



NO. S - 245121  
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 ELEVATION GOLD MINING CORPORATION,  
ECLIPSE GOLD MINING CORPORATION and GOLDEN VERTEX (IDAHO) CORP.

PETITIONERS

**NOTICE OF APPLICATION**

**Name of Applicants:** KSV Restructuring Inc. ("KSV" or the "Monitor") on behalf of Elevation Gold Mining Corporation, Eclipse Gold Mining Corporation and Golden Vertex (Idaho) Corp. (collectively, the "Petitioners").

To: Those parties set out in **Schedule "A"** attached hereto.

TAKE NOTICE that an application will be made by the Monitor to the Honourable Madam Justice Fitzpatrick at the Courthouse at 800 Smithe Street, in the City of Vancouver, in the Province of British Columbia on January 31, 2025 at 2:00 p.m. for the orders set out in Part 1 below.

The Monitor estimates that the application will take 1 hour.

This matter is not within the jurisdiction of an Associate Judge. The Honourable Madam Justice Fitzpatrick is seized of this matter and the hearing has been set by Supreme Court Scheduling.

**Part 1: ORDERS SOUGHT**

1. The Monitor seeks:

- (a) an order, substantially in the form of draft order attached hereto as **Schedule "B"**, among other things:

- (i) extending the Stay Period, as defined in the Amended and Restated Initial Order made herein on August 12, 2024 (the “**ARIO**”), from January 31, 2025 to June 27, 2025;
  - (ii) approving the Cross-Border Communication Protocol (as defined herein);
  - (iii) confirming that the Administration Charge, the Directors’ Charge and the Intercompany Charge (each as defined in the ARIO, and, collectively, the “**Charges**”) continue to charge the GVC Residual Assets in priority to any claims of Patriot and Nomad (as those terms are defined below); and
  - (iv) approving the activities of the Monitor since its appointment under the initial order made herein on August 1, 2024 (the “**Initial Order**”);
- (b) an order, substantially in the form attached hereto as **Schedule “C”** (the “**Sealing Order**”), sealing the confidential affidavit of Tim Swendseid sworn December 3, 2024 (the “**Confidential Affidavit**”) until further order of the BC Court (as defined below); and
  - (c) such further and other relief as counsel may request and this Honourable Court may deem just.

## **Part 2: FACTUAL BASIS**

2. Capitalized terms used herein and not otherwise defined have the meanings ascribed to them in the Fifth Report of the Monitor dated January 27, 2025 (the “**Fifth Report**”).

## BACKGROUND

3. Pursuant to the Initial Order issued by the Supreme Court of British Columbia (the “**BC Court**”) on August 1, 2024, Elevation Gold Mining Corporation (“**Elevation**”) and its subsidiaries, Golden Vertex Corp. (“**GVC**”), GVC (Idaho) Corp. (“**GVC Idaho**”), Eclipse Gold Mining Corporation (“**Eclipse**”), Alcmene Mining Inc. (“**Alcmene**”), and Hercules Gold USA, LLC (“**Hercules**”, together with each of the above entities, and the “**Original Petitioners**”) were granted protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), and KSV was appointed as Monitor and as the foreign representative for the purpose of commencing proceedings in the United States (the “**US Proceeding**”) ancillary to the CCAA proceeding (the “**Canadian Proceeding**”) in the United States Bankruptcy Court for the District of Arizona (the “**US Court**” and together with the BC Court, the “**Courts**”) pursuant to chapter 15 (“**Chapter 15**”) of title 11 of the *United States Code*, 11 U.S.C. §§ 101-1532 (the “**US Bankruptcy Code**”).
4. On August 12, 2024, the BC Court granted the ARIO amending and restating the Initial Order.
5. On September 16, 2024, the US Court entered an order, among other things, recognizing Canada as the Original Petitioners’ centre of main interest (COMI), recognizing the Canadian Proceeding as a foreign main proceeding under Chapter 15 of the US Bankruptcy

Code, affirming the Monitor as the duly appointed foreign representative of the Canadian Proceeding and giving full force and effect to the Initial Order and the ARIO in the United States.

