



No. S-228723
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

AND

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

AND

IN THE MATTER OF THE PLAN OF COMPROMISE AND ARRANGEMENT OF
PURE GOLD MINING INC.

PETITIONER

NOTICE OF APPLICATION

Name of applicant: Pure Gold Mining Inc (the "Applicant")

To: THE SERVICE LIST AND THE SECURED CREDITORS (AS DEFINED HEREIN)

TAKE NOTICE that an application will be made by the applicant to the Honourable Justice Walker at the courthouse at 800 Smithe Street, Vancouver, British Columbia on November 9, 2022 at 10:00 a.m. for the orders set out in Part 1 below.

Part 1: ORDERS SOUGHT

1. The Applicant seeks:

- (a) a "**SISP Order**", substantially in the form attached as **Schedule "A"** hereto, among other things:
 - (i) approving a sales and investment solicitation process involving the Applicant and all the assets, undertakings, and properties of the Applicant, including without limitation the interests of the Applicant in the Pure Gold Mine Project (the "**Mine**") located in Ontario (the "**SISP**");
 - (ii) approving the engagement by the Applicant of National Bank Financial Inc. ("**NBF**") to act as "**Sales Agent**" to the Applicant for the purposes of the SISP pursuant to a "**Sales Agent Agreement**"; and
 - (iii) granting a "**Sales Agent Charge**" over the Applicant's current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"), to

secure the Applicant's obligation to NBF under the Sales Agent Agreement with the priority and protections set forth in the ARIO (as defined below).

- (b) a "**KERP Order**", substantially in the form attached as **Schedule "B"** hereto, among other things:
 - (i) approving a key employee retention program (the "**KERP**"); and
 - (ii) granting a charge (the "**KERP Charge**") over the Applicant's Property to secure the Applicant's obligations under the KERP with the priority and protections set forth in the ARIO (as defined below).
- (c) an amended and restated initial order (the "**ARIO**") substantially in the form attached as **Schedule "C"** hereto, among other things:
 - (i) extending the Stay Period from November 10, 2022, until and including January 27, 2023 (the "**Stay Extension**");
 - (ii) declaring that each of the Administration Charge, D&O Charge, Interim Lender's Charge (in each case as defined in the ARIO), Sales Agent Charge, and KERP Charge shall rank in priority to all other security interests, trusts, liens, mortgages, charges, and encumbrances and claims of "**Secured Creditors**" (as defined in the CCAA), statutory or otherwise, in favour of any Person, save and except for those claims contemplated by section 11.8(8) of the CCAA; and
 - (iii) increasing the amount of borrowings that the Petitioner was authorized and empowered by the Initial Order to obtain under a "**Credit Facility**" from the Interim Lender to finance the continuation of the Business and preservation of the Property to the full amount authorized by the Interim Financing Term Sheet as approved by this Court.
- (d) an Order sealing confidential Affidavit #2 of Graeme Currie, made November 4, 2022 (the "**Confidential Currie Affidavit**") in the form provided for in Practice Direction 58 (Sealing Orders in Civil and Family Proceedings); and
- (e) an Order sealing confidential Affidavit #3 of Chris Haubrich, made November 4, 2022 (the "**Confidential Haubrich Affidavit**") in the form provided for in Practice Direction 58 (Sealing Orders in Civil and Family Proceedings).

2. The Applicant further seeks such other orders as counsel for the Applicant may advise and this Court may deem appropriate in the circumstances.

Part 2: FACTUAL BASIS

The Proposed SISF

3. The proposed SISF was developed in consultation with the Monitor and National Bank Financial Inc. ("**NBF**"), the proposed Sales Agent, and with an opportunity for input from Sprott

Private Resource Lending II (Collector), LP ("**Sprott LP**"), the Applicant's senior secured lender, Interim Lender in these proceedings, and largest creditor.¹

4. The SISP is intended to solicit interest in, and opportunities for, (a) an asset purchase transaction (an "**Asset Bid**"); (b) some other restructuring, recapitalization, or other form of reorganization of the business, property, or affairs of the Applicant, including but not limited to the debt, share, or other capital structure of the Company (a "**Restructuring Bid**"); or (c) some combination of one or more Asset and Restructuring Bids.

5. The SISP is divided into two phases. The timelines for Phases I and II of the SISP are as follows (with capitalized terms having the meanings ascribed to them in the SISP):

EVENT	TARGET DATE
Commencement of Phase I of the SISP	November 10, 2022
LOI Deadline	December 19, 2022
Commencement of Phase II of the SISP	December 20, 2022
Final Bid Deadline	February 6, 2023
Final Agreement Deadline	February 21, 2023
Outside Closing Date	March 10, 2023

6. There is flexibility in the SISP in that the proposed SISP timelines and criteria may be amended, extended, or waived by the Applicant, with the consent of the Monitor, given after consultation with Sprott, or by further order of the Court.

7. The Applicant will review all Qualified Final Bids (as that term is defined in the SISP) submitted by the Final Bid Deadline, with the assistance of the Sales Agent, and in consultation with the Monitor, to determine the highest or otherwise best Qualified Final Bid (a "**Winning Bid**").

8. The SISP affords flexibility to the Applicant to select a Winning Bid that is not only the bid that provides the most cash, but to also consider other factors, such as levels of conditionality and the timeline to closing of any bid. Absent consent of Sprott, any Winning Bid must, however, result in the payment in full of the amounts owing to Sprott on closing.

9. After consulting with the Monitor and NBF as proposed Sales Agent, it is the Applicant's view that:

- (a) the SISP will ensure that the opportunity to purchase, or invest in, the Applicant, its assets, or the Mine is adequately exposed to the market;
- (b) the SISP will allow for the assessment of the viability of Potential Bidders (as defined in the SISP) and their ability to ultimately close on a transaction;
- (c) the timelines set out in the SISP provide a reasonable opportunity for all interested parties to submit competing offers, and that the process for determining Winning

¹ Sprott LP and its affiliates, Sprott Private Resource Lending II (CO), Inc. and Sprott Resource Lending Corp., are collectively referred to in this notice of application as "**Sprott**".

and Backup Bids (as defined in the SISP), including consultation with the Monitor, is fair and transparent; and

- (d) the consultation and consent rights granted to Sprott in the SISP are reasonable and appropriate given its status as the Applicant's senior secured lender, Interim Lender, and largest creditor.

10. The Applicant therefore asks this Court to approve the SISP on the terms of the proposed SISP Order appended as Schedule "B" to this notice of application.

The Engagement of the Sales Agent

11. The Applicant requires a sales agent with expertise and knowledge of its business as it implements the SISP in a value maximizing way. It would be almost impossible for a company of the Applicant's size and with its assets to implement a successful sales process without retaining a sales advisor.

12. The Applicant previously engaged NBF to act as one of two financial advisors in connection with its pre-CCAA Strategic Review Process commenced in July 2022. Accordingly, NBF is familiar with the Applicant's business and its assets. The Applicant views NBF's recent experience with the company as beneficial to running an efficient and effective SISP, particularly given the SISP timelines and the Applicant's financial and liquidity challenges.

13. The terms of the Sales Agent Agreement contemplate a payment structure comprised of (a) an "**Asset Sale Transaction Fee**" payable upon closing of an asset transaction based on the transaction value; (b) a "**Restructuring Transaction Fee**" payable upon the closing of a restructuring transaction based upon the gross financing proceeds; and (c) a monthly "**Engagement Fee**" (together, the "**Sales Agent Compensation**").

14. The Applicant views the terms of the Sales Agent Agreement, including the Sales Agent Compensation, and the granting of the Sales Agent Charge, as commercially reasonable in the circumstances having regard to the nature, complexity, and value of the Applicant's business and the terms and duration of the SISP, among other factors. The Applicant believes that the engagement of NBF is in the best interests of the Applicant and its stakeholders.

The Proposed KERP

15. In the days since the Applicant obtained CCAA protection, its employees and officers have been working tirelessly to consider and implement the steps required to both stabilize and restructure the Applicant's business.

16. The circumstances facing the Applicant, including financial challenges, work demands, and restructuring objectives, have emphasized the importance of the Applicant retaining certain key employees.

17. Considering these circumstances, the Applicant has determined it is in its and its stakeholders' best interests that steps be taken to ensure the continued retention of certain of its key employees (the "**KERP Employees**"). To this end, the Applicant has developed the KERP, in consultation with the Monitor.

18. Given their roles within the Applicant's business operations, the continued employment of the KERP Employees will be critical to the ongoing care and maintenance operations of the Mine, the completion of the Applicant's pending new Pre-Feasibility Study and updated Life of Mine Plan (collectively, the "PFS"), and the Applicant's ability to preserve and maximize value through the SISP.

19. The KERP Employees by nature of their expertise, experience, and seniority will provide strategic direction for the Applicant's restructuring efforts and will be necessary to identify, develop, and implement initiatives intended to maximize value. In particular, the KERP Employees will be essential to implementing the SISP in a manner that maximizes value for the Applicant's assets.

20. The payments made to the KERP Employees under the KERP (the "**Retention Bonuses**") will be in the form of three lump sum payments as follows:

- (a) 25% of the total Retention Bonus will be paid on completion of the PFS; and
- (b) 25% of the total Retention Bonus will be paid on the earlier of:
 - (i) 30 days following the closing of an asset sale transaction or a restructuring transaction ("**Closing**") in accordance with the proposed SISP; or
 - (ii) March 31, 2023; and
- (c) 50% of the total Retention Bonus will be paid 30 days following Closing.

