quarter of 2021. The Equity Raise incorporated a discounted public offering price, which put downward pressure on GPML's share price. In addition, the departures of the chair of the board of directors and the chief executive officer of GPML in late 2021 and early 2022, respectively, contributed to a climate of uncertainty that added pressure to the share price. These factors made it difficult for GPML to obtain further equity financing in response to its subsequent liquidity issues.

Daycock Affidavit at para. 56.

43. In the second quarter of 2022, the Group received approximately \$7,000,000 in tax refunds from its Brazilian operations, and approximately \$13,000,000 in proceeds from the Nyrstar Settlement (as described above). Additionally, the Group anticipated that it would be able to derive significant savings by divesting the Mexican Properties. The Share Purchase Agreement regarding MMR was initially targeted to close in May 2022. As the Mexican Properties were losing money, the sale of MMR was anticipated to free up a significant amount of cash flow so that the Group could shift its focus to re-establishing full production at the Tucano Mine. Due to ongoing closing delays, the closing of the sale of MMR was delayed to August 4, 2022, which required the outlay of further funds to support the Mexican Properties. The Mexican Properties also did not perform at the expected level during the pre-closing period.

Daycock Affidavit at para. 57.

44. The Group also entered into discussions with Asahi regarding a potential restructuring of its debt. These discussions were initially favourable, and in early 2022 GPML believed that terms would be reached imminently. In addition to the Special Committee's efforts, GPML was exploring other financing options throughout late 2021 and the first half of 2022, as described in further

detail in the Daycock Affidavit. These efforts included evaluating the potential for conducting a further equity raise (the “**Planned Equity Raise**”).

Daycock Affidavit at para. 58.

45. As a result of these favourable developments, as of the end of July 2022, the Group believed that its liquidity issues would be resolved in September 2022. However, a number of events resulted in a rapid depletion of the Group’s working capital and general liquidity position, including:

- (a) the completion of MINAX’s mobilization, which was targeted to occur in June 2022, was delayed by equipment availability due to a backlog in the Brazilian market and supply issues;
- (b) following the release of GPML’s second quarter financial results, MINAX advised the Group that it has suffered liquidity issues and requested up-front payment of its fees (the “**MINAX Payment Request**”), failing which it would be unable to maintain or mobilize the required mining equipment as intended;
- (c) production at the Tucano Mine in August 2022 was significantly lower than expected and revised forecasts illustrated that the mine would not become cash positive until December 2022. GPML believes this resulted primarily from the operational issues involving the mining contractors; and
- (d) following the completion of the Equity Raise in late 2021, GPML’s share price had continued to decline, along with many of its peers in the mining industry, to the extent that the NYSE-A provided GPML with a warning that it would be de-listed from the exchange unless a share consolidation was undertaken. The share consolidation was completed in July 2022, and this put further pressure on the share price. As a result of the falling share price, the Group’s ability to raise sufficient additional funds on the public market by way of the Planned Equity Raise was further constrained.

Daycock Affidavit at para. 59.

46. Following the receipt of the MINAX Payment Request and in light of the lower than forecast production in August 2022 and management’s adjusted expectations, albeit still within annual guidance range, on the timing of production for the remainder of the year, it became apparent that

the potential restructuring of GPML's indebtedness to Asahi would not be sufficient to resolve all of the Group's liquidity issues, and that the potential size of the Planned Equity Raise was insufficient to bridge the gap. Further, negotiations broke down with alternative third-party lenders. By mid-August 2022, GPML's liquidity position had deteriorated to the extent that it was unable to ensure it would be able to provide the funds required for operations at the Tucano Mine.

Daycock Affidavit at paras. 60 - 61.

47. Additionally, GPML was unable to make the payment owed to Asahi on August 31, 2022. The failure to make this payment constituted an event of default under the Quota Pledge Agreements. This default gives Asahi the right to take steps to enforce against the *quotas* (equivalent to equity interests) of the entities which own Mina Tucano, being Beadell Brazil 1 and Beadell Brazil 2, which in turn jeopardizes GPML's operating business.

Daycock Affidavit at para. 93.

48. Accordingly, on September 6, 2022:

- (a) Mina Tucano and its two direct shareholders, Beadell Brazil 1 and Beadell Brazil 2, commenced restructuring proceedings in Brazil under a process referred to as "**Judicial Reorganization**". Among other things, the commencement of Judicial Reorganization proceedings established a stay of proceedings against Mina Tucano for a period of thirty (30) days;
- (b) Mina Tucano terminated certain key supply contracts, including its agreements with the two mining contractors, U&M and MINAX; and
- (c) GPML filed a Notice of Intention to Make a Proposal (the "**NOI**"), pursuant to section 50.4 of the *Bankruptcy and Insolvency Act* (Canada). The proposal trustee under the NOI (the "**Proposal Trustee**") is A&M.

Daycock Affidavit at para. 62.

49. On September 7, 2022, Mina Tucano filed a petition with the United States Bankruptcy Court, Southern District of New York, seeking recognition of the Judicial Reorganization proceedings as "foreign proceedings", pursuant to Chapter 15 of Title 11 of the U.S. Code.

Daycock Affidavit at para. 63.

50. Since the filing of the NOI and the commencement of the Judicial Reorganization proceedings, operations have temporarily discontinued at the Tucano Mine. The Group is continuing to work towards the development and implementation of a restructuring plan which is expected to include a partial care and maintenance period involving the continued processing of existing stockpiles and completion of work on the tailings dam at the Tucano Mine to ensure continued compliance with environmental regulations. Mina Tucano is currently seeking interim financing, in Brazil, in connection with the Judicial Reorganization proceedings. It is not currently anticipated that GPML will require interim financing in connection with its Canadian operations in the short term. In the event that GPML subsequently determines that it will require such financing, it will seek the approval of this Court by way of a separate motion.

Daycock Affidavit at para. 64.

51. As described in further detail below, since the Filing Date, GPML and Mina Tucano have both taken various actions to begin implementing their intended restructuring plans, including (i) GPML negotiating with Asahi regarding post-filing refining requirements (which is necessary for Mina Tucano to monetise its remaining gold production); (ii) Mina Tucano negotiating with major mining contractors to process historical stockpiles while partially completing the construction of the east tailings dam at the mine site, which is intended to assist in ensuring environmental compliance and maximizing value at the Tucano Mine; and (iii) GPML negotiating and entering into the LOI with respect to the Coricancha Mine, which is anticipated to significantly improve the Group's cash flow.

Daycock Affidavit at para. 65.

52. It is contemplated that the flexibility afforded to debtor companies under the CCAA would provide significant benefits to GPML, as compared with the existing proceedings under the BIA, in particular given the international nature of the Group's assets and the complexities surrounding them. Due to limited management capacity, and the urgency of dealing with the Judicial Reorganization, the NOI was filed to ensure a stay of proceedings was obtained by GPML in the short-term, with a continuation to be sought prior to an extension. Accordingly, GPML seeks the continuation of its NOI proceedings under the CCAA.