6. On September 26, 2024, the BC Court granted an order, among other things, removing Alcmene and Hercules as petitioners in the Canadian Proceeding due to a sale of Hercules' business and assets completed earlier in the proceeding.
7. On December 17, 2024, the BC Court granted the following orders:
  - (a) an order (the "**Sale Approval Order**"), among other things, approving a transaction (the "**Transaction**") in respect of the sale of the shares of GVC owned by Elevation;
  - (b) an order sealing the Confidential Affidavit until the expiry of 30 days after filing of the Monitor's certificate confirming that the Transaction had closed (the "**Monitor's Certificate**")
  - (c) an order (the "**Enhanced Powers Order**") empowering the Monitor to exercise any powers which may properly be exercised by the Petitioners' board of directors; and
  - (d) an order (the "**Distribution Order**") permitting the Monitor to distribute the net proceeds of the Transaction after a 30-day hold period, subject to the Monitor's receipt of written notices from creditors submitting a claim ranking in priority to Maverix Metals Inc. ("**Maverix**"), the Petitioners' senior secured lender.
8. On December 30, 2024, the US Court entered an order (the "**Sale Recognition Order**") enforcing the Sale Approval Order in the United States.
9. Pursuant to the Sale Approval Order, upon delivery of the Monitor's Certificate to the Purchaser, which took place on December 31, 2024, GVC was removed as a petitioner in the Canadian Proceeding, such that the only remaining petitioners in the Canadian Proceeding are Elevation, GVC Idaho and Eclipse (together, the "**Petitioners**").

#### THE US PROCEEDING

10. On October 14, 2024, the Petitioners filed:
  - (a) motions seeking a determination (collectively, the "**Determination Motions**") as to whether the respective agreements of Nomad Royalty Company Limited ("**Nomad**") and Patriot Gold Corporation ("**Patriot**") create interests in the GVC Real Property that cannot be vested off title; and
  - (b) a motion to expedite the hearing of the Determination Motions so that they could be determined before the application for the Sale Approval Order was heard by the BC Court.

11. At the time the Determination Motions were filed, the offer submitted by the Purchaser had an outside closing date of December 31, 2024 and there was no certainty that the Purchaser would extend the closing date if the Transaction had not closed by that time.
12. On December 5, 2024, the Monitor filed a motion in the US Court seeking enforcement of the Sale Approval Order and the Distribution Order (the “**US Sale Approval Motion**”).
13. At a hearing in the US Proceeding on December 11, 2024, the parties agreed that the US Sale Approval Motion would be heard on December 23, 2024 (the “**US Sale Approval Hearing**”).
14. On December 20, 2024, the Monitor filed a supplement to the US Sale Approval Motion advising the US Court that the BC Court had granted the Sale Approval Order approving the Transaction and, on December 21, 2024, the Monitor filed with the US Court the Oral Reasons for Judgment issued by the Honourable Madam Justice Fitzpatrick and the complete transcript of the hearing in the BC Court for the Sale Approval Order.
15. On December 23, 2024, prior to the US Sale Approval Hearing, Nomad and Patriot both filed objections to the US Sale Approval Motion.
16. At the conclusion of the US Sale Approval Hearing, the US Court encouraged the parties to resolve the US Sale Approval Motion and scheduled a status conference for December 27, 2024 for an update (the “**Second US Sale Approval Hearing**”).
17. Efforts to settle an order were unsuccessful and on December 24, 2024, the Monitor filed with the US Court a proposed form of sale recognition order (the “**Proposed Sale Recognition Order**”) giving the Sale Approval Order and Distribution Order full force and effect in the United States.
18. On December 26, 2024, Patriot and Nomad jointly filed with the US Court: (i) an objection to the Proposed Sale Recognition Order; and (ii) a competing form of sale recognition order.
19. At the Second US Sale Approval Hearing, the US Court stated that there would be no further hearings regarding the matter and allowed the parties to prepare and file a final sale recognition order and enhanced powers recognition order in forms acceptable to them. Shortly after the Second US Sale Approval Hearing, Patriot and Nomad submitted a revised form of sale recognition order (the “**P&N Sale Recognition Order**”).
20. On December 28, 2024, the Monitor filed with the US Court: (i) an objection to the P&N Sale Recognition Order; and (ii) a form of sale recognition order (the “**Revised Sale Recognition Order**”) that was acceptable to it and consistent, in its view, with the Sale Approval Order.
21. On the morning of December 30, 2024, Patriot and Nomad filed a joint objection to the Revised Sale Recognition Order with the US Court. Also on December 30, 2024, the Monitor withdrew the Enhanced Powers Recognition Motion.

22. On December 