21. The proposed KERP Charge (in the maximum amount of \$750,000) is intended to ensure that the KERP Employees receive reasonable assurances that their entitlements under the KERP are secure given the Applicant's insolvency.

The ARIO

22. The "**Initial Order**" granted by this Court on October 31, 2022, among other things, (a) instituted a stay of proceedings until and including the expiry of the "**Stay Period**" on November 10, 2022; (b) granted the Administration Charge, D&O Charge, and Interim Lender's Charge; and (c) authorized and empowered the Applicant to obtain and borrow under the Credit Facility, provided that borrowings under such Credit Facility shall not exceed an interim amount of US\$2 million pending this application.

23. Paragraph 2 of the Initial Order provides that the application for an extension of the Stay Period and for any ancillary relief shall be heard by this Court on November 9, 2022.

24. Paragraph 42 of the Initial Order provides that the Applicant shall be entitled, on a subsequent application on notice to Secured Creditors, to seek priority of the charges created by the Initial Order ahead of any encumbrances over which the charges have not obtained priority pursuant to the Initial Order.

25. The proposed ARIO in substance seeks only to (a) extend the Stay Period from November 10, 2022 to January 27, 2023; (b) amend and restate the Initial Order to provide that each of the Charges (as defined in the ARIO) shall rank in priority over all other encumbrances in favour of any person including any Secured Creditors who had not been given notice of the Petition for the Initial Order filed on October 31, 2022 (the “Petition”); and (c) increase the amount of authorized borrowings under the Credit Facility from an interim amount of US\$2 million to US\$10 million as authorized by the Interim Financing Term Sheet approved by this Court.

26. In support of its application for the ARIO, the Petitioner relies on the factual basis set out in part 2 of the Petition.

Part 3: LEGAL BASIS

The SISP is Necessary and Appropriate

27. Section 36 of the CCAA sets out the factors that this Court must consider on an application to approve a sale of a debtors’ assets or business but does not codify the factors that are to be considered on an application to approve a sales process.

28. Canadian courts have, however, regularly granted orders approving sales processes in CCAA proceedings, recognizing that such approvals are consistent with the remedial nature of the CCAA, which confers broad powers to approve sales in relation to a CCAA debtor’s business and assets either prior to or in the absence of a plan of arrangement and compromise.

Century Services Inc. v. Canada (Attorney General), 2010 SCC 60 at para. 59.

29. In *Walter Energy*, this Court set out the following three factors for determining whether to approve a CCAA sales process, which the Applicant submits are the appropriate factors to consider on this application: (a) the fairness, transparency, and integrity of the proposed process; (b) the commercial efficacy of the proposed process in light of the specific circumstances facing the applicant debtors; and (c) whether the sales process will optimize the chances, in the particular circumstances, of securing the best possible price for the assets up for sale.

Walter Energy Canada Holdings, Inc. (Re), 2016 BCSC 107 at paras. 20-21 [Walter Energy]; PCAS Patient Care Automation Services Inc. (Re), 2012 ONSC 2840 at paras. 17-19 [PCAS Patient Care]. See also Nortel Networks Corp. (Re), 2009 CanLII 39492; 55 C.B.R. (5th) 229 (Ont. S.C.J) at para. 49.

30. While the decision to approve a particular form of sales process is distinct from the approval of a proposed sale, the reasonableness and adequacy of a proposed sales process may also be assessed with reference to the non-exhaustive factors set out in section 36 of the CCAA. These factors include whether the process leading to the proposed sale or disposition was reasonable in the circumstances, whether the monitor approved the process leading to the proposed sale or disposition, and the extent to which creditors were consulted.

PCAS Patient Care at para. 17; CCAA, s. 36(3).

31. The SISP, which was developed with the assistance of the Sales Agent, in consultation with the Monitor, and with an opportunity for input from the Applicant's senior secured creditor, Interim Lender, and largest creditor, is a fair and transparent process that will provide the Applicant with an opportunity to attempt to maximize value for its assets in the interest of stakeholders.

32. In particular:

- (a) a sale process with respect to the Applicant and/or their assets at this time is necessary given the Applicant's ongoing financial challenges and liquidity needs;
- (b) the marketing and advertisement contemplated in the SISP will ensure the Applicant's assets are adequately exposed to the market;
- (c) the SISP will allow for the assessment of the legitimacy of the bidders and their ability to ultimately close on a transaction;
- (d) the timelines set out in the SISP will provide a reasonable opportunity for all interested parties to submit competing offers, and the process for determining the Winning Bid (as defined in the SISP), including consultation with the Monitor, is fair and transparent; and
- (e) the consent and consultation rights granted to Sprott in connection with the conduct of the SISP are reasonable and appropriate given its status as the Applicant's senior secured creditor, Interim Lender, and largest creditor.

33. Accordingly, the Applicant respectfully submits that the SISP ought to be approved and that granting the SISP Order is both appropriate and necessary in the circumstances.

34. Any Winning Bid arising from the SISP will be subject to further application to this Court for approval under section 36 of the CCAA.

The Engagement of the Sales Agent is Necessary and Appropriate

35. CCAA courts have recognized that financial advisors can play a vital role in assisting existing management and bring experience and expertise to a restructuring proceeding, including during a sales process.

See, for example, *Walter Energy* at paras. 25-48; *Canwest Publishing Inc.*, 2010 ONSC 222 at paras. 52-55 [*Canwest*]. See also *Danier Leather*, 2016 ONSC 1044.

36. The Applicant requires a sales agent with requisite expertise and knowledge as it implements the SISP and pursues its restructuring efforts more broadly in a value maximizing way. NBF is familiar with the Applicant's business and its assets. The Applicant views NBF's industry expertise and recent experience with the company as beneficial to running an efficient and effective SISP, particularly given the timelines set out above and the company's financial and liquidity challenges.

37. This Court has jurisdiction to approve the Sales Agent Charge to provide the Sales Agent with a reasonable level of assurance that the Sales Agent will be paid the Sales Agent Compensation being approved by this Court pursuant to section 11.52(1).

US Steel Canada Inc. (Re) 2014 ONSC 6145 at para. 22.

38. In *Canwest*, Justice Pepall set out several non-exhaustive factors to consider when granting a charge under 11.52(1) that include: (a) the size and complexity of the businesses 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 the secured creditors likely to be affected by the charge; and (f) the position of the monitor.

Canwest at para. 54.

39. The Applicant submits that the Sales Agent Charge, which provides security for the Sales Agent Compensation, is necessary and appropriate having regard to, among other things, the size and complexity of the Applicant's business and the proposed role of NBF in the SISF. There would not be any unwarranted duplication of role arising from the appointment of the Sales Agent.

The KERF and KERF Charge Are Necessary and Appropriate

40. Courts regularly approve key employee restructuring plans in furtherance of a debtor company's restructuring on the grounds that the possibility that key employees will seek alternative employment due to the uncertainty associated with a CCAA restructuring is detrimental to the debtor company and its ability to restructure.

Walter Energy at paras. 49-61; 1057863 B.C. Ltd. (Re), 2020 BCSC 1359 at paras. 99-112 [Northern Pulp]; Mountain Equipment Co-Operative (Re), 2020 BCSC 1586 at paras. 62-71 [MEC].

41. This Court's ability to approve the KERF and the KERF Charge is grounded in its authority, under s. 11 of the CCAA, to grant relief it deems "appropriate".

MEC at para. 66.

42. Factors to be considered by the Court in approving a KERF will vary from case to case, but previous considerations have included the following: (a) Is this employee important to the restructuring process? (b) Does the employee have specialized knowledge that cannot be easily replaced? (c) Will the employee consider other employment options if the KERF is not approved? (d) Was the KERF developed through a consultative process involving the monitor and other professionals? and (e) Does the monitor support the KERF and a charge?

Walter Energy at para. 59, citing Grant Forest Products (2009), 57 C.B.R. (5th) 128 (Ont. S.C.J.).

43. Three criteria underlie the consideration of the appropriateness of employee retention programs in insolvency proceedings: (a) arm's length safeguards, (b) necessity, and (c) reasonableness of design.

Northern Pulp at para. 105, citing Aralez Pharmaceuticals Inc. (Re), 2018 ONSC 6980 at para. 30.

44. In the present case, the evidence supports each of the factors and criteria for approving a KERP. The KERP Employees have significant experience and specialized expertise that cannot be easily replicated or replaced, particularly in the context of these proceedings. Due to their experience and expertise, the KERP Employees will likely have other, more certain employment opportunities. The KERP was developed in consultation with the Monitor, and the Applicant's senior secured and Interim Lender is supportive of the KERP.

45. The factors that support the approval of the KERP equally support the granting of the KERP Charge to provide the KERP Employees with a reasonable level of assurance that the Retention Bonuses will be paid.

46. In the above circumstances, the Applicant believes that the KERP and the KERP Charge are necessary and appropriate in the circumstances.

The ARIO is Necessary and Appropriate

47. In support of the relief sought in the ARIO the Applicant relies upon and restates the legal basis set out in Part 3 of the Petition filed in support of the Initial Order.

