



**Second Report of
KSV Restructuring Inc. as
CCAA Monitor of
Magna Gold Corp.**

July 6, 2023

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COURT FILE NO.: CV-23-00696874-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF MAGNA GOLD CORP.

SECOND REPORT OF
KSV RESTRUCTURING INC., IN ITS CAPACITY AS MONITOR

JULY 6, 2023

1.0 Introduction

1. On March 3, 2023, Magna Gold Corp. ("**Magna**") filed a Notice of Intention to Make a Proposal ("**NOI**") pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended ("**BIA**") (the "**NOI Proceedings**"). KSV Restructuring Inc. was appointed the proposal trustee (in such capacity, the "**Proposal Trustee**") in the NOI Proceedings.
2. On March 27, 2023 (the "**Filing Date**"), Magna brought a motion in the NOI Proceedings before the Ontario Superior Court of Justice (Commercial List) (the "**Court**") to have the NOI Proceedings taken up and continued under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"). Pursuant to a Court order made on March 27, 2023 (the "**Initial Order**"), Magna was granted protection under the CCAA (the "**CCAA Proceedings**"), and KSV was appointed monitor (in such capacity, the "**Monitor**"). A copy of the Initial Order is attached as Appendix "A".
3. Pursuant to the terms of the Initial Order, *inter alia*, the Court:
 - a) granted an initial stay of proceedings (the "**Stay of Proceedings**") in favour of Magna to and including April 6, 2023;
 - b) granted charges:
 - i. in the amount of \$300,000 on Magna's current and future property, assets and undertaking (collectively, the "**Property**") to secure the fees and disbursements of Magna's legal counsel, Bennett Jones LLP ("**Bennett Jones**"), as well as the fees and disbursements of the Monitor and its independent legal counsel, Cassels Brock & Blackwell LLP ("**Cassels**") (the "**Administration Charge**"); and
 - ii. in the amount of \$300,000 on the Property in favour of Magna's directors and officers (the "**D&O Charge**");

- c) relieved Magna, a reporting issuer listed on the NEX Board of the TSX Venture Exchange (the “**TSXV**”) and OTC Pink, of certain securities reporting obligations and its obligation to call and hold an annual general meeting of shareholders, until further order of the Court (collectively, the “**Securities Relief**”);
 - d) declared, upon continuance of the NOI Proceedings under the CCAA, that the BIA proposal provisions shall have no further application to Magna;
 - e) approved the Proposal Trustee’s fees and those of Cassels; and
 - f) approved the Proposal Trustee’s activities since the commencement of the NOI Proceedings, and discharged the Proposal Trustee.
4. At Magna’s comeback motion on April 4, 2023 (the “**Comeback Motion**”), the Court issued an Order extending the Stay of Proceedings to and including June 2, 2023 (the “**Stay Period**”). On May 29, 2023, the Court issued an order extending the Stay Period until November 15, 2023.
 5. Substantially all of Magna’s value is derived through its equity interests in its direct and indirect subsidiaries in Mexico (collectively, the “**Subsidiaries**”, and together with Magna, the “**Magna Group**”). Concurrent with the commencement of the NOI Proceedings, Magna’s indirect subsidiary, Molimentales del Noroeste, S.A. de C.V (“**Molimentales**”), filed an application for restructuring and provisional creditor protection before the Second District Court for Insolvency Matters located in Mexico City, Mexico (the “**Molimentales Proceedings**”).
 6. The principal purpose of the CCAA Proceedings is to create a stabilized environment to allow Magna to continue to operate as a going concern and to protect Magna’s equity in its Subsidiaries, the value of which will only be known once the Molimentales Proceedings are further advanced.

1.1 Purposes of this Second Report

1. The Monitor files this second report (the “**Second Report**”) pursuant to Section 23(1)(d)(i) of the CCAA to advise the Court and Magna’s stakeholders of certain recent material adverse changes in Magna’s financial circumstances. At this time, the Monitor is not recommending any relief from the Court in respect of the CCAA Proceedings. As set out below, the Monitor intends to file another report to Court by the end of July 2023.