Daycock Affidavit at para. 66.

Employees, Management and Sales, Treasury Function, and Cash Management

Employees

53. The Group's operations at the Vancouver head office, the Tucano Mine, and the Coricancha Mine, are supported by the following numbers of employees and contractors:

Location	Employees	Contractors
Vancouver (Head Office)	17	0
Brazil (Tucano Mine)	532	1150 (varying monthly)
Peru (Coricancha Mine)	46	78

All numbers are approximate and presented as at June 30, 2022 (with respect to Vancouver and Brazil) and September 19, 2022 (with respect to Peru).

Daycock Affidavit at para. 67.

54. As part of its sustainability and social investment policies, the Group prioritizes hiring and procuring goods and services from local communities. A significant majority of the employees and contractors at the Tucano Mine and the Coricancha Mine are hired locally. Local workers have full-time, permanent employee positions and contract roles in key management, professional, or technical roles.

Daycock Affidavit at para. 68.

Management and Sales

55. All head office and strategic management functions for the Group, including all global treasury planning and execution activities, are conducted by employees of the corporate head office located at 1330 - 200 Granville Street, Vancouver, British Columbia (the "**Vancouver Office**"). Key operational, strategic, and legal functions, as well as oversight of the local operations of members of the Group, are also run through the Vancouver Office. Mina Tucano is partially reliant, and Coricancha S.A. is fully reliant, on GPML for funding, and procurement and sales processes are conducted primarily through the Vancouver Office.

Daycock Affidavit at para. 69.

56. As described in further detail in the Daycock Affidavit:

- (a) the Group's business model with respect to the Tucano Mine includes mining gold in Brazil and selling gold in Canada. Mina Tucano is responsible for the mining and on-site processing operations, then sells its gold production at market price to GPML (subject to certain deductions and charges, as described below), which subsequently sells the gold to external parties after refinement;
- (b) GPML's personnel market, negotiate, execute, and sell the gold to third-party customers. GPML is also responsible for the refining of the gold, shipment logistics, and post-sale activities;
- (c) as Mina Tucano relies on GPML personnel for its sales and marketing functions, GPML charges Mina Tucano a sales commission fee of 2.40% (plus or minus 0.03% depending upon the foreign exchange rate, gold price, and quantity per shipment) (the "**Sales Agency Fee**");
- (d) following the commencement of the Judicial Reorganization, GPML agreed to reduce the Sales Agency Fee temporarily to 1.5%, being the amount required to be paid to Asahi under the recent amendments to the Refining Agreement made pursuant to the Post-Filing Asahi Agreement (as defined and discussed below); and
- (e) in 2021, GPML sold its products to three third-party customers: Samsung C&T U.K. Ltd. ("**Samsung**"); Asahi; and Auramet International LLC. Total sales to these third-party customers were \$141,582,000 in 2021. At present, GPML's sole customer is Asahi, pursuant to the Refining Agreement and the Prepayment Agreement, and one hundred percent (100%) of gold produced at the Tucano Mine is sold to Asahi, in Canada, pursuant to the Refining Agreement and the Prepayment Agreement.

Daycock Affidavit at paras. 70 - 72.

Treasury Function

57. The Group's treasury function is managed from the Vancouver Office, including, among other things, treasury management strategy and planning, oversight of working capital management, balance sheet planning and strategy, approval of foreign exchange purchases and requests to open or close bank accounts, managing hedging and providing recommendations to

the Group's hedging committee for approval of foreign exchange or metals hedging, and maintaining banking relationship. The Group's treasury function involves managing transactions in multiple currencies between Group entities.

Daycock Affidavit at para. 73.

58. In addition, all short-term investments of the Group, including hedging agreements, are managed through the Vancouver Office, and all financing transactions are managed by myself and the Chief Executive Officer of GPML. At present, the Group does not have any hedging positions. Given the Group's cash management needs, and the necessity of making numerous international cash transfers to continue operations, GPML believes that the maintenance of the current cash management system is preferable to instituting a new system during these proceedings. The current cash management system does not include central pooling.

Daycock Affidavit at paras. 74 - 75.

Cash Management System

59. GPML manages cash, on behalf of all Group entities, through its Vancouver Office. The Group's financial affairs are highly integrated and managed by GPML personnel. It is anticipated that GPML will continue to use its existing cash management system to facilitate transfers to the Coricancha Mine. The transfer of funds to preserve the Coricancha Mine is necessary to allow the LOI to proceed, and to avoid the potential environmental risk of a rushed transfer if the LOI does not proceed. The existing cash management system incorporates accounting controls to enable GPML and the Proposal Trustee/the proposed monitor, to trace the origins and destinations of funds and to ensure that all transactions are documented.

Daycock Affidavit at paras. 94 - 96.

Financing and Capital Structure

60. The Group reports its financial results on a consolidated basis. However, material individual credit facilities are held at either the GPML or Mina Tucano level, as follows:

- (a) the Prepayment Agreement is the only material financing facility at the GPML level and is secured by the Quota Pledge Agreement with respect to the equity interests in Mina Tucano. As at the Filing Date, the amount outstanding thereunder including accrued interest was CAD\$17,123,358.91;

- (b) on September 21, 2021, MMR entered into a \$5.0 million lead concentrate prepayment with Samsung and obtained a \$5.0 million advance thereunder (the “**Samsung Advance**”). The Samsung Advance was repaid, in full, in connection with the closing of the Share Purchase Agreement concerning the Mexican Properties and the Group has no further liabilities regarding same;
- (c) Royal Bank of Canada (“**RBC**”) has registered a security interest against GPML with respect to money or amounts that may from time to time be on deposit in the name of GPML with, or owed to GPML by, RBC, Royal Bank Mortgage Corporation, the Royal Trust Company, or Royal Trust Corporation of Canada or any two or more of them to secure corporate credit cards. RBC holds a guaranteed investment certificate in the sum of CAD\$202,000 to secure these cards; and
- (d) Mina Tucano has directly obtained various secured and unsecured financing facilities to which GPML is not a party and is not liable, in the total amount of approximately \$32,409,937.57 as at September 5, 2022 (as described in further detail below).

Daycock Affidavit at para. 76 and Exhibit “R”.

Restructuring Matters

Brazilian Proceedings

61. Brazil has recently adopted the UNCITRAL Model Law on Cross-Border Insolvency. However, it was determined that the best approach under Brazilian law was for Brazil to be the “Centre of Main Interest” for Mina Tucano and the Judicial Reorganization will be the primary insolvency proceedings with respect to that entity. In the event that it becomes necessary or desirable for the various Canadian, Brazilian, and American courts supervising the Group’s restructuring efforts to engage in direct communications, GPML and Mina Tucano intend to seek approval of an inter-court communications protocol within each proceeding; however, at present, given the early stage of the proceedings, GPML is not currently seeking such relief.

Daycock Affidavit at para. 77.