48. The granting of the Stay Extension as part of the ARIO is authorized by section 11.2(2) of the CCAA. The Applicant submits that it is acting in good faith and with due diligence and that the Stay Extension is appropriate and necessary in the circumstances. The length of the proposed Stay Extension is appropriate having regard to, among other factors, the reasonable estimates for completing anticipated steps in the SISP, the Applicant's financial challenges and liquidity needs, and the costs associated with bringing forward any further stay extension applications pending the advancement of the SISP.

1057863 B.C. Ltd. (Re), 2022 BCSC 876 at para. 52.

The Confidential Affidavits Should Be Sealed

49. In the leading case of *Sierra Club of Canada v. Canada (Minister of Finance)*, the Supreme Court of Canada held that a sealing order may be granted where (a) such an order is necessary to prevent a serious risk to an important interest, including a commercial interest, in the context of litigation because reasonably alternative measures will not prevent the risk; and (b) the salutary effects of the confidentiality order, including the effects on the right of civil litigants to a fair trial, outweigh its deleterious effects, including the effects on the right to free expression, which includes the public interest in open and accessible court proceedings.

Sierra Club of Canada v. Canada (Minister of Finance), 2002 SCC 41 at para. 53 [Sierra Club].

50. The SCC had occasion to recently reaffirm its decision in *Sierra Club* in *Sherman Estates v. Donovan*. In that decision, the Court confirmed that the "test laid out in *Sierra Club* continues to be an appropriate guide for judicial discretion" and that the structure provided by *Sierra Club* "remains appropriate and should be affirmed." The Court in *Sherman Estates* did, however, break down the two-part test from *Sierra Club* into three parts to help clarify the prerequisites "without

altering its essence". As clarified, the applicant must establish that (a) court openness poses a serious risk to an important public interest; (b) the order sought is necessary to prevent this serious risk to the identified interest because reasonably alternative measures will not prevent this risk; and (c) as a matter of proportionality, the benefits of the order outweigh its negative effects.

***Sherman Estates v. Donovan*, 2021 SCC 25 at paras. 38 and 43
[*Sherman Estates*].**

51. Both before and after *Sherman Estates*, Canadian courts continue to grant sealing orders in CCAA proceedings including with respect to key employee retention plans such as the KERP.

***Walter Energy* at para. 51; *Ontario Securities Commission v. Bridging Finance Inc.*, 2021 ONSC 4347 at para. 24; *Just Energy (Re)*, Amended and Restated Initial Order dated March 9, 2021**

52. In the present case, a sealing order with respect to the Confidential Currie Affidavit is necessary and appropriate as its disclosure could be prejudicial to the Applicant, the KERP Employees, and others. Among other issues, disclosure of the information the Confidential Currie Affidavit could (a) create morale and other issues as between employees who are either not subject to the KERP or are receiving different entitlements under the KERP; (b) allow the Applicant's business competitors and others to attempt to induce the KERP Employees to depart from their employment for more lucrative opportunities; and (c) make it more difficult for the Applicant to negotiate employment terms for replacement employees if required.

53. These issues and disruptions would be prejudicial to the Applicant at a time that it is most in need of stability and continuity. Additionally, salary and compensation levels for employees is a particularly personal and private matter to employees. As the information found in the Confidential Currie Affidavit is not of a nature that would normally be made public, prejudice (if any) arising from it being sealed from public view would be outweighed by its disclosure.

54. It is equally appropriate to seal the Confidential Haubrich Affidavit. CCAA courts have recognized that the confidential terms of the engagement of a financial or sale advisor in the CCAA context can be the subject of a sealing order.

***Re Just Energy Corp.*, 2021 ONSC 1793 at para. 124.**

55. In the present case, the Applicant is seeking a confidentiality order with respect to an input for the method of calculating the Asset Sale Transaction Fee that may be payable to the Sales Agent only upon the successful closing of a transaction valued in excess of a specified amount. Disclosing this information to potential SISP participants could adversely affect the integrity and objectives of the SISP including by having a negative impact on bid pricing. In contrast, the discrete information subject to the proposed sealing order is not required for potential bidders to formulate their bids and no potential bidders would be prejudiced by this information being treated as confidential in the context of these proceedings. In the circumstances, the proposed sealing order is necessary to prevent a serious risk to an important commercial interest and the benefits of a sealing order outweigh any potentially negative impacts associated with limiting access to the court record.

Part 4: MATERIAL TO BE RELIED ON

1. Affidavit #1 of Graeme Currie, made November 4, 2022;
2. Confidential Affidavit #2 of Graeme Currie, made November 4, 2022;
3. Affidavit #2 of Chris Haubrich, made November 4, 2022;
4. Confidential Affidavit #3 of Chris Haubrich, made November 4, 2022;
5. The First Report of the Monitor, to be filed; and
6. Such further and other materials as counsel for the Applicant may advise.

The applicant estimates that the application will take 2 hours.

This matter is not within the jurisdiction of a master.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

- (a) file an application response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
 - (i) you intend to refer to at the hearing of this application, and
 - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
 - (i) a copy of the filed application response;
 - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
 - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Date: November 4, 2022



Signature of Peter L. Rubin / Peter Bychawski
/ Claire Hildebrand
Lawyers for Pure Gold Mining Inc.

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To be completed by the court only:	
Order made	
<input type="checkbox"/>	in the terms requested in paragraphs of Part 1 of this notice of application
<input type="checkbox"/>	with the following variations and additional terms:

Date: _____	_____
	Signature of <input type="checkbox"/> Judge <input type="checkbox"/> Master

APPENDIX

THIS APPLICATION INVOLVES THE FOLLOWING:

- discovery: comply with demand for documents
- discovery: production of additional documents
- extend oral discovery
- other matter concerning oral discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- service
- mediation
- adjournments
- proceedings at trial
- case plan orders: amend
- case plan orders: other
- experts

Schedule "A" to Notice of Application

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c.
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PURE GOLD MINING INC.

PETITIONER

O R D E R MADE AFTER APPLICATION
(SISP AND SALES AGENT APPROVAL)

BEFORE THE HONOURABLE)
JUSTICE WALKER) November 9, 2022
)

THE APPLICATION of the Petitioner coming on for hearing at Vancouver, British Columbia, on the 9th day of November, 2022; AND ON HEARING Peter L. Rubin, Peter Bychawski, and Claire Hildebrand, counsel for the Petitioner, and those other counsel listed on **Schedule "A"** hereto; AND UPON READING the First Affidavit of Chris Haubrich affirmed on October 30, 2022, the Second Affidavit of Chris Haubrich affirmed on November 4, 2022 (the "**Second Haubrich Affidavit**"), the confidential Third Affidavit of Chris Haubrich affirmed on November 4, 2022, and the First Report of KSV Restructuring Inc. dated November [--], 2022; AND pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36 as amended, the British Columbia *Supreme Court Civil Rules*, and the inherent jurisdiction of this Honourable Court;

THIS COURT ORDERS AND DECLARES THAT:

1. The Sales and Investment Solicitation Process attached as **Schedule “B”** to this Order (the **“SISP”**) is hereby approved. Capitalized terms not defined herein shall have the meanings ascribed to them in the SISP.
2. The Petitioner, the Monitor, National Bank Financial Inc. (the **“Sales Agent”**) and their respective advisors (if applicable) are hereby authorized and directed to carry out the SISP and to take such steps and execute such documentation as may be necessary or incidental to the SISP.
3. The agreement dated as of November 1, 2022 between the Sales Agent and the Petitioner, a copy of which is attached as Exhibit “A” to the Second Haubrich Affidavit (the **“Sales Agent Agreement”**), is hereby approved, including, without limitation, the payment of the fees set out therein (collectively, the **“Sales Agent Compensation”**) and the Petitioner is authorized to continue the engagement of the Sales Agent on the terms set out in the Sales Agent Agreement.
4. The Sales Agent shall be entitled to the benefit of and is hereby granted a charge (the **“Sales Agent Charge”**) on the Property (as defined in the Amended and Restated Initial Order granted in this proceeding on November 9, 2022 (the **“ARIO”**)) as security for the Sales Agent Compensation. The Sales Agent Charge shall have such priority and protections as are set out in the ARIO.
5. The Petitioner, the Monitor and the Sales Agent and their respective affiliates, partners, directors, employees, advisors, agents, shareholders and controlling persons shall have no liability with respect to any losses, claims, damages or liability of any nature or kind to any person in connection with or as a result of the SISP or the conduct thereof, except to the extent of such losses, claims, damages or liabilities resulting from the gross negligence or willful misconduct of any of the foregoing in performing their obligations under the SISP (as determined by this Court).
6. Pursuant to Section 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, S.C. 2000, c.5 and Section 18(1)(o) of the *Personal Information Protection Act*, S.B.C. 2003, c.63, and any regulations promulgated under the authority of either Act or any equivalent enactments of the Province of Ontario, the Petitioner, the Sales Agent and the Monitor

may disclose personal information of identifiable individuals to Potential Bidders and their advisors in connection with the SISP, but only to the extent desirable or required to carry out the SISP. Each Potential Bidder (and their respective advisors) to whom any such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information solely to its evaluation of a transaction in respect of the Petitioner and the Property, and if it does not complete such a transaction, shall return all such information to the Petitioner, or in the alternative destroy all such information. The Successful Bidder shall be entitled to continue to use the personal information provided to it in a manner that is in all material respects identical to the prior use of such information by the Petitioner, and shall return all other personal information to the Petitioner, or ensure that all other personal information is destroyed.