1.2 Currency

1. All currency references in this Second Report are to Canadian dollars, unless otherwise noted.

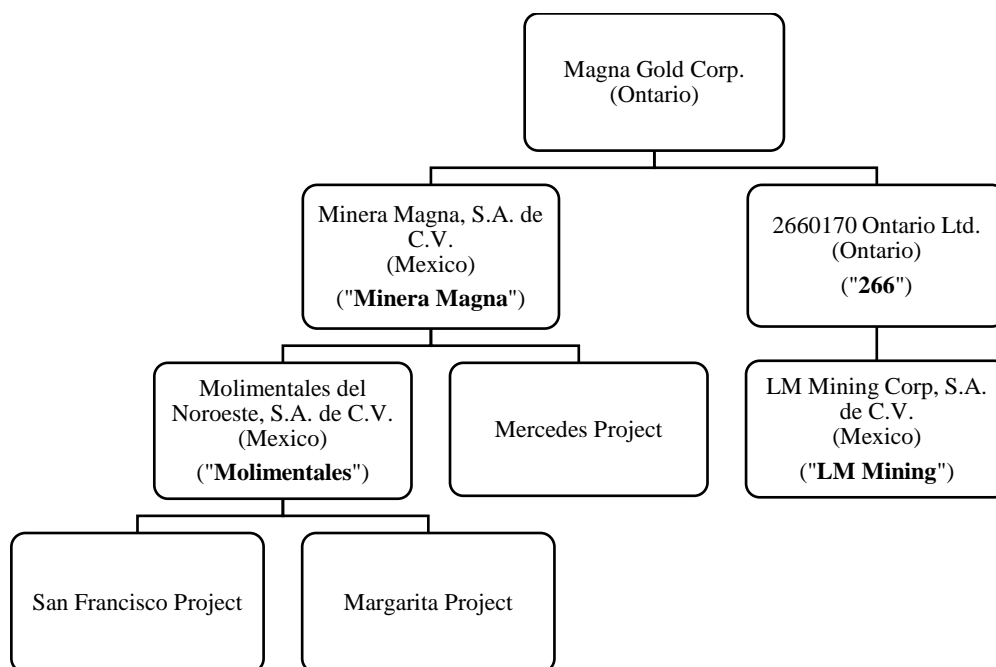
1.3 Restrictions

1. In preparing this Second Report, the Monitor has relied upon unaudited financial information prepared by, and discussions with, Magna’s management (“**Management**”) and Bennett Jones.

- The Monitor has not audited, or otherwise attempted to verify, the accuracy or completeness of the financial information relied on to prepare this Second Report in a manner that complies with Canadian Auditing Standards (“CAS”) pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Monitor expresses no opinion or other form of assurance contemplated under the CAS in respect of such information. Any party wishing to place reliance on the financial information should perform its own diligence.

2.0 Background

- Magna was incorporated on January 9, 2018 pursuant to the provisions of the *Business Corporations Act* (Ontario). Magna’s registered head office is located at 82 Richmond Street East, Toronto.
- Prior to the NOI Proceedings, Magna’s common shares were listed on the TSXV under the trading symbol “MGR”. Following the NOI filing, on March 8, 2023, Magna’s common shares were transferred to the NEX Board of the TSXV under the trading symbol “MGR.H”. Magna is also listed on the OTC Pink with the trading symbol “MGLQF”.
- As a result of the Initial Order, the TSXV suspended the trading of Magna’s common shares on the NEX Board. Moreover, on May 5, 2023, Magna received a Cease Trade Order (the “CTO”) from the OSC in light of Magna’s decision not to make periodic disclosure as required by the *Securities Act*, R.S.O. 1990, c. S.5. as permitted pursuant to the terms of the Initial Order as a result of the Securities Relief.
- The corporate structure of the Magna Group is as follows:



5. Substantially, all of the Magna Group's assets are located outside of Canada, with the principal projects being: (i) the San Francisco Project; (ii) the Mercedes Project; and (iii) the Margarita Project (collectively, the **"Principal Projects"**). In addition to the Principal Projects, Magna has certain additional mineral projects that are, for the most part, in the exploration phase and subject to option agreements (which, together with the Principal Projects comprise the **"Projects"**).
6. KSV's pre-filing report dated March 21, 2023 (the **"Pre-Filing Report"**), the affidavit of Leslie Kapusianyuk, General Counsel and Corporate Secretary of Magna, dated March 20, 2023 (the **"First Kapusianyuk Affidavit"**) and the Affidavit of Ms. Kapusianyuk sworn May 18, 2023 (the **"Second Kapusianyuk Affidavit"** and together with the First Kapusianyuk Affidavit, the **"Kapusianyuk Affidavits"**) provide additional information in respect of the Projects, Magna's background information and the CCAA Proceedings generally.
7. Court materials filed in these proceedings, including the Pre-Filing Report and Kapusianyuk Affidavits, are available on the Monitor's case website at: <https://www.ksvadvisory.com/experience/case/magnagold>.

3.0 Update on Molimentales

1. Since the Filing Date, the Monitor has attended regular calls with Management to stay apprised of the Molimentales Proceedings and other developments in Mexico related to Molimentales. In mid June 2023, Management advised the Monitor that the unionized employees of Molimentales intended to strike which the Monitor is advised would have resulted in Molimentales being declared bankrupt under Mexican insolvency legislation.
2. In order to avoid bankruptcy, on June 22, 2023, Molimentales terminated all unionized mine employees (61 employees in total). Accordingly, no mining is currently being conducted at the Molimentales mine. Molimentales still employs non-unionized individuals to provide critical services related to care and maintenance. The goal of the care and maintenance activities is to complete a safe shut down which is compliant with Mexican environmental regulations. On June 28, 2023, counsel to Magna provided this update to counsel to Magna's largest stakeholder, Delbrook Capital Advisors Inc. ("Delbrook"), which is both a creditor and shareholder of Magna. In that respect, Magna owes Delbrook approximately \$10 million, which represents approximately 91% of Magna's total debt.
3. As a result of the shut-down, Molimentales is no longer generating any revenue and is only able to fund Magna's critical costs, including salaries and employee benefits for Magna's three employees. As such, there is no longer any funding available for professional fees associated with the CCAA Proceedings.

4. The Monitor understands from Magna that it is in discussions with certain parties regarding a potential investment in Magna which would allow it to fund ongoing costs. The Monitor is providing this Second Report so all stakeholders are aware of the current status of these CCAA Proceedings while the discussions unfold.
5. The Monitor has advised Magna that it intends to file another report by the end of July, 2023 to provide the Court and the stakeholders with an additional update. Magna fails to secure an investment by such time, the Monitor will provide a recommendation as to the continuation or termination of the CCAA Proceedings.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.
IN ITS CAPACITY AS CCAA MONITOR OF
MAGNA GOLD CORP.
AND NOT IN ITS PERSONAL CAPACITY**

Appendix “A”



Court File No.:CV-23-00696874-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE) MONDAY, THE 27th
JUSTICE MCEWEN) DAY OF MARCH, 2023
)

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
MAGNA GOLD CORP.

Applicant

INITIAL ORDER

THIS APPLICATION, made by Magna Gold Corp. ("**Magna**" or the "**Applicant**") for an initial order pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), was heard this day via video conference.

ON READING the affidavit of Leslie Kapusianykh sworn March 20, 2023 and the exhibits thereto (the "**Kapusianykh Affidavit**"), the First Report of the Proposal Trustee and the Pre-Filing Report of KSV Restructuring Inc. ("**KSV**") in its capacity as the proposed Monitor of the Applicant (the "**Report**"), filed, and the appendices thereto, and the consent of KSV to act as the monitor of the Applicant (in such capacity, the "**Monitor**"), and on being advised that there are no secured creditors who are likely to be affected by the charges created herein, and on hearing the submissions of counsel for the Applicant and the Monitor, no one else appearing although duly served as appears from the affidavit of service of Aiden Nelms sworn March 20, 2023;

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application, the Application Record and the Report is hereby abridged, to the extent necessary, and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

CONTINUANCE UNDER THE CCAA

2. **THIS COURT ORDERS AND DECLARES** that the Applicant is a company to which the CCAA applies.