62. GPML currently intends to participate in the Judicial Reorganization and to provide certain indirect, operational support to Mina Tucano during that process. For example, GPML has

continued to carry on treasury functions for the Group after the Filing Date, and will oversee any strategic decisions, such as a sales and investment solicitation process for the Group.

Daycock Affidavit at para. 78.

63. GPML does not currently anticipate providing financial assistance to Mina Tucano in connection with the Judicial Reorganization. If circumstances change such that Mina Tucano requires direct financial support from GPML during these CCAA proceedings, GPML intends to seek the approval of the Court, by way of a separate motion, prior to providing any such assistance. The restructuring proceedings in Canada and Brazil are not currently anticipated to have any negative impact on the environmental condition of the Tucano Mine site.

Daycock Affidavit at para. 78.

64. Since the commencement of the Judicial Reorganization, Mina Tucano has, among other things: (i) terminated various burdensome contracts, including its contracts with U&M and MINAX; (ii) prepared to ship and process existing stockpiles to generate additional cashflow; (iii) entered into negotiations with MINAX, InfraBrasil and U&M regarding various mining and construction matters which are intended to improve the value of the Tucano Mine and address environmental compliance requirements; and (iv) entered into negotiations with various lenders regarding the provision of debtor-in-possession financing to fund the Judicial Reorganization. The Group intends to use the breathing room provided by the stay of proceedings within the Judicial Reorganization to continue such negotiations and efforts, with a view to maximizing the value of Mina Tucano for all interested stakeholders, including GPML.

Daycock Affidavit at para. 79.

Canadian Proceedings

65. Since filing the NOI, GPML has engaged in extensive negotiations with Asahi, its primary creditor, regarding the potential for continued provision of refining services after the Filing Date. On September 23, 2022, Asahi and GPML reached an agreement (the “**Post-Filing Asahi Agreement**”) under which Asahi will continue to provide such services, subject to certain terms and conditions.

Daycock Affidavit at para. 80.

66. Pursuant to the Post-Filing Asahi Agreement and the existing arrangements between GPML and Mina Tucano: (i) Mina Tucano will continue to sell gold to GPML; (ii) GPML will

continue to supply one hundred percent (100%) of produced gold doré to Asahi; and (iii) GPML will provide Asahi with 1.5% of the produced gold as a credit against GPML's pre-filing indebtedness to Asahi.

Daycock Affidavit at para. 81.

67. Accordingly, it is a condition precedent to the Post-Filing Asahi Agreement that GPML will obtain court approval to make payments, to Asahi, in respect of the debts incurred before the Filing Date. GPML believes that this arrangement is fair and reasonable, and in the best interests of all of GPML's stakeholders, as: (i) while a claims process has not yet been completed, Asahi is the largest creditor of GPML, representing CAD\$17,123,358.91 of GPML's total indebtedness of CAD\$17,937,551.67 as at the Filing Date, and so there will be minimal prejudice to any other creditor of GPML as a result of crediting production against the pre-filing Asahi debt; (ii) GPML believes that Asahi is a critical supplier and effectively irreplaceable, including as GPML is unlikely to be able to negotiate a replacement for the Refining Agreement in the necessary timeline in light of its current insolvent circumstances and the complexity of such agreements; and (iii) the arrangement contemplated by the Post-Filing Asahi Agreement is cost-effective for the Group and would avoid requiring the Group to locate alternative transportation, storage, and refining options at a time when the Group's liquidity is severely restricted.

Daycock Affidavit at para. 82.

68. While GPML is still formulating the specific details of its proposed restructuring plan to be implemented within these proceedings, at present, GPML intends to: (i) stabilize operations at the Tucano Mine through Mina Tucano's Judicial Reorganization; (ii) process existing ore stockpiles to obtain additional working capital; (iii) improve the value of the Tucano Mine, as described above; (iv) sell the Coricancha Mine to free up cashflow or find another solution, including a review of insolvency and transfer options under Peruvian law; and (v) continue negotiations with Asahi and its other creditors regarding post-filing supply while the reorganization of Mina Tucano is completed. In addition, the board of directors of GPML has determined that it will downsize to four (4) members, effective September 30, 2022, to reduce costs and as the full skillset of the current board is unlikely to be required in light of GPML's insolvency and limited operations.

Daycock Affidavit at paras. 83 - 84.

69. As at June 30, 2022, GPML's Tucano Mine operating segment had estimated total assets of \$184,139,000, with \$101,798,000 in total liabilities. While the ultimate restructuring of the

Tucano Mine remains to be determined, it is clear that there is potentially material value for Canadian stakeholders, including shareholders. As at September 5, 2022: (a) estimated third-party creditors of Mina Tucano are approximately \$74,107,441.94 (excluding contingencies and intercompany debts, but including certain claims which are not subject to the Judicial Reorganization, such as tax claims); and (b) GPML is owed approximately \$25,254,380.80 from Mina Tucano in direct inter-corporate loans (in addition to its indirect equity interest, and excluding intercompany claims against Beadell Brazil 1 and Beadell Brazil 2). GPML and its stakeholders are material beneficiaries of any value from Mina Tucano beyond the third-party debts.

Daycock Affidavit at para. 85.

Assets and Liabilities

70. As at June 30, 2022, the Group had total assets with a book value of approximately \$262.0 million on a consolidated basis, consisting of current assets with a book value of approximately \$82.7 million and non-current assets with a book value of approximately \$179.3 million.

Daycock Affidavit at para. 90.

71. As at June 30, 2022, the Group had total liabilities with a book value of approximately \$186.2 million, as follows:

- (a) current liabilities in the total amount of approximately \$121.9 million, consisting of:
 - (i) trade payables and accrued liabilities of approximately \$57.6 million; (ii) current portion of borrowings of approximately \$41.5 million; and (iii) liabilities associated with assets held for sale of \$22.8 million; and
- (b) non-current liabilities in the total amount of approximately \$64.3 million, consisting of: (i) borrowings of approximately \$1.9 million; (ii) reclamation and remediation provisions of approximately \$52.7 million; (iii) deferred tax liabilities of approximately \$2.5 million; and (iv) other lease liabilities and accrued liabilities of approximately \$7.3 million.

Daycock Affidavit at para. 91.

72. As at June 30, 2022, the Group's consolidated borrowings consisted of:

- (a) unsecured bank facilities, owed by Mina Tucano to certain Brazilian banks, of approximately \$25.2 million;

- (b) secured loans, owed by Mina Tucano to Bradesco, a Brazilian bank, of approximately \$3.2 million net of cash collateral;
- (c) secured liabilities to Samsung, which have since been repaid in full following closing of the Share Purchase Agreement regarding MMR, in the amount of \$3.75 million; and
- (d) secured liabilities to Asahi, owed by GPML, in the amount of \$15.0 million.

Daycock Affidavit at para. 92.

Need for Urgent Protection

73. As GPML is in dire financial circumstances resulting in its insolvency and faces the potential for immediate enforcement action by its creditors, including Asahi, GPML requires a stay of proceedings for an initial period of ten (10) days.

Daycock Affidavit at para. 97.