7. Endorsement of this Order by counsel appearing on this application other than counsel for the Petitioner hereby dispensed with.

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 Peter L. Rubin
Lawyer for the Petitioner

BY THE COURT

REGISTRAR

Schedule "A" to SISP Order

COUNSEL NAME	PARTY REPRESENTED

Schedule “B” to SISP Order

PURE GOLD MINING INC. CCAA SALES AND INVESTMENT SOLICITATION PROCESS

INTRODUCTION

1. Pure Gold Mining Inc. (the “**Debtor**”) obtained protection under the *Companies’ Creditors Arrangement Act* (the “**CCAA**”) pursuant to an Order (the “**Initial Order**”) issued by the Supreme Court of British Columbia (the “**Court**”) on October 31, 2022, as amended and extended by an Amended and Restated Initial Order dated November 9, 2022 (the “**ARIO**”). Pursuant to the Initial Order, as confirmed by the ARIO, KSV Restructuring Inc. (“**KSV**”) was appointed as monitor of the Debtor (the “**Monitor**”). All capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the ARIO.
2. On November 9, 2022, the Court issued an Order (the “**SISP Approval Order**”) which, among other things, approved this Sales and Investment Solicitation Process (the “**SISP**”) involving the Debtor and all the assets, undertakings and properties of the Debtor (collectively, the “**Property**”), including without limitation the interests of the Debtor in the Pure Gold Mine Project located in Ontario. The objective of the SISP is to maximize the recovery to the lenders and other stakeholders of the Debtor.
3. This SISP describes the way the Debtor, on the terms set out herein, will advance this SISP and how interested parties may gain access to due diligence materials concerning the Debtor and the Property, how bids involving the Property or Debtor, or any part or parts thereof, will be submitted and dealt with, and how required Court approval will be sought in respect of any transaction or transactions involving the Property or Debtor.
4. The terms of this SISP, including the requirements, criteria and timelines set out herein may be amended, extended, or waived by the Debtor with the consent of the Monitor or by further order of this Court. In determining whether to provide its consent, the Monitor shall first consult with Sprott Private Resource Lending II (Collector), LP (“**Sprott LP**”), in its capacity as the Debtor’s first lien lender and Interim Lender, Sprott Private Resource Lending II (CO), Inc. (“**Sprott CO**”) in its capacity as a party to the Production Payment Agreement and Gold Stream Agreement both dated August 6, 2019 and Sprott Resource Lending Corp. (“**Sprott Corp**”) in its capacity as a party to the August 6, 2019 Security Sharing Agreement (collectively hereinafter, Sprott LP, Sprott CO and Sprott Corp. are referred to as “**Sprott**”).
5. The Debtor has selected National Bank Financial Inc. (the “**Sales Agent**”) to assist the Debtor in carrying out this SISP.

“AS IS, WHERE IS” BASIS

6. Any transaction involving the Property or the Debtor will be subject only to such representations, warranties, covenants, or indemnities as are expressly included in a Final Agreement (as defined herein), but will otherwise be on an “as is, where is” basis and without surviving representations, warranties, covenants or indemnities of any kind, nature, or description by the Debtor, or any of its agents, estates, advisors, professionals or otherwise, including without limitation the Monitor and the Sales Agent,

and in the event of a sale, all of the right, title and interest of the Debtor in and to the Property to be acquired will be, subject to the Court granting approval and any other required orders in the form contemplated by the relevant transaction, sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options and interests therein and thereon, except those assumed pursuant to a Final Agreement.

TIMELINE

7. The following table sets out the target dates under the SISP:

PHASES	TARGET DATES
SISP to commence	November 10, 2022
LOI Deadline	December 19, 2022
Final Bid Process commences	December 20, 2022
Final Bid Deadline	February 6, 2023
Final Agreement Deadline	February 21, 2023
Outside Closing Date	March 10, 2023

SUPERVISION AND CONDUCT OF THE SISP

8. The Debtor, in consultation with the Monitor, may engage such other consultants, agents or experts and such other persons from time to time as may be reasonably necessary to assist the Debtor in carrying out this SISP.
9. The Monitor will oversee, in all respects, the conduct of the SISP by the Debtor and the Sales Agent and, without limitation to that supervisory role, and provided that Sprott confirms in writing to the Debtor and Monitor that neither it, nor any of its affiliates or related entities, are participating in the preparation, or submission of any bid pursuant to this SISP, whether by providing financing in connection with a bid by a prospective bidder or otherwise (the “**Sprott Confirmation**”), then the Monitor will consult with Sprott throughout the SISP and provide Sprott, on a confidential basis, with full access to copies of all bidder and sales information, including but not limited to bidder solicitation materials, LOIs, Final Bids and any definitive agreements and drafts in connection therewith, together with regular updates from the Debtor during the SISP. Until such time as Sprott provides the Sprott Confirmation, and notwithstanding any other provision of this SISP, the Debtor and Monitor may restrict their consultation with Sprott, and limit the provision of information and documents to Sprott, as otherwise required pursuant to this SISP, and in such manner as the Monitor in its professional judgment and sole discretion considers to be reasonable to preserve the integrity of this SISP.
10. To the extent that any Potential Bidders (defined below) wish to engage, discuss, or communicate with any party with an existing contractual relationship with the Debtor in relation to this SISP or the business or assets of the Debtor, such Potential Bidders may

only do so after advising the Monitor and obtaining the Monitor's consent. In considering any specific request, the Monitor shall impose such restrictions, if any, or participation by the Monitor, as the Monitor deems appropriate. Subject to the confidentiality obligations of Potential Bidders and Sprott, and provided the Monitor is notified in advance of any such discussions, nothing in this paragraph shall prevent any Potential Bidders from discussing a potential acquisition of Sprott's debt separate and apart from a transaction under this SISP. Sprott shall not disclose to any such Potential Bidders any information it has obtained concerning the conduct of the SISP, including, but not limited to the names or identities of any bidder contacted by the Sales Agent in carrying out the SISP, the names or identities of any bidder participating in the SISP, the number of bidders participating in the SISP, or the details of any potential bid.

11. The Debtor and Sales Agent shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations under this SISP and provide the Monitor with the assistance, information and documentation that is reasonably necessary to enable the Monitor to adequately carry out the Monitor's functions herein.
12. The Debtor, the Sales Agent, the Monitor and any of their agents, estates, advisors, and professionals are not responsible for, and will have no liability with respect to, any information provided to or obtained by any Potential Bidder in connection with the Debtor or its Property.
13. The Debtor, Sales Agent, Monitor, and Sprott shall keep confidential:
 - (a) the names, details, and all other non-public information related to Potential Bidders, LOIs, Qualified Bidders, Final Bids, Qualified Final Bids, the Successful Bidder, the Winning Bid, the Backup Bidder, the Backup Bid, and the Final Agreement, and;
 - (b) any other information provided to them and marked as confidential,

and shall only use such information to conduct this SISP, or as is reasonably necessary to seek directions from or make submissions to the Court, or to obtain, oppose, or otherwise make submissions regarding the approval of any Winning Bid or Back Up Bid (as hereinafter defined) all while taking such steps as may be reasonably necessary so as to preserve the confidentiality of such information and protect the integrity of the SISP.

PHASE 1 OF THE SISP PROCESS

A. Initial Solicitation of Interest

14. The Debtor and Sales Agent, in consultation with the Monitor, may, but are not required to, cause a notice regarding this SISP to be published in any publication in which the Debtor or Sales Agent determine notice of this SISP should be published.
15. The Debtor and Sales Agent, in consultation with the Monitor, will prepare a list of potential bidders (the "**Known Potential Bidders**") who may have an interest in a transaction involving the Property or the Debtor. Such list will include parties who, in the Debtor's and Sales Agent's reasonable judgment, may be interested in acquiring an interest in the Property or the Debtor, or any part or parts thereof, whether pursuant to an asset purchase transaction (an "**Asset Bid**") or some other investment, restructuring,

recapitalization or other form of reorganization of the business, property or affairs of the Debtor, including but not limited to the debt, share, or capital structure of the Debtor (a **“Restructuring Bid”**).

16. The Debtor and Sales Agent will prepare an initial marketing or offering summary (a **“Teaser Letter”**) and distribute it to the Known Potential Bidders together with any additional marketing materials the Debtor and Sales Agent consider appropriate, as well as a draft form of confidentiality agreement (the **“Confidentiality Agreement”**).
17. Any Known Potential Bidder or other person wishing to submit an Asset Bid and/or a Restructuring Bid who (a) executes a Confidentiality Agreement in form and substance satisfactory to the Monitor, (b) in the judgment of the Debtor and Sales Agent, in consultation with the Monitor, appears to have a bona fide interest in submitting an Asset Bid and/or Restructuring Bid, and (c) in the judgment of the Debtor and Sales Agent, in consultation with the Monitor, appears to have the financial capabilities and the technical, managerial, and operational expertise and capabilities to make a viable Asset Bid or Restructuring Bid, shall be deemed to be a potential bidder (each such person so deemed, a **“Potential Bidder”**).