3. **THIS COURT ORDERS AND DECLARES** that the proposal proceedings (the "**Proposal Proceedings**") of Magna bearing Estate/Court File No.: 31-2917856 commenced under Part III of the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3, as amended (the "**BIA**"), are hereby taken up and continued under the CCAA and that, as of the date hereof, the provisions of Part III of the BIA shall have no further application to Magna, save that any and all steps, agreements and procedures validly taken, done or entered into by Magna during the Proposal Proceedings shall remain valid and binding, notwithstanding the commencement of the CCAA proceedings.

4. **THIS COURT ORDERS** that, for clarity, Magna shall not be deemed to have made an assignment based on its failure to file a proposal with the official receiver notwithstanding s. 50.4(8) of the BIA.

PLAN OF ARRANGEMENT

5. **THIS COURT ORDERS** that the Applicant 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

6. **THIS COURT ORDERS** that the Applicant 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**"). Subject to further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of its business (the "**Business**") and Property. The Applicant is 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 the carrying out of the terms of this Order.

7. **THIS COURT ORDERS** that the Applicant shall be entitled to continue to utilize its existing cash management system currently in place as described in the Kapusianyk Affidavit or replace it with another substantially similar cash management system (the "**Cash Management System**") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

8. **THIS COURT ORDERS** that the Applicant shall be entitled but not required to pay the following expenses and satisfy the following obligations, whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, commissions, compensation, employee benefits, pension contributions, vacation pay and expenses (including, without limitation, payroll and benefits processing and servicing expenses) payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and
- (b) the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges.

9. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course after this Order, and in carrying out

the provisions of this Order and any other Order of this Court, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably 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;
- (b) payment for goods or services actually supplied to the Applicant following the date of this Order; and
- (c) any payment referred to in paragraphs 9(a) or 9(b) of this Order that: (i) was incurred during the Proposal Proceedings or that pertains to such a period; or (ii) pertains to the period prior to the commencement of the Proposal Proceedings if, in the opinion of the Applicant and with the consent of the Monitor, the supplier of the applicable good or service is critical to the Business and the ongoing operations of the Applicant.

10. **THIS COURT ORDERS** that the Applicant shall 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 employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, and (iii) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date that the Proposal Proceedings commenced, or where such Sales Taxes were accrued or collected prior to such date but not required to be remitted until on or after such 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 realty, municipal business 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 and which are attributable to or in respect of the carrying on of the Business by the Applicant.

11. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicant 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 Applicant to any of its creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of the Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business or pursuant to this Order, or any other Order of this Court.

RESTRUCTURING

12. **THIS COURT ORDERS** that the Applicant shall, subject to such requirements as are imposed by the CCAA, have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding \$100,000 in any one transaction or \$250,000 in the aggregate;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and
- (c) pursue all avenues of refinancing or restructuring of the Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

all of the foregoing to permit the Applicant to proceed with an orderly restructuring of the Business.

NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY

13. **THIS COURT ORDERS** that until and including April 6, 2023, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicant or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

14. **THIS COURT ORDERS** that 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 Applicant or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall: (i) empower the Applicant to carry on any business which the Applicant 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 security interest; or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

15. **THIS COURT ORDERS** that 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 Applicant (in each case whether written or oral), except with the written consent of the Applicant and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

16. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicant or statutory or regulatory mandates for the supply of goods and/or

services, including without limitation all computer software, communication and other data services, centralized banking services, payroll and benefits services, insurance, transportation services, utility or other services to the Business or the Applicant, 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 Applicant, and that the Applicant 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 date of this Order are paid by the Applicant in accordance with normal payment practices of the Applicant or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

17. **THIS COURT ORDERS** that, notwithstanding anything else 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 date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

18. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant with respect to any claim against the directors or officers that arose before or arises after the date the Proposal Proceedings commenced and that relates to any obligation of the Applicant 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 Applicant.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

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

20. **THIS COURT ORDERS** that the directors and officers of the Applicant 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 \$300,000, as security for the indemnity provided in paragraph 19 of this Order. The Directors' Charge shall have the priority set out in paragraphs 35 and 37 herein.

21. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicant'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 19 of this Order.

APPOINTMENT OF MONITOR

22. **THIS COURT ORDERS** that KSV is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicant with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant 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.

23. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicant'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 Applicant in its preparation of the its cash flow statements;
- (d) advise the Applicant in its development of the Plan and any amendments to the Plan;
- (e) assist the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (f) 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 Applicant to the extent that is necessary to adequately assess the Applicant's business and financial affairs or to perform its duties arising under this Order;
- (g) 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
- (h) perform such other duties as are required by this Order or by this Court from time to time.

24. **THIS COURT ORDERS** that 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, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

25. **THIS COURT ORDERS** that nothing herein contained shall require 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 *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety 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. 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.

26. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicant with information provided by the Applicant 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 Applicant 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 Applicant may agree.

27. **THIS COURT ORDERS** that, 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 or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

28. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicant shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges and whether incurred prior to, on or after the date hereof, by the Applicant as part of

the costs of these proceedings. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant in accordance with the payment terms agreed to with such professionals.

29. **THIS COURT ORDERS** that 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 Commercial List of the Ontario Superior Court of Justice.

30. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicant 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 \$300,000.00, as security for their professional 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 in respect of these proceedings and the Proposal Proceedings. The Administration Charge shall have the priority set out in paragraphs 35 and 37 hereof.

DISCHARGE OF KSV AS PROPOSAL TRUSTEE AND APPROVAL OF REPORT

31. **THIS COURT ORDERS** that the Proposal Trustee shall be discharged as proposal trustee of Magna, provided however that KSV shall continue to have the benefit of all protections and stays of proceedings in favour of KSV, in its capacity as proposal trustee of Magna.

32. **THIS COURT ORDERS AND DECLARES** that KSV is hereby released and discharged from any and all liability that KSV now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of KSV while acting in its capacity as Proposal Trustee for Magna. Without limiting the generality of the foregoing, KSV is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the Proposal Proceedings for Magna.

33. **THIS COURT ORDERS** that the Report and the activities of KSV, as described in the Report, be and are hereby approved; provided, however that only KSV, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

34. **THIS COURT ORDERS** that the fees and disbursements of the Proposal Trustee and its counsel, as set out in the Report, be and are hereby approved.

VALIDITY AND PRIORITY OF THE CHARGES CREATED BY THIS ORDER

35. **THIS COURT ORDERS** that the priorities of the Administration Charge and the Directors' Charge (collectively, the "**Charges**"), shall be as follows:

First – Administration Charge up to the maximum amount of \$300,000.00; and

Second – Directors' Charge up to the maximum amount of \$300,000.00.

36. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

37. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person.

38. **THIS COURT ORDERS** that, except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicant also obtain the prior written consent of the Monitor and the beneficiaries of the applicable Charges (collectively, the "**Chargees**"), or further Order of this Court.

39. **THIS COURT ORDERS** that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees shall not otherwise be limited or impaired in any way by: (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) 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, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicant, 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 Applicant of any Agreement to which the Applicant is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and
- (c) the payments made by the Applicant pursuant to this Order and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