74. GPML has developed an initial restructuring plan, to be implemented in conjunction with Mina Tucano's restructuring within the Judicial Reorganization, as set out above. While a series of developments have left GPML unable to address its short-term working capital requirements and those of its subsidiaries, the management of the Group believes that there is significant value in its holdings, and particularly in the Tucano Mine.

Daycock Affidavit at paras. 44, 78 - 79, 83.

PART 3 LEGAL BASIS

1. GPML relies on the:
 - (a) CCAA;
 - (b) BIA;
 - (c) *Business Corporations Act*, SBC 2002, c 57, as amended
 - (d) inherent jurisdiction of this Court; and
 - (e) such further and other legal basis as counsel may advise and this Court may allow.

The CCAA Applies to GPML

2. The CCAA applies in respect of a debtor company or affiliated debtor companies where the total claims against them amount to more than \$5 million. The term “debtor company” is defined in section 2 of the CCAA to include any company that is “insolvent”.

CCAA, s 3

3. GPML is a corporation incorporated under the laws of British Columbia and carries on business in British Columbia. In addition, while GPML has not run a claims process, claims against it exceed \$5 million, currently totaling \$17,937,551.67. GPML is also insolvent within the meaning of the CCAA, having run out of liquidity and is unable to meet its obligations as they become due. Accordingly, GPML is within the jurisdiction of this Court and the CCAA applies.

Continuing under the CCAA

4. Section 11.6 of the CCAA provides that proposal proceedings commenced under the BIA may be continued under the CCAA provided that a proposal has not been filed:

11.6 Notwithstanding the *Bankruptcy and Insolvency Act*,

(a) proceedings commenced under Part III of the *Bankruptcy and Insolvency Act* may be taken up and continued under this Act only if a proposal within the meaning of the *Bankruptcy and Insolvency Act* has not been filed under that Part;

[...]

CCAA, s 11.6

5. In applying section 11.6, courts have set out the following three requirements:

- (a) the debtor company has not filed a proposal under the BIA;
- (b) the proposed continuation would be consistent with the purposes of the CCAA;
and
- (c) evidence which serves as a reasonable surrogate for the information which section 10(2) of the CCAA requires accompany the application.

Clothing for Modern Times Ltd (Re), 2011 ONSC 7522 at para 9

Soccer Express Trading Corp (Re), 2020 BCSC 2109 at para 8

6. First, GPML filed the NOI on September 6, 2022 but has not yet filed a proposal in the NOI proceedings. Accordingly, it meets the statutory requirement for a continuation pursuant to section 11.6 of the CCAA.

7. Second, the purpose of the CCAA as set out by the Supreme Court of Canada in *Century Services Inc v Canada (Attorney General)* and recently re-articulated in *Canada v Canada North Group Inc* is to facilitate the survival of going concerns, by permitting the debtor to continue to carry on business and, where possible, avoid the social and economic costs of liquidating its assets.

Century Services Inc v Canada (Attorney General), 2010 SCC 60 at para 15

Canada v Canada North Group Inc, 2021 SCC 30 at para 21

8. As discussed in greater detail above, the NOI proceedings were initiated by the Debtor in response to significant liquidity constraints as a result of various factors, including, inter alia:

- (a) ongoing operational challenges and necessary spending in respect of current mining operations of the Group, including safety and environmental concerns and contractor mobilization delays;
- (b) the residual impact of currency hedge positions, which have lowered the Group's opening cash position in 2021 by approximately \$21.6 million; and
- (c) ongoing inflationary pressures as a result of, inter alia, the global COVID-19 pandemic and related supply chain disruption.

9. Continuing under the CCAA provides advantages for the successful restructuring of GPML as compared to the NOI proceedings under the BIA in order to address the above issues. In particular, continuation under the CCAA allows for greater flexibility as GPML pursues restructuring options for its business. Given the international and highly-integrated nature of the Group's business and the cross-border aspect of the Group's restructuring, with dual plenary proceedings, the flexibility afforded by the CCAA offers the most advantageous way to restructure as opposed to the more rigid BIA regime.

10. Proceedings under the CCAA would be better-positioned than proceedings under the BIA to assist with the complex and cross-border nature of GPML's business. As a result, continuing

the NOI proceedings under the CCAA would increase the possibility of GPML restructuring for the benefit of stakeholders and is consistent with the purpose of the CCAA.

11. Third, subsection 10(2) of the CCAA provides that an initial application under the CCAA must be accompanied by:

- (a) a statement indicating, on a weekly basis, the projected cash flow of the debtor company;
- (b) a report containing the prescribed representations of the debtor company regarding the preparation of the cash-flow statement; and
- (c) copies of all financial statements, audited or unaudited, prepared during the year before the application or, if no such statements were prepared in that year, a copy of the most recent such statement.

CCAA, s 10(2)

12. Each of these conditions have been satisfied based on the evidence provided in the report of the Proposed Monitor to be filed.

The Stay is Appropriate

13. Subsection 11.02(1) of the CCAA provides that this Court may, on an initial application in respect of a debtor company, make an order on any terms that it may impose, effective for the period that the court considers necessary, which period may not be more than 10 days, *inter alia*, restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the debtor company; and prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the debtor company.

CCAA, s 11.02(1)

14. Consistent with the purpose of the CCAA discussed above, a stay of proceedings facilitates the ongoing operations of the debtor company's business to preserve its value and prevents any creditor from gaining an unfair advantage over other creditors.

15. In the circumstances, given its present financial and liquidity challenges, GPML urgently requires a stay of proceedings under the CCAA to continue to maintain the *status quo* and to

obtain the breathing room required to consider and implement strategic restructuring alternatives and pursue and implement a restructuring strategy.

16. In the absence of the imposition of a stay of proceedings and the granting of other relief afforded by the CCAA, there is a risk that the Group's significant and complex operations in Canada, Brazil, Mexico, and Peru would be disrupted.

17. The current stay of proceedings under the NOI proceedings expires on October 6, 2022. Accordingly, the stay is required.

Approval of the Asahi Agreement

18. Section 11 of the CCAA provides that this Court has broad discretion to make any order it considers appropriate in the circumstances:

General power of court

11 Despite anything in the Bankruptcy and Insolvency Act or the Winding-up and Restructuring Act, if an application is made under this Act in respect of a debtor company, the court, on the application of any person interested in the matter, may, subject to the restrictions set out in this Act, on notice to any other person or without notice as it may see fit, make any order that it considers appropriate in the circumstances.

CCAA, s 11

19. Consequently, this Court has jurisdiction to approve transactions in the course of overseeing proceedings during a stay period under the CCAA.

Calpine Canada Energy Ltd, Re, 2007 ABCA 266 at paras 23, 24
Nortel Networks Corp, Re, 2010 ONSC 1708 at para 71

20. In *Re Nortel Networks Corp*, the Ontario Superior Court set out helpful principles for determining when a court should approve an agreement in CCAA proceedings, including that the subject agreement must be: (i) consistent with the spirit and purpose of the CCAA; and (ii) fair and reasonable in the circumstances. In evaluating the fairness and reasonableness of an agreement, courts will consider:

- (a) the balancing of the interests of all parties;

- (b) the equitable treatment of the parties, including creditors who are not signatories to the agreement; and
- (c) its benefit to the debtor company and its stakeholders generally.

Nortel Networks Corp, Re, 2010 ONSC 1708 at para 73

21. While a claims process has not yet been conducted, Asahi is by far the largest creditor of GPML with a debt claim of CAD\$17,123,358.91. Asahi has a significant interest in the restructuring of GPML, which interest would be further protected by the approval of the Post-Filing Asahi Agreement.

Daycock Affidavit at para 82

22. In addition, at present, 100% of gold produced at the Tucano Mine is sold to Asahi, in Canada, pursuant to the Refining Agreement and the Prepayment Agreement. Accordingly, and given that GPML is unlikely to be able to negotiate a replacement for the Refining Agreement in the necessary timeline in light of its current insolvent circumstances and the complexity of such agreements, Asahi is a critical supplier. Approval of the Post-Filing Asahi Agreement would also preserve the ongoing cooperation of this supplier for GPML's restructuring.

Daycock Affidavit at paras 72, 82

23. The Post-Filing Asahi Agreement is also cost-effective for GPML and would avoid requiring GPML to locate alternative transportation, storage, and refining options at a time when GPML's liquidity is severely restricted. This has the benefit of lowering costs in order to preserve the value of GPML's business and will give management the bandwidth to focus on other key aspects of the restructuring process, which will benefit all of GPML's stakeholders.

Daycock Affidavit at para 82

24. For these reasons, the Post-Filing Asahi Agreement meets both the spirit and purpose of the CCAA and is fair and reasonable in the circumstances.

The Administration Charge is Appropriate

25. GPML seeks an Administration Charge of \$500,000 to secure the collective fees and disbursements incurred both before and after the commencement of these proceedings of legal counsel for GPML, the Proposed Monitor, and legal counsel to the Proposed Monitor.

26. Section 11.52 of the CCAA expressly provides this Court with the power to grant a charge in respect of professional fees and disbursements:

11.52 (1) On notice to the secured creditors who are likely to be affected by the security or charge, the court may make an order declaring that all or part of the property of a debtor company is subject to a security or charge – in an amount that the court considers appropriate – in respect of the fees and expenses of

(a) the monitor, including the fees and expenses of any financial, legal or other experts engaged by the monitor in the performance of the monitor's duties;

(b) any financial, legal or other experts engaged by the company for the purpose of proceedings under this Act; and

(c) any financial, legal or other experts engaged by any other interested person if the court is satisfied that the security or charge is necessary for their effective participation in proceedings under this Act.

CCAA, s 11.52 (1)

27. In determining whether to grant an administration charge, Canadian courts have considered, *inter alia*, the following factors:

- (a) the size and the complexity of the business being restructured;
- (b) the proposed role of the beneficiaries of the charge;
- (c) whether there is an unwarranted duplication of roles;
- (d) whether the quantum of the proposed charge appears to be fair and reasonable;
- (e) the position of any secured creditors likely to be affected by the charge; and
- (f) the position of the Monitor.

Mountain Equipment Co-Operative (Re), 2020 BCSC 2037 at para 58

28. Importantly, courts have recognized that, unless professional advisor fees are protected with the benefit of a charge over the assets of a debtor company, the objectives of the CCAA would be frustrated because professionals would be unlikely to risk offering their services without any assurance of ultimately being paid. Specifically, any failure to provide protection for

professional fees will “result in the overwhelming likelihood that the CCAA proceedings would come to an abrupt halt, followed, in all likelihood, by bankruptcy proceedings”.

Re Timminco Ltd, 2012 ONSC 506 at para 66

29. GPML requires the specialized expertise, knowledge, and continuing participation of the proposed beneficiaries of the Administration Charge to complete the restructuring, and the Administration Charge is necessary to ensure their continued assistance and participation in these proceedings.

30. GPML believes that an Administration Charge in the amount sought is fair and reasonable and will provide the level of appropriate protection for the payment of GPML’s essential professional services given the size and complexity of the Group’s business.

31. The Administration Charge will not prejudice GPML’s secured creditors as the Order sought in this Petition provides that it shall not rank above security interests validly registered and perfected in the Personal Property Security Registry on the date it is pronounced.

32. The Proposed Monitor is of the view that the proposed quantum of the Administration Charge sought is reasonable and appropriate in the circumstances.

The D&O Charge is Appropriate

33. Section 11.51 of the CCAA empowers this Court to make an order declaring that all or part of a debtor company’s property is subject to a security or charge in favour of a director or officer to indemnify them against obligations and liabilities that they may incur in such position after the commencement of proceedings under the CCAA:

11.51 (1) On application by a debtor company and on notice to the secured creditors who are likely to be affected by the security or charge, the court may make an order declaring that all or part of the property of the company is subject to a security or charge – in an amount that the court considers appropriate – in favour of any director or officer of the company to indemnify the director or officer against obligations and liabilities that they may incur as a director or officer of the company after the commencement of proceedings under this Act.

CCAA, s 11.51(1)

34. GPML seeks the D&O Charge of \$150,000 to indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of GPML after the commencement of the within proceedings.

35. The D&O Charge is vital to encouraging the continued participation of GPML's directors and officers in these CCAA proceedings. GPML's directors and officers will provide the necessary experience and stability to the Group's business and guide GPML's restructuring efforts. It is critical that a level of continuity be maintained within GPML to ensure focus on achieving a restructuring plan that will benefit GPML's stakeholders.

36. The D&O Charge sought is not intended to duplicate coverage already in place under GPML's existing directors' and officers' liability insurance policies, but rather, to supplement such coverage if any claim is not insured under those policies.

37. The D&O Charge will not prejudice GPML's secured creditors as the Order sought in this Petition provides that it shall not rank above security interests validly registered and perfected in the Personal Property Security Registry on the date it is pronounced.

38. The Proposed Monitor is of the view that the proposed quantum of the D&O Charge sought is reasonable and appropriate in the circumstances.

Proposed Monitor

39. Section 11.7 of the CCAA provides that the court shall appoint a qualified person to monitor the business and affairs of a debtor company granted relief under the CCAA.

CCAA, s 11.7

40. A&M is a licensed trustee within the meaning of section 2 of the BIA and is not subject to any of the restrictions on who may be appointed as monitor set out in subsection 11.7(2) of the CCAA. Accordingly, A&M is qualified to act as Monitor in these CCAA proceedings.

CCAA, s 11.7(2)

41. A&M has consented to act as the Monitor.

Good Faith and Due Diligence

42. Since the filing of the NOI, GPML has acted and continues to act in good faith and with due diligence to advance its proposed restructuring, to the benefit of all stakeholders, including, *inter alia*:

- (a) working with the Proposal Trustee to review the financial information of the company, prepare cash flow projections, and identify issues with respect to the financial condition of the Debtor and the status of its creditors;
- (b) carrying on the business in the ordinary course and generally taking actions incidental to the operations of GPML to preserve the going concern value of the company; and
- (c) identifying and engaging with stakeholders.

43. A&M, in its capacity as both the Proposal Trustee and the Proposed Monitor supports the conversion of these proceedings from the *BIA* to the *CCAA* and the other relief sought herein.

PART 4 MATERIALS TO BE RELIED ON

- 1. Affidavit #1 of Sandra Daycock, sworn on September 28, 2022, to be filed;
- 2. First Report of the Proposal Trustee / Report of the Proposed Monitor, to be filed;
- 3. Such further and other materials as counsel may advise and the Court may allow.

The Petitioner estimates that the hearing of the Petition will take one hour.

DATED: September 30, 2022



Counsel for the Petitioner
McCarthy Tétrault LLP
(H. Lance Williams)

To be completed by the court only:

Order Made

in the terms requested in paragraphs of
Part 1 of this Petition

with the following variations and additional terms:

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DATED: _____

Signature of Judge

Master

SCHEDULE "A"

NO. _____
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED

AND

IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,
S.B.C. 2002, c. 57, AS AMENDED

AND

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
GREAT PANTHER MINING LIMITED

PETITIONER

SERVICE LIST

<p>McCarthy Tétrault LLP Suite 2400 745 Thurlow Street Vancouver, BC V6E 0C5</p> <p>Attention: H. Lance Williams Forrest Finn Nathan Stewart</p> <p>Tel: (604) 643-7154</p> <p>Email: lwilliams@mccarthy.ca ffinn@mccarthy.ca nstewart@mccarthy.ca sdanielisz@mccarthy.ca</p> <p><i>Counsel for the Petitioner</i></p>	<p>Alvarez & Marsal Canada Inc. 902 – 925 West Georgia Street Vancouver, BC V6C 3L2</p> <p>Attention: Anthony Tillman Pinky Law</p> <p>Email: atillman@alvarezandmarsal.com pinky.law@alvarezandmarsal.com</p> <p><i>Proposed Monitor</i></p>
<p>Fasken Martineau DuMoulin LLP Suite 2900 – 550 Burrard Street Vancouver, BC V6C 0A3</p> <p>Attention: Kibben Jackson Rebecca Barclay Nguinambaye</p> <p>Tel: (604) 631-4786</p> <p>Email: kjackson@fasken.com rnguinambaye@fasken.com</p> <p><i>Counsel for the Proposed Monitor</i></p>	<p>Aird & Berlis LLP Suite 1800 – 181 Bay Street Toronto, ON M5J 2T9</p> <p>Attention: Kyle Plunkett</p> <p>Tel: (416) 865-3406</p> <p>Email: kplunkett@airdberlis.com</p> <p><i>Counsel for Asahi Refining Canada Ltd.</i></p>

Torys LLP

79 Wellington Street West
30th Floor (deliveries) / 33rd Floor (reception)
Box 270, TD South Tower
Toronto, ON M5K 1N2

Attention: David Bish

Email: dbish@torys.com

***Counsel for Directors of Great Panther
Mining Limited***

SCHEDULE "B"

NO. _____
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED

AND

IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,
S.B.C. 2002, c. 57, AS AMENDED

AND

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
GREAT PANTHER MINING LIMITED

PETITIONER

**ORDER MADE AFTER APPLICATION
(INITIAL ORDER)**

BEFORE THE HONOURABLE

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)
)
)

[•]DAY, THE [•] DAY OF

OCTOBER, 2022

THE APPLICATION of the Petitioner coming on for hearing at Vancouver, British Columbia, on the [•] day of [•], 2022 (the "Order Date"); AND ON HEARING H. Lance Williams and Forrest Finn, counsel for the Petitioner and those other counsel listed on **Schedule "A"** hereto; AND UPON READING the material filed, including the First Affidavit of Sandra Daycock sworn September 28, 2022 (the "**First Daycock Affidavit**") and the consent of Alvarez & Marsal Canada Inc. ("**A&M**") to act as Monitor (in such capacity, the "**Monitor**"); AND pursuant to the *Companies' Creditors Arrangement Act*, RSC 1985 c C-36, as amended (the "**CCAA**"), the British Columbia Supreme Court Civil Rules and the inherent jurisdiction of this Honourable Court;

THIS COURT ORDERS AND DECLARES THAT:

JURISDICTION

1. The Petitioner is a company to which the CCAA applies.

CONTINUANCE UNDER THE CCAA

2. The proposal proceedings commenced by the Petitioner under Division I of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the “**BIA**”) on September 6, 2022 (the “**NOI Date**”), as Estate No. 11-2862600 and Supreme Court of British Columbia in Bankruptcy and Insolvency Court File Number B-220363, Vancouver Registry (the “**NOI Proceedings**”) are hereby taken up and continued under the CCAA. The NOI Proceedings shall have no further force or effect, and are hereby terminated, save that any and all acts, steps, agreements and procedures validly taken, done or entered into by the Petitioner during the NOI Proceedings shall remain valid, binding and actionable within these proceedings. For certainty, approval of the Monitor’s and its counsel’s fees and disbursements and approval of the Monitor’s activities in this proceeding shall be deemed approval of the fees and disbursements and activities of A&M, in its capacity as the trustee of the proposal of the Petitioner (in such capacity, the “**Proposal Trustee**”) and the fees and disbursements of the Proposal Trustee’s counsel in the NOI Proceedings. The Applicants are hereby directed and authorized to file a copy of this Order in the NOI Proceedings.

SUBSEQUENT HEARING DATE

3. The hearing of the Petitioner’s application for an extension of the Stay Period (as defined in paragraph 11 of this Order) and for any ancillary relief shall be held at the Courthouse at 800 Smithe Street, Vancouver, British Columbia at 10:00 a.m. on [●] the [●] day of October, 2022 or such other date as this Court may order.

PLAN OF ARRANGEMENT

4. The Petitioner shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the “**Plan**”).

POSSESSION OF PROPERTY AND OPERATIONS

5. Subject to this Order and any further Order of this Court, the Petitioner shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”), and continue to carry on its business (the “**Business**”) in the ordinary course and in a manner consistent with the preservation of the Business and the Property. The Petitioner shall

be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively, "**Assistants**") currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for carrying out the terms of this Order.

6. The Petitioner shall be entitled, but not required, to pay the following expenses which may have been incurred prior to the NOI Date:

- (a) all outstanding wages, salaries, employee and pension benefits (including long and short term disability payments), vacation pay and expenses (but excluding severance pay) payable before or after the Order Date, in each case incurred in the ordinary course of business and consistent with the relevant compensation policies and arrangements existing at the time incurred (collectively "**Wages**"); and
- (b) the fees and disbursements of any Assistants retained or employed by the Petitioner which are related to the Petitioner's restructuring, at their standard rates and charges, including payment of the fees and disbursements of legal counsel retained by the Petitioner, whenever and wherever incurred, in respect of:
 - (i) the NOI Proceedings;
 - (ii) these proceedings or any other similar proceedings in other jurisdictions in which the Petitioner or any subsidiaries or affiliated companies of the Petitioner are domiciled;
 - (iii) any litigation in which the Petitioner is named as a party or is otherwise involved, whether commenced before or after the Order Date; and
 - (iv) any related corporate matters.

7. Except as otherwise provided herein, the Petitioner shall be entitled to pay all expenses reasonably incurred by the Petitioner in carrying on the Business in the ordinary course following the Order Date, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably incurred and which are necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors' and officers' insurance), maintenance and security services, provided that any capital expenditure exceeding \$10,000 shall be approved by the Monitor;
 - (b) all obligations incurred by the Petitioner after the Order Date, including without limitation, with respect to goods and services actually supplied to the Petitioner following the Order Date (including those under purchase orders outstanding at the Order Date but excluding any interest on the Petitioner's obligations incurred prior to the Order Date); and
 - (c) fees and disbursements of the kind referred to in paragraph 6(b) which may be incurred after the Order Date.
8. The Petitioner is authorized to remit, in accordance with legal requirements, or pay:
- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from Wages, including, without limitation, amounts in respect of: (i) employment insurance; (ii) Canada Pension Plan; (iii) Quebec Pension Plan; and (iv) income taxes or any such claims which are to be paid pursuant to Section 6(3) of the CCAA;
 - (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Petitioner in connection with the sale of goods and services by the Petitioner, but only where such Sales Taxes accrue or are collected after the Order Date, or where such Sales Taxes accrued or were collected prior to the Order Date but not required to be remitted until on or after the Order Date; and
 - (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal property taxes, municipal business taxes or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors.

9. Until such time as a real property lease is disclaimed in accordance with the CCAA, the Petitioner shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable as rent to the landlord under the lease) based on the terms of existing lease arrangements or as otherwise may be negotiated between the Petitioner and the landlord from time to time ("**Rent**"), for the period commencing from and including the Order Date, twice-monthly in equal payments on the first and fifteenth day of the month in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the Order Date shall also be paid.

10. Except as specifically permitted herein, the Petitioner is hereby directed, until further Order of this Court:

- (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Petitioner to any of its creditors as of the Order Date except as authorized by this Order;
- (b) to make no payments in respect of any financing leases which create security interests;
- (c) to grant no security interests, trust, mortgages, liens, charges or encumbrances upon or in respect of any of its Property, nor become a guarantor or surety, nor otherwise become liable in any manner with respect to any other person or entity except as authorized by this Order;
- (d) to not grant credit except in the ordinary course of the Business only to its customers for goods and services actually supplied to those customers, provided such customers agree that there is no right of set-off in respect of amounts owing for such goods and services against any debt owing by the Petitioner to such customers as of the Order Date; and
- (e) to not incur liabilities except in the ordinary course of Business.

STAY OF PROCEEDINGS, RIGHTS AND REMEDIES

11. Until and including [•], or such later date as this Court may order (the "**Stay Period**"), no action, suit or proceeding in any court or tribunal (each, a "**Proceeding**") against or in respect of

the Petitioner or the Monitor, or affecting the Business or the Property, shall be commenced or continued except with the written consent of the Petitioner and the Monitor or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Petitioner or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

12. During the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) against or in respect of the Petitioner or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Petitioner and the Monitor or leave of this Court.

13. Nothing in this Order, including paragraphs 11 and 12, shall: (i) empower the Petitioner to carry on any business which the Petitioner is not lawfully entitled to carry on; (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a mortgage, charge or security interest (subject to the provisions of Section 39 of the CCAA relating to the priority of statutory Crown securities); or (iv) prevent the registration or filing of a lien or claim for lien or the commencement of a Proceeding to protect lien or other rights that might otherwise be barred or extinguished by the effluxion of time, provided that no further step shall be taken in respect of such lien, claim for lien or Proceeding except for service of the initiating documentation on the Petitioner.

NO INTERFERENCE WITH RIGHTS

14. During the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Petitioner, except with the written consent of the Petitioner and the Monitor or leave of this Court.

CONTINUATION OF SERVICES

15. During the Stay Period, all Persons having oral or written agreements with the Petitioner or mandates under an enactment for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, services, utility or other services to the

Business or the Petitioner, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with, or terminating the supply of such goods or services as may be required by the Petitioner, and that the Petitioner shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the Order Date are paid by the Petitioner in accordance with normal payment practices of the Petitioner or such other practices as may be agreed upon by the supplier or service provider and the Petitioner and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

16. Notwithstanding any provision in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the Order Date, nor shall any Person be under any obligation to advance or re-advance any monies or otherwise extend any credit to the Petitioner on or after the Order Date. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

17. During the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against the directors or officers of the Petitioner with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Petitioner whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Petitioner, if one is filed, is sanctioned by this Court or is refused by the creditors of the Petitioner or this Court. Nothing in this Order, including in this paragraph, shall prevent the commencement of a Proceeding to preserve any claim against a director or officer of the Petitioner that might otherwise be barred or extinguished by the effluxion of time, provided that no further step shall be taken in respect of such Proceeding except for service of the initiating documentation on the applicable director or officer.

DIRECTORS AND OFFICERS INDEMNIFICATION AND CHARGE

18. The Petitioner shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Petitioner after the commencement of the within proceedings, except to the extent that, with respect to any director or officer, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

19. The directors and officers of the Petitioner shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$150,000, as security for the indemnity provided in paragraph 18 of this Order. The Directors' Charge shall have the priority set out in paragraphs 30 and 32 herein.

20. Notwithstanding any language in any applicable insurance policy to the contrary: (i) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge; and (ii) the Petitioner's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 18 of this Order.

APPOINTMENT OF MONITOR

21. A&M is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Petitioner with the powers and obligations set out in the CCAA or set forth herein, and that the Petitioner and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Petitioner pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

22. The Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Petitioner's receipts and disbursements;

- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) advise the Petitioner in its development of the Plan and any amendments to the Plan;
- (d) assist the Petitioner, to the extent required by the Petitioner, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (e) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Petitioner, to the extent that is necessary to adequately assess the Petitioner's business and financial affairs or to perform its duties arising under this Order;
- (f) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (g) perform such other duties as are required by this Order or by this Court from time to time.

23. The Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, or by inadvertence in relation to the due exercise of powers or performance of duties under this Order, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof, and nothing in this Order shall be construed as resulting in the Monitor being an employer or a successor employer, within the meaning of any statute, regulation or rule of law or equity, for any purpose whatsoever.

24. Nothing herein contained shall require or allow the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance

contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Fisheries Act*, the *British Columbia Environmental Management Act*, the *British Columbia Fish Protection Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. For greater certainty, the Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

25. The Monitor shall provide any creditor of the Petitioner with information provided by the Petitioner in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Petitioner is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Petitioner may agree.

26. In addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment, the carrying out of the provisions of this Order, its appointment as the Proposal Trustee, or the carrying out of its role as the Proposal Trustee, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the rights and protections afforded the Monitor or the Proposal Trustee by the CCAA, the *BIA*, or any applicable legislation.

ADMINISTRATION CHARGE

27. The Monitor, counsel to the Monitor, if any, and counsel to the Petitioner shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Petitioner as part of the cost of these proceedings. The Petitioner is hereby authorized and directed to pay the accounts of the Monitor, counsel to the Monitor and counsel to the Petitioner on a periodic basis. In addition, the prior payment to the Monitor, the Monitor’s counsel, and the

Petitioner's counsel of retainers in the amounts of \$75,000, \$25,000, and \$150,000, respectively are hereby approved, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

28. The Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the British Columbia Supreme Court who may determine the manner in which such accounts are to be passed, including by hearing the matter on a summary basis or referring the matter to a Registrar of this Court.

29. The Monitor, counsel to the Monitor, if any, and counsel to the Petitioner shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$500,000, as security for their respective fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order which are related to the Petitioner's restructuring. The Administration Charge shall have the priority set out in paragraphs 30 and 32 hereof.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

30. The priorities of the Administration Charge and the Directors' Charge, as between them, shall be as follows:

First – Administration Charge (to the maximum amount of \$500,000); and

Second – Directors' Charge (to the maximum amount of \$150,000).

31. Any security documentation evidencing, or the filing, registration or perfection of, the Administration Charge and the Directors' Charge (together, the "**Charges**") shall not be required, and that the Charges shall be effective as against the Property and shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered or perfected subsequent to the Charges coming into existence, notwithstanding any failure to file, register or perfect any such Charges.

32. Each of the Charges shall constitute a mortgage, security interest, assignment by way of security and charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, mortgages, charges and encumbrances and claims of secured creditors,

statutory or otherwise (collectively, “**Encumbrances**”), in favour of any Person, save and except those claims contemplated by section 11.8(8) of the CCAA and any security interests validly registered and perfected in the Personal Property Security Registry of British Columbia as of the Order Date.

33. Except as otherwise expressly provided herein, or as may be approved by this Court, the Petitioner shall not grant or suffer to exist any Encumbrances over any Property that rank in priority to, or *pari passu* with the Charges, unless the Petitioner obtains the prior written consent of the Monitor and the beneficiaries of the Administration Charge and the Director’s Charge.

34. The Administration Charge and the Director’s Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges shall not otherwise be limited or impaired in any way by: (i) the pendency of these proceedings and the declarations of insolvency made herein; (ii) any application(s) for bankruptcy order(s) issued pursuant to the *BIA*, or any bankruptcy order made pursuant to such applications; (iii) the filing of any assignments for the general benefit of creditors made pursuant to the *BIA*; (iv) the provisions of any federal or provincial statutes; or (v) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, mortgage, security agreement, debenture, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds the Petitioner; and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Charges shall not create or be deemed to constitute a breach by the Petitioner of any Agreement to which it is a party; and
- (b) the payments made by the Petitioner pursuant to this Order do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

35. Any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Petitioner’s interest in such real property leases.

SERVICE AND NOTICE

36. The Monitor shall: (i) without delay, publish in the Globe and Mail and the Northern Miner a notice containing the information prescribed under the CCAA; and (ii) within five (5) days after Order Date, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Petitioner of more than \$1,000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

37. The Petitioner and the Monitor are at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the Petitioner's creditors or other interested parties at their respective addresses as last shown on the records of the Petitioner and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

38. Any Person that wishes to be served with any application and other materials in these proceedings must deliver to the Monitor by way of ordinary mail, courier, personal delivery or electronic transmission a request to be added to a service list (the "**Service List**") to be maintained by the Monitor. The Monitor shall post and maintain an up to date form of the Service List on its website at: <https://www.alvarezandmarsal.com/GPR> (the "**Website**").

39. Any party to these proceedings may serve any court materials in these proceedings by emailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, and the Monitor shall post a copy of all prescribed materials on the Website.

40. Notwithstanding paragraphs 37 and 39 of this Order, service of the Petition, the Notice of Hearing of Petition, any affidavits filed in support of the Petition and this Order shall be made on the Federal and British Columbia Crowns in accordance with the *Crown Liability and Proceedings Act*, RSC 1985, c C-50, and regulations thereto, in respect of the Federal Crown, and the *Crown Proceeding Act*, RSBC 1996, c 89, in respect of the British Columbia Crown.

ASAHI AGREEMENT

41. The agreement dated September 23, 2022 between Asahi Refining Canada Ltd. (“**Asahi**”) and the Petitioner and attached as Exhibit “L” to the First Daycock Affidavit (the “**Post-Filing Asahi Agreement**”), pursuant to which Asahi has agreed to continue to provide refining services to the Petitioner is hereby approved and the payment by the Petitioner in respect of debts incurred by the Petitioner to Asahi before the Order Date under the Post-Filing Asahi Agreement, are hereby approved.

GENERAL

42. The Petitioner or the Monitor may from time to time apply to this Court for directions in the discharge of its powers and duties hereunder.

43. Nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Petitioner, the Business or the Property.

44. Each of the Petitioner and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order and the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada, including acting as a foreign representative of the Petitioner.

45. The Petitioner may (subject to the provisions of the *CCAA* and the *BIA*) at any time file a voluntary assignment in bankruptcy or a proposal pursuant to the commercial reorganization provisions of the *BIA* if and when the Petitioner determines that such a filing is appropriate.

46. The Petitioner is hereby at liberty to apply for such further interim or interlocutory relief as it deems advisable within the time limited for Persons to file and serve Responses to the Petition.

47. Leave is hereby granted to hear any application in these proceedings on two (2) clear days' notice after delivery to all parties on the Service List of such Notice of Application and all affidavits in support, subject to the Court in its discretion further abridging or extending the time for service.

48. Any interested party (including the Petitioner and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to all parties on the Service List and to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

49. Endorsement of this Order by counsel appearing on this application is hereby dispensed with.

50. This Order and all of its provisions are effective as of 12:01 a.m. local Vancouver time on the Order Date.

THIS COURT REQUESTS the aid and recognition of other Canadian and foreign Courts, tribunal, regulatory or administrative bodies, including any Court or administrative tribunal of any federal or State Court or administrative body in the United States of America, Brazil, Peru or Mexico to act in aid of and to be complementary to this Court in carrying out the terms of this Order where required. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Petitioner and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Petitioner and the Monitor and their respective agents in carrying out the terms of this Order.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

Signature of Lawyer for the Petitioner
McCarthy Tétrault LLP
(H Lance Williams / Forrest Finn)

BY THE COURT

REGISTRAR

SCHEDULE "A"
(LIST OF COUNSEL)

Counsel Name	Party Represented
David Bish (Torys LLP)	Directors of Great Panther Mining Limited
Kibben Jackson (Fasken Martineau DuMoulin LLP)	Proposal Trustee and Proposed Monitor