B. Initial Due Diligence

18. The Debtor and Sales Agent may prepare such marketing or other materials in addition to the Teaser Letter as they deem appropriate describing the opportunity to make an Asset Bid or a Restructuring Bid for distribution to Known Potential Bidders and/or Potential Bidders.
19. The Debtor and Sales Agent shall provide Potential Bidders with access to an electronic data room that will contain information in the possession or control of the Debtor that in their reasonable business judgment will allow Potential Bidders to evaluate their interest in submitting an Asset Bid or a Restructuring Bid.

C. Qualified LOI Process

20. Any Potential Bidder who wishes to submit an Asset Bid or a Restructuring Bid must deliver a written, non-binding letter of intent in respect of the Property or the Debtor (each, an **“LOI”**) to the Sales Agent and to the Monitor in the manner and at the addresses specified in **Schedule “A”** so as to be received by the Sales Agent and the Monitor not later than 5:00 p.m. (Pacific time) on **December 19, 2022** (the **“LOI Deadline”**). An LOI shall be a qualified LOI (each, a **“Qualified LOI”**), provided that it contains:
 - (a) an acknowledgment of receipt of a copy of this SISP, the SISP Approval Order, and agreement to accept and be bound by the provisions contained therein;
 - (b) a letter setting forth the identity of the Potential Bidder, the contact information for such Potential Bidder, and full disclosure of the direct and indirect owners of the Potential Bidder and their principals (without needing to disclose non-controlling interests, in the case of public companies only);
 - (c) an indication of whether the Potential Bidder wishes to tender (i) an Asset Bid; (ii) a Restructuring Bid; or (iii) both;

- (d) a specific indication of the anticipated sources of capital for such Potential Bidder and information regarding the Potential Bidder's financial, managerial, operational, technical, and other capabilities to consummate an Asset Bid or a Restructuring Bid, as applicable, and such additional information as may be requested by the Debtor, the Sales Agent, or the Monitor;
- (e) in the case of an Asset Bid, it identifies:
 - (i) the form of consideration for the proposed sale including the purchase price or price range in Canadian dollars and details of any liabilities to be assumed;
 - (ii) the Property included as part of the Asset Bid, any of the Property expected to be excluded, and/or any additional assets desired to be included in the transaction;
 - (iii) the structure and financing of the transaction including, but not limited to, the sources of financing to fund the acquisition, preliminary evidence of the availability of such financing or such other form of financial disclosure and credit-quality support or enhancement that will allow the Debtor, the Sales Agent, and the Monitor to make a reasonable business or professional judgment as to the Potential Bidder's financial or other capabilities to consummate the transaction and to perform all obligations to be assumed in such transaction and the steps necessary and associated timing to obtain financing and any related contingencies, as applicable;
 - (iv) any anticipated corporate, shareholder, internal or regulatory approvals required to close the transaction and the anticipated time frame and any anticipated impediments for obtaining such approvals;
 - (v) additional due diligence required or desired to be conducted by the Potential Bidder, if any;
 - (vi) any conditions to closing that the Potential Bidder may wish to impose; and
 - (vii) any other terms or conditions of the Asset Bid which the Potential Bidder believes are material to the transaction;
- (f) in the case of a Restructuring Bid, it identifies:
 - (i) an outline of the type of transaction or structure of the bid including with respect to any proposed restructuring, recapitalization, or other form of reorganization of the business, property, or affairs of the Debtor, including but not limited to the debt, share, or capital structure of the Debtor, as applicable;

- (ii) the aggregate amount of the equity and debt investment, including liabilities to be assumed by the Potential Bidder, to be made in the Debtor, if applicable;
 - (iii) the underlying assumptions regarding the pro forma capital structure (including the form and amount of anticipated equity and/or debt levels, debt service fees, interest or dividend rates, amortization, voting rights, or other protective provisions (as applicable), redemption, prepayment or repayment attributes and any other material attributes of the investment);
 - (iv) the consideration to be allocated to the stakeholders including claims of any secured or unsecured creditors of the Debtor;
 - (v) the financing of the transaction including, but not limited to, the sources of financing to fund the acquisition, preliminary evidence of the availability of such financing or such other form of financial disclosure and credit-quality support or enhancement that will allow the Debtor, the Sales Agent, and the Monitor to make a reasonable business or professional judgment as to the Potential Bidder's financial or other capabilities to consummate the transaction and to perform all obligations to be assumed in such transaction and the steps necessary and associated timing to obtain financing and any related contingencies, as applicable;
 - (vi) any anticipated corporate, shareholder, internal or regulatory approvals required to close the transaction, the anticipated time frame and any anticipated impediments for obtaining such approvals;
 - (vii) anticipated tax planning, if any;
 - (viii) additional due diligence required or desired to be conducted by the Potential Bidder, if any;
 - (ix) any conditions to closing that the Potential Bidder may wish to impose; and
 - (x) any other terms or conditions of the Restructuring Bid which the Potential Bidder believes are material to the transaction; and
- (g) such other information reasonably requested by the Debtor or Sales Agent, in consultation with the Monitor.
21. The Debtor, Sales Agent and Monitor shall retain full discretion and authority to discuss any LOIs received, and their terms, with the applicable Potential Bidders.
22. Following the LOI Deadline, the Debtor, and the Sales Agent, in consultation with the Monitor, will assess the Qualified LOIs. If it is determined by the Debtor and the Sales Agent, with the approval of the Monitor, that a Potential Bidder that has submitted a Qualified LOI: (a) has a bona fide interest in consummating an Asset Bid or a Restructuring Bid, as applicable; and (b) has the financial, managerial, operational, technical, and other capabilities to consummate an Asset Bid or a Restructuring Bid,

as applicable, then such Potential Bidder will be deemed a “**Qualified Bidder**”, provided that the Debtor and the Sales Agent may, in their reasonable business judgment, following consultation with Sprott, and with the approval of the Monitor, limit the number of Qualified Bidders (and thereby eliminate some Potential Bidders who have submitted Qualified LOIs from this SISP) taking into account the factors identified in paragraph 32 of this SISP. For greater certainty, no Potential Bidder who has submitted a Qualified LOI by the LOI Deadline will be deemed not to be a Qualified Bidder without the approval of the Monitor and Sprott.

23. Subject to the immediately following paragraph, the Debtor, in consultation with the Monitor and Sprott, may waive compliance with any one or more of the requirements specified above and deem non-compliant Potential Bidders to be Qualified Bidders.

PHASE 2 OF THE SISP PROCESS

A. Due Diligence

24. The Debtor and the Sales Agent, in consultation with the Monitor, will in their reasonable business judgment and subject to competitive and other business considerations, afford each Qualified Bidder such access to additional due diligence materials and information relating to the Property and the Debtor as they deem appropriate. Due diligence access may include management presentations, on-site inspections, and other matters which a Qualified Bidder may reasonably request and as to which the Debtor and the Sales Agent, in their reasonable business judgment and after consulting with the Monitor, may agree. For avoidance of doubt, and without limiting the terms of applicable Confidentiality Agreements, selected due diligence materials may be withheld from certain Qualified Bidders if the Debtor and the Sales Agent, with the approval of the Monitor, determine such information to represent proprietary or sensitive competitive information.
25. All Qualified Bidders will be provided with a form of draft asset purchase agreement (the “**Draft APA**”) that will serve as the basis for the submission of a Final Bid (as defined below) that is an Asset Bid.

B. Final Bid Process

26. Any Qualified Bidder may submit an Asset Bid or a Restructuring Bid (each, a “**Final Bid**”) to the Sales Agent and to the Monitor at the address specified in **Schedule “A”** hereto on or before 5:00 pm (Pacific Time) on **February 6, 2023** (the “**Final Bid Deadline**”).
27. A Final Bid submitted as an Asset Bid shall be a “**Qualified Asset Bid**” if:
- (a) it includes a duly authorized and executed purchase and sale agreement specifying all consideration payable, together with all exhibits and schedules thereto, and such ancillary agreements as may be required by the Qualified Bidder with all exhibits and schedules thereto, together with a blackline to the Draft APA provided to all Qualified Bidders;

- (b) it includes a letter stating that the Asset Bid is irrevocable until the earlier of (i) the approval by the Court, and (ii) thirty (30) days following the Final Bid Deadline; provided, however, that if such Asset Bid is selected as a Winning Bid (as defined below) or a Backup Bid (as defined below), it shall remain irrevocable until the closing of the Winning Bid or the Backup Bid, as the case may be;
- (c) it does not include any request or entitlement to any break fee, expense reimbursement or similar type of payment;
- (d) it includes written evidence of a firm, irrevocable commitment for all required funding and/or financing from a creditworthy bank or financial institution to consummate the proposed transaction, or other evidence of ability to consummate the proposed transaction that will allow the Debtor, the Sales Agent and the Monitor to make a determination as to the Qualified Bidder's (and its direct and indirect owners and their principals) financial and other capabilities to consummate the transaction contemplated by the Qualified Asset Bid;
- (e) it includes an acknowledgement and representation that the bidder (i) has had an opportunity to conduct any and all required due diligence prior to making its Asset Bid; (ii) has relied solely on its own independent review, investigation and inspection of any documents, the assets to be acquired and the liabilities to be assumed; (iii) did not rely upon any written or oral statements, representations, promises, warranties or guarantees whatsoever, whether express or implied, except as expressly stated in the purchase and sale agreement; and (iv) unless prior written consent of the Monitor has been obtained, has not coordinated its Final Bid or any aspect of its participation in this SISP with any Potential Bidder, Qualified Bidder, or any party with an existing contractual relationship with the Debtor, has kept and will continue to keep its Final Bid confidential, and has not entered into any agreement or arrangement with any Potential Bidder, Qualified Bidder, or any party with an existing contractual relationship with the Debtor which has affected or may, directly or indirectly, affect the bidder's Final Bid or the Final Bid of any other bidder and/or the SISP process generally.
- (f) it fully discloses the identity of each person that is bidding or otherwise that will be sponsoring or participating in the Asset Bid, including the identification of the bidder's direct and indirect owners and their principals (without needing to disclose non-controlling interests, in the case of public companies only), and the complete terms of any such participation;
- (g) it provides for closing of the proposed transaction by no later than **March 10, 2023** (the "**Outside Closing Date**");
- (h) it is accompanied by a refundable deposit (the "**Deposit**") in the form of a wire transfer (to a trust account specified by the Monitor), in an amount equal to five percent (5%) of the total value of all cash and non-cash consideration to be paid in respect of the Asset Bid, to be held and dealt with in accordance with this SISP;
- (i) it contains other information reasonably requested by the Debtor or Sales Agent or the Monitor; and
- (j) it is received by no later than the applicable Final Bid Deadline.

28. A Final Bid submitted as a Restructuring Bid shall be a “**Qualified Restructuring Bid**” if:
- (a) it includes definitive documentation, duly authorized, and executed by the Qualified Bidder, setting out the terms and conditions of the proposed transaction, including the aggregate amount of the proposed equity and debt investment, assumption of debt, if any, and details regarding the proposed equity and debt structure of the Debtor following completion of the proposed transaction;
 - (b) it includes a letter stating that the Restructuring Bid is irrevocable until the earlier of (i) the approval by the Court, and (ii) thirty (30) days following the applicable Final Bid Deadline; provided, however, that if such Restructuring Bid is selected as a Winning Bid or a Backup Bid, it shall remain irrevocable until the closing of the Winning Bid or the Backup Bid, as the case may be;
 - (c) it does not include any request or entitlement to any break fee, expense reimbursement or similar type of payment;
 - (d) it includes written evidence of a firm, irrevocable commitment for all required funding and/or financing from a creditworthy bank or financial institution to consummate the proposed transaction, or other evidence of ability to consummate the proposed transaction that will allow the Debtor, the Sales Agent and the Monitor to make a determination as to the Qualified Bidder’s (and its direct and indirect owners and their principals) financial and other capabilities to consummate the transaction contemplated by the Restructuring Bid;
 - (e) it includes an acknowledgement and representation that the bidder (i) has had an opportunity to conduct any and all required due diligence prior to making its Restructuring Bid; (ii) has relied solely on its own independent review, investigation and inspection of any documents, the assets to be acquired and the liabilities to be assumed; (iii) did not rely upon any written or oral statements, representations, promises, warranties or guarantees whatsoever, whether express or implied, except as expressly stated in the definitive documentation; and (iv) unless prior written consent of the Monitor has been obtained, has not coordinated its Final Bid or any aspect of its participation in this SISF with any Potential Bidder, Qualified Bidder, or any party with an existing contractual relationship with the Debtor, has kept and will continue to keep its Final Bid confidential, and has not entered into any agreement or arrangement with any Potential Bidder, Qualified Bidder, or any party with an existing contractual relationship with the Debtor which has affected or may, directly or indirectly, affect the bidder’s Final Bid or the Final Bid of any other bidder and/or the SISF process generally.
 - (f) it fully discloses the identity of each entity that is bidding or otherwise that will be sponsoring or participating in the Restructuring Bid, including the identification of the Qualified Bidder’s direct and indirect owners and their principals (without needing to disclose non-controlling interests, in the case of public companies only), and the complete terms of any such participation;

- (g) it provides for closing of the proposed transaction by no later than the Outside Closing Date (being **March 10, 2023**);
 - (h) it is accompanied by a refundable Deposit in the form of a wire transfer (payable to a trust account specified by the Monitor) in an amount equal to five percent (5%) of the total value of all cash and non-cash consideration to be paid or provided pursuant to the Restructuring Bid, to be held and dealt with in accordance with this SISP;
 - (i) it contains other information reasonably requested by the Debtor or Sales Agent or the Monitor; and
 - (j) it is received by no later than the applicable Final Bid Deadline.
29. All Qualified Asset Bids and Qualified Restructuring Bids shall constitute “**Qualified Final Bids**”.
30. The Debtor, in consultation with the Monitor, may waive compliance with any one or more of the requirements specified above and deem non-compliant Final Bids to be Qualified Final Bids.

C. Selection of Winning Bid

31. In reviewing the Qualified Final Bids and before determining a Winning Bid or Backup Bid (both as defined below), the Debtor, Sales Agent and Monitor shall retain full discretion and authority to discuss the bids received, and their terms, with the applicable Qualified Bidders.
32. The Debtor shall review all Qualified Final Bids, in consultation with the Sales Agent and the Monitor, to determine the highest or otherwise best Asset Bid or Restructuring Bid. Evaluation criteria will include, but are not limited to, matters such as: (a) the purchase price or net value being provided by such bid; (b) the conditionality of any bid; (c) the firm, irrevocable commitment for any required financing; (d) the timeline to closing of any bid; (e) the identity, circumstances and ability of the proponents of the Qualified Final Bids to successfully complete the transaction; (f) the costs associated with the bid and its consummation; and (g) the terms of the proposed transaction documents.
33. The Debtor shall, in consultation with the Monitor and Sprott, identify the highest or otherwise best Qualified Final Bid received for the Property, or part or parts thereof, as applicable (each, a “**Winning Bid**”) and the next highest or otherwise best Qualified Final Bid received for the Property, or part or parts thereof, as applicable (each, a “**Backup Bid**”). A person or persons who make a Winning Bid shall be a “**Successful Bidder**” and a person or person who makes a Backup Bid shall be a “**Backup Bidder**”.
34. The Debtor or Sales Agent, after consulting with the Monitor, shall notify a Successful Bidder, if any, a Backup Bidder, if any, and any other bidders of their respective status as soon as a reasonably practicable in the circumstances.
35. The Debtor or Sales Agent will notify a Backup Bidder, if any, that their bid is a successful Backup Bid and the Backup Bid shall remain open and capable of

acceptance by the Debtor until the earlier of (i) the consummation of the transaction contemplated by a Winning Bid; and (ii) the date that is 30 days after the applicable Final Agreement Deadline, as defined below, (the “**Backup Bid Release Date**”). For greater certainty, the Monitor shall be entitled to continue to hold the Deposit in respect of a Backup Bid until the Backup Bid Release Date.

36. The Debtor may, but shall have no obligation to, enter into an agreement or agreements with a Successful Bidder (a “**Final Agreement**”). Any Final Agreement entered into with a Successful Bidder shall be executed on or before **February 21, 2023** (the “**Final Agreement Deadline**”).
37. The Debtor, with the consent of the Monitor and Sprott, has the right not to accept any Qualified Final Bid. The Debtor further has the right to deal with one or more Qualified Bidders to the exclusion of other Persons, to accept a Qualified Final Bid or Qualified Final Bids for some or all of the Property, to accept multiple Qualified Final Bids and enter into multiple Final Agreements.
38. Notwithstanding anything to the contrary in this SISP, the Debtor and the Monitor shall not, without the prior consent of Sprott, identify a Qualified Final Bid as a Winning Bid or a Backup Bid if such Qualified Final Bid would not result in the payment in full of the amounts owing to Sprott on closing.

COURT APPROVAL ORDER

39. If the Debtor enters into a Final Agreement in respect of a Winning Bid, a Backup Bid, or any other bid, the Debtor shall apply for an order from the Court approving the transaction contemplated by that bid and any necessary or appropriately related relief required to consummate the transaction contemplated by that bid. Court approval shall be a condition precedent to the consummation of any transaction or transactions contemplated by a Final Agreement. The Debtor may also (i) concurrently obtain relief approving the transaction contemplated by a Backup Bid and any necessary related relief required to consummate the transaction contemplated by a Backup Bid and (ii) if deemed necessary or advisable, seek approval of or other relief in respect of the Winning Bid and/or Backup Bid from the courts or governmental bodies in other relevant jurisdictions.

DEPOSITS

40. All Deposits paid pursuant to this SISP shall be held in trust by the Monitor in a non-interest-bearing account. The Monitor shall hold Deposits paid by each Winning Bidder and Backup Bidder in accordance with the terms of the Final Agreement with the Successful Bidder and the Backup Bidder, or as may be ordered by the Court.
41. If a Deposit is paid pursuant to this SISP, and the Debtor elects not to proceed to negotiate and settle the terms and conditions of a definitive agreement with the person that paid such Deposit, the Monitor shall return the Deposit to that Person.
42. If (a) a Qualified Bidder breaches any of its obligations under its Qualified Final Bid, any Final Agreement or the terms of this SISP (including the Confidentiality Agreement), or (b) a Qualified Bidder breaches its obligations under the terms of this SISP (including the Confidentiality Agreement) or under the terms of its Qualified Final Bid if required by the Debtor to complete such transaction contemplated by its Qualified Final Bid, then, in each

case, such Qualified Bidder's Deposit will be forfeited as liquidated damages and not as a penalty.