SECURITIES MATTERS

40. **THIS COURT ORDERS** that the decision by Magna to incur no further expenses in relation to any filings, disclosures, core or non-core documents, restatements, amendments to existing filings, press releases or any other actions (collectively, the "**Securities Filings**") that may be required by any federal, provincial or other law respecting securities or capital markets in Canada or the United States, or by the rules and regulations of a stock exchange, including without limitation, the *Securities Act* (Ontario) and comparable statutes enacted by other provinces of Canada, the *Securities Act of 1933* (United States) and the *Securities Exchange Act of 1934* (United States) and comparable statutes enacted by individual states of the United States, the TSXV Exchange Corporate Finance Manual and other rules, regulations and policies of the TSX Venture Exchange, the NEX Board or OTC Pink (collectively, the "**Securities Provisions**"), is hereby authorized, provided that nothing in this paragraph shall prohibit any securities regulator or stock exchange from taking any action or exercising any discretion that it may have of a nature described in section 11.1(2) of the CCAA as a consequence of Magna failing to make any Securities Filings required by the Securities Provisions.

41. **THIS COURT ORDERS** that none of the directors, officers, employees and other representatives of the Applicant, the Monitor and its directors, officers, employees and representatives, shall have any personal liability for any failure by Magna to make any Securities Filings required by the Securities Provisions.

42. **THIS COURT ORDERS** that Magna be and is hereby relieved of any obligation to call and hold an annual meeting of its shareholders until further Order of this Court.

SERVICE AND NOTICE

43. **THIS COURT ORDERS** that the Monitor's obligations under Section 23(1)(a) of the CCAA and the regulations made thereunder are hereby dispensed with.

44. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/Toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05, this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that the Case Website established in connection with the Proposal Proceedings and referenced at the URL which follows shall constitute the Case Website for these CCAA proceedings in accordance with the Protocol: <https://www.ksvadvisory.com/experience/case/magnagold> (the "**Website**").

45. **THIS COURT ORDERS** that the Monitor shall create, maintain and update as necessary a list of all Persons appearing in person or by counsel in these CCAA proceedings (the "**Service List**"). The Monitor shall post the Service List, as may be updated from time to time, on the Website, provided that the Monitor shall have no liability in respect of the accuracy of, or the timeliness or making any changes to, the Service List.

46. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicant and the Monitor are at liberty to serve or distribute 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 facsimile or other electronic transmission to the Applicant's creditors or other interested parties at their respective addresses as last shown on the records of the Applicant and that any such service or distribution shall be deemed to be received: (a) if sent by courier, on the next business day following the date of forwarding thereof; (b) if delivered by personal delivery or facsimile or other electronic transmission, on the day so delivered; and (c) if sent by ordinary mail, on the third business day after mailing.

47. **THIS COURT ORDERS** that the Applicant and the Monitor and their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Applicant's creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

GENERAL

48. **THIS COURT ORDERS** that the Applicant or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order, or for advice and directions concerning the discharge of their respective powers and duties under this Order or the interpretation or application of this Order.

49. **THIS COURT ORDERS** that 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 Applicant, the Business or the Property.

50. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States, Mexico or any other foreign jurisdiction, to give effect to this Order and to assist the Applicant, the Monitor and

their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant 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 Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

51. **THIS COURT ORDERS** that each of the Applicant 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 that 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.

52. **THIS COURT ORDERS** that any interested party (including the Applicant and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other Person(s) likely to be affected by the order sought or upon such other notice, if any, as this Court may order, provided, however, that the Chargees shall be entitled to rely on this Order as issued and entered and on the Charges with respect to any fees and disbursements incurred until the date this Order may be amended, varied or stayed.

53. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. (Toronto time) on the date of this Order.

54. **THIS COURT ORDERS** that this Order is effective from today's date and is enforceable without the need for entry and filing.



A handwritten signature in black ink, appearing to be 'M. J. ...', is written above a horizontal line.

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF MAGNA GOLD CORP.**

Court File No.: CV-23-00696874-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceedings commenced in Toronto

INITIAL ORDER

BENNETT JONES LLP
One First Canadian Place
Suite 3400, P.O. Box 130
Toronto, Ontario
M5X 1A4

Sean Zweig (LSO# 573071)
Aiden Nelms (LSO# 74170S)

Tel: 416-777-6254
Fax: 416-863-1716

Lawyers for the Applicant