TERMINATION OF THE SISP

43. If,
- (a) there are no Qualified LOI(s) by the LOI Deadline, or no LOIs are deemed commercially reasonable; or
 - (b) there are no Final Bid(s) by the Final Bid Deadline; or
 - (c) there is no Qualified Asset Bid or Qualified Restructuring Bid by the Final Bid Deadline, or the Debtor determines that no Qualified Final Bids should be accepted; or
 - (d) there is no Winning Bid; or
 - (e) a Final Agreement is not executed by the Final Agreement Deadline; or
 - (f) a transaction contemplated by the Final Agreement does not close by the Outside Closing Date; or
 - (g) the Debtor, in consultation with the Sales Agent, and with the approval of the Monitor and Sprott, decides to terminate this SISP,
- then this SISP shall, subject to any amendments, extensions or waivers granted in accordance with this SISP, terminate.

SCHEDULE "A" TO SISP

Addresses for Deliveries

Any delivery made to the Sales Agent pursuant to this SISP shall be made to:

National Bank Financial Inc.
475 Howe Street, Suite 3000
Vancouver, BC V6C 2B3

Attention: Morten Eisenhardt, Managing Director, Global Investment Banking
Email: morten.eisenhardt@nbc.ca

Attention : Andrew Armstrong, Managing Director, Mergers & Acquisitions
Email : andrew.armstrong@nbc.ca

Any delivery made to the Monitor pursuant to this SISP shall be made to:

KSV Restructuring Inc.
150 King Street West, Suite 2308
Toronto, Ontario, M5H 1J9

Attention: Bobby Kofman
Email: bkofman@ksvadvisory.com

Attention: David Sieradzki
Email: dsieradzki@ksvadvisory.com

Deliveries pursuant to this SISP by email shall be deemed to be received when sent. In all other instances, deliveries made pursuant to this SISP shall be deemed to be received when delivered to the address as identified above.

Schedule "B" to Notice of Application

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

AND

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

AND

IN THE MATTER OF THE PLAN OF COMPROMISE AND ARRANGEMENT OF
PURE GOLD MINING INC.

PETITIONER

ORDER MADE AFTER APPLICATION
(KEY EMPLOYEE RETENTION PLAN APPROVAL)

BEFORE THE HONOURABLE JUSTICE)
WALKER) November 9, 2022
)

THE APPLICATION of the Petitioner coming on for hearing at Vancouver, British Columbia, on the 9th day of November, 2022 (the "**Order Date**"); AND ON HEARING Peter L. Rubin, Peter Bychawski and Claire Hildebrand, counsel for the Petitioner, and those other counsel listed on **Schedule "A"** hereto; AND UPON READING the materials filed, including Affidavit #1 of Graeme Currie, sworn November 4, 2022 (the "**First Currie Affidavit**"), Confidential Affidavit #2 of Graeme Currie, sworn November 4, 2022 (the "**Confidential Second Currie Affidavit**"), and the First Report of KSV Restructuring Inc. (in its capacity as court-appointed monitor of the Petitioner, the "**Monitor**") dated November [--], 2022; AND pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36 as amended (the "**CCAA**"), the *British Columbia Supreme Court Civil Rules*, BC Reg 168/2009 and the inherent jurisdiction of this Honourable Court;

THIS COURT ORDERS AND DECLARES THAT:

1. The Key Employee Retention Plan (the “**KERP**”) as described in the First Currie Affidavit and the Confidential Second Currie Affidavit is hereby approved.
2. The Petitioner is hereby authorized to enter into the KERP with those employees (the “**KERP Employees**”) listed in Exhibit “A” to the Confidential Second Currie Affidavit.
3. The Petitioner is hereby authorized to pay three lump sum payments (the “**Retention Bonuses**”) to the KERP Employees in the amounts set out in the Confidential Second Currie Affidavit, payable upon the occurrence of the following events:
 - (a) 25% of the total Retention Bonus will be paid upon the completion of the PFS (as defined in the First Currie Affidavit);
 - (b) 25% of the total Retention Bonus will be paid on the earlier of:
 - (i) 30 days following the closing of an asset sale transaction or a restructuring transaction (“**Closing**”) in accordance with the sales and investment solicitation process (the “**SISP**”) approved by this Court pursuant to its SISP and Sales Agent Approval Order dated November 9, 2022; or
 - (ii) March 31, 2023; and
 - (c) 50% of the total Retention Bonus will be paid 30 days following Closing.
4. Payments to the KERP Employees under the KERP will only be made if, at the date the relevant payment of the Retention Bonus is due, as described in paragraph 3, the KERP Employee has fulfilled his or her employment obligations and has not resigned or been terminated for cause. If a KERP Employee is terminated without cause, the full amount of their Retention Bonus (to the extent not already paid) will be payable to them on termination.
5. Should any KERP Employee resign or be terminated for cause prior to full payment of their respective Retention Bonus, the Petitioner is authorized to pay any such remaining Retention Bonus to one or more alternative employees pursuant to the terms of the KERP, provided that the total amount of all Retention Bonuses payable to all employees shall not be greater than as set out in the Confidential Second Currie Affidavit.
6. The KERP Employees shall be entitled to the benefit of and are hereby granted a charge (the “**KERP Charge**”) on the Property (as defined in the Amended and Restated Initial Order

granted in this proceeding on November 9, 2022 (the “**ARIO**”) as security for the amounts payable to the KERP Employees pursuant to the KERP, which charge shall not exceed an aggregate amount of \$750,000. The KERP Charge shall have such priority and protections as are set out in the ARIO.

7. Endorsement of this Order by counsel appearing on this application other than counsel for the Petitioner is hereby dispensed with.

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 Peter L. Rubin
Lawyer for the Petitioner

BY THE COURT.

Registrar

Schedule "A" to KERP Order

COUNSEL NAME	PARTY REPRESENTED

Schedule "C" to Notice of Application

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

AND

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

IN THE MATTER OF THE PLAN OF COMPROMISE AND ARRANGEMENT OF
PURE GOLD MINING INC.

PETITIONER

O R D E R MADE AFTER APPLICATION
(AMENDED AND RESTATED INITIAL ORDER)

BEFORE THE HONOURABLE JUSTICE)
WALKER) November 9, 2022
)

THE APPLICATION of the Petitioner coming on for hearing at Vancouver, British Columbia, on the 9th day of November, 2022 (the "**Order Date**"); AND ON HEARING Peter L. Rubin, Peter Bychawski, and Claire Hildebrand, counsel for the Petitioner, and those other counsel listed on **Schedule "A"** hereto; AND UPON READING the material filed, including the First Affidavit of Chris Haubrich affirmed October 30, 2022 (the "**First Haubrich Affidavit**"), the Second Affidavit of Chris Haubrich affirmed on November 4, 2022, the confidential Third Affidavit of Chris Haubrich affirmed on November 4, 2022, the First Affidavit of Graeme Currie sworn on November 4, 2022, the confidential Second Affidavit of Graeme Currie sworn on November 4, 2022, the First Affidavit of Jennifer Alambre affirmed October 31, 2022 (the "**Alambre Affidavit**"), the Pre-Filing Report of KSV Restructuring Inc. dated October 30, 2022, the First Report of KSV Restructuring Inc. dated November [--], 2022, and the consent of KSV Restructuring Inc. to act as Monitor; AND UPON BEING ADVISED that the secured creditors who are likely to be affected by the Charges referenced herein were given notice; AND pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 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.

PLAN OF ARRANGEMENT

2. 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

3. 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.

4. The Petitioner shall be entitled, but not required, to pay the following expenses which may have been incurred prior to the Order 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**");

- (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) 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;
 - (ii) any litigation in which the Petitioner is named as a party or is otherwise involved, whether commenced before or after the Order Date; and
 - (iii) any related corporate matters; and

- (c) with the consent of the Monitor and as permitted under the Interim Financing Term Sheet (as defined below) amounts owing for goods or services actually supplied to the Petitioner prior to the date of this Order by third party suppliers, with factors to be considered by the Monitor including whether:
 - (i) the supplier or service provider is critical to the Business and ongoing operations of the Petitioner and the payment is required to ensure ongoing supply;
 - (ii) making such payment will preserve, protect or enhance the value of the Property or the Business;
 - (iii) making such payment is required to address any environmental concerns; and
 - (iv) the supplier or service provider is required to continue to provide goods or services to the Petitioner after the date of this Order, including pursuant to the terms of this Order.

5. 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 \$250,000 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 4(b) which may be incurred after the Order Date.
6. 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, and (iii) 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.

7. 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 Order Date shall also be paid.

8. 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.

RESTRUCTURING

9. Subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents (as hereinafter defined), the Petitioner shall have the right to:

- (a) permanently or temporarily cease, downsize or shut down all or any part of its Business or operations and commence marketing efforts in respect of any of its redundant or non-material assets and to dispose of redundant or non-material assets not exceeding \$500,000 in any one transaction or 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 for its Business or Property, in whole or part;

all of the foregoing to permit the Petitioner to proceed with an orderly restructuring of the Business (the "**Restructuring**").

10. The Petitioner shall provide each of the relevant landlords with notice of the Petitioner's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Petitioner's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors who claim a security interest in the fixtures, such landlord and the Petitioner, or by further Order of this Court upon application by the Petitioner, the landlord or the applicable secured creditors on at least two (2) clear days' notice to the other parties. If the Petitioner disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any dispute concerning such fixtures (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Petitioner's claim to the fixtures in dispute.

11. If a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then: (a) during the period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours on giving the Petitioner and the

Monitor 24 hours' prior written notice; and (b) at the effective time of the disclaimer, the landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims the landlord may have against the Petitioner, or any other rights the landlord might have, in respect of such lease or leased premises and the landlord shall be entitled to notify the Petitioner of the basis on which it is taking possession and gain possession of and re-lease such leased premises to any third party or parties on such terms as the landlord considers advisable, provided that nothing herein shall relieve the landlord of its obligation to mitigate any damages claimed in connection therewith.

12. Pursuant to Section 7(3)(c) of the *Personal Information Protection and Electronics Documents Act*, S.C. 2000, c. 5 and Section 18(1)(o) of the *Personal Information Protection Act*, S.B.C. 2003, c. 63, and any regulations promulgated under authority of either Act or any equivalent enactments of the Province of Ontario, as applicable (the "**Relevant Enactment**"), the Petitioner, in the course of these proceedings, is permitted to, and hereby shall, disclose personal information of identifiable individuals in its possession or control to stakeholders, its advisors, prospective investors, financiers, buyers or strategic partners (collectively, "**Third Parties**"), but only to the extent desirable or required to negotiate and complete the Restructuring or to prepare and implement the Plan or transactions for that purpose; provided that the Third Parties to whom such personal information is disclosed enter into confidentiality agreements with the Petitioner binding them in the same manner and to the same extent with respect to the collection, use and disclosure of that information as if they were an organization as defined under the Relevant Enactment, and limiting the use of such information to the extent desirable or required to negotiate or complete the Restructuring or to prepare and implement the Plan or transactions for that purpose, and attorning to the jurisdiction of this Court for the purposes of that agreement. Upon the completion of the use of personal information for the limited purposes set out herein, the Third Parties shall return the personal information to the Petitioner or destroy it. If the Third Parties acquire personal information as part of the Restructuring or the preparation and implementation of the Plan or transactions in furtherance thereof, such Third Parties may, subject to this paragraph and any Relevant Enactment, continue to use the personal information in a manner which is in all respects identical to the prior use thereof by the Petitioner.

STAY OF PROCEEDINGS, RIGHTS AND REMEDIES

13. Until and including January 27, 2023, 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.

14. 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.

15. Nothing in this Order, including paragraphs 13 and 14, 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

16. 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

17. 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

18. 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

19. 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

20. 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.

21. The directors and officers of the Petitioner shall be entitled to the benefit of and are hereby granted a charge (the "**D&O Charge**") on the Property, which charge shall not exceed an aggregate amount of \$650,000, as security for the indemnity provided in paragraph 20 of this Order. The D&O Charge shall have the priority set out in paragraphs 38 and 40 herein.

22. 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 D&O Charge, and (b) the Petitioner's directors and officers shall only be entitled to the benefit of the D&O 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 20 of this Order.

APPOINTMENT OF MONITOR

23. KSV Restructuring Inc. 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.

24. 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) assist the Petitioner, to the extent required by the Petitioner, in its dissemination, to the Interim Lender (as hereinafter defined) and its counsel financial and other information as agreed to between the Petitioner and the Interim Lender which may be used in these proceedings including reporting on a basis to be agreed with the Interim Lender;
- (d) advise the Petitioner in its preparation of the Petitioner's cash flow statements and reporting as reasonably required by the Interim Lender;
- (e) advise the Petitioner in its development of the Plan and any amendments to the Plan;
- (f) 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;
- (g) 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;
- (h) 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
- (i) perform such other duties as are required by this Order or by this Court from time to time.

25. 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.

26. 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*, 1999, S.C. 1999, c. 33, the *Fisheries Act*, R.S.C. 1985, c. F-14, the *Ontario Environmental Protection Act*, R.S.O. 1990, c. E.19, the *Ontario Water Resources Act*, R.S.O. 1990, c. O.40, and the *Ontario Occupational Health and Safety Act*, R.S.O. 1990, c. O.1 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.

27. The Monitor shall provide any creditor of the Petitioner and the Interim Lender 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.

28. 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 rights and protections afforded the Monitor by the CCAA or any applicable legislation.

ADMINISTRATION CHARGE

29. The Monitor, counsel to the Monitor, 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 and, in addition, the Petitioner is hereby authorized to pay to each of the Monitor, counsel to the Monitor, and counsel to the Petitioner, retainers in the amounts of \$75,000, \$50,000 and \$100,000 respectively to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

30. 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.

31. 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 \$750,000, 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 38 and 40 hereof.

INTERIM FINANCING

32. The Petitioner is hereby authorized and empowered to obtain and borrow under a credit facility from Sprott Private Resource Lending II (Collector), LP (the "**Interim Lender**") in order to finance the continuation of the Business and preservation of the Property, provided that borrowings under such credit facility shall not exceed US\$10,000,000 unless permitted by further Order of this Court.

33. Such credit facility shall be on the terms and subject to the conditions set forth in the Interim Financing Term Sheet between the Petitioner and the Interim Lender dated as of October 30, 2022 (the "**Interim Financing Term Sheet**") attached as Exhibit "G" to the First Haubrich Affidavit and Exhibit "A" to the Alambre Affidavit.

34. The Petitioner is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "**Definitive Documents**"), as are contemplated by the Interim Financing Term Sheet or as may be reasonably required by the Interim Lender pursuant to the terms thereof, and the Petitioner is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the Interim Lender under and pursuant to the Interim Financing Term Sheet and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

35. The Interim Lender shall be entitled to the benefit of and is hereby granted a charge (the "**Interim Lender's Charge**") on the Property. The Interim Lender's Charge shall not secure an obligation that exists before this Order is made. The Interim Lender's Charge shall have the priority set out in paragraphs 38 and 40 hereof.

36. Notwithstanding any other provision of this Order:

- (a) the Interim Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the Interim Lender's Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under any of the Definitive Documents or the Interim Lender's Charge, the Interim Lender may immediately cease making advances to the Petitioner and, upon 5 business days notice to the Petitioner and the Monitor, may exercise any and all of its rights and remedies against the Petitioner or the Property under or pursuant to the Interim Financing Term Sheet, Definitive Documents and the Interim Lender's Charge, including without limitation, to cease making advances to the Petitioner and set off and/or consolidate any amounts owing by the Interim Lender to the Petitioner against the obligations of the Petitioner to the Interim Lender under the Interim Financing Term Sheet, the

Definitive Documents or the Interim Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Petitioner and for the appointment of a trustee in bankruptcy of the Petitioner; and

- (c) the foregoing rights and remedies of the Interim Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Petitioner or the Property.

37. The Interim Lender, in such capacity, shall be treated as unaffected in any plan of arrangement or compromise filed by the Petitioner under the CCAA, or any proposal filed by the Petitioner under the *Bankruptcy and Insolvency Act* of Canada (the "**BIA**"), with respect to any advances made under the Definitive Documents.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

38. The priorities of the (a) Administration Charge, (b) D&O Charge, (c) Interim Lender's Charge, (d) KERP Charge (as defined in the Order (Key Employee Retention Plan Approval) granted by this Court on November 9, 2022), and (e) Sales Agent Charge (as defined in the Order (SISP and Sales Agent Approval) granted by this Court on November 9, 2022 (collectively, the "**Charges**") as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$750,000);

Second – D&O Charge (to the maximum amount of \$650,000);

Third – Interim Lender's Charge;

Fourth – The KERP Charge (to the maximum amount of \$750,000); and

Fifth – The Sales Agent Charge.

39. Any security documentation evidencing, or the filing, registration or perfection of, 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.

40. 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 for those claims contemplated by section 11.8(8) of the CCAA.

41. 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 Charges.

42. The Charges, the Interim Financing Term Sheet, and the Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") and/or the Interim Lender 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, 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) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Interim Financing Term Sheet or the Definitive Documents shall create or be deemed to constitute a breach by the Petitioner of any Agreement to which it 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 Petitioner entering

into the Interim Financing Term Sheet, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and

- (c) the payments made by the Petitioner pursuant to this Order, the Interim Financing Term Sheet or the Definitive Documents, 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.

43. THIS COURT ORDERS that 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

44. 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, (ii) within five 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.

45. 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.

46. 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.ksvadvisory.com/experience/case/pure-gold-> (the “**Website**”).

47. 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.

48. Notwithstanding paragraphs 45 and 47 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, British Columbia and Ontario Crowns in accordance with the *Crown Liability and Proceedings Act*, R.S.C. 1985, c. C-50, and regulations thereto, in respect of the Federal Crown, the *Crown Proceeding Act*, R.S.B.C. 1996, c. 89, and in respect of the British Columbia Crown, and the *Crown Liability and Proceedings Act*, S.O. 2019 c.7, Sch 17, in respect of the Ontario Crown.

GENERAL

49. 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.

50. 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.

51. 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, 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.

52. 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 to apply to the United States Bankruptcy Court for relief pursuant to Chapter 15 of the *United States Bankruptcy Code*, 11 U.S.C. §§ 101-1330, as amended.

53. 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.

54. 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.

55. 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.

56. 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.

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

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

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 Peter L. Rubin
Lawyer for the Petitioner

BY THE COURT

REGISTRAR

Schedule "A" to ARIQ

Counsel Name	Party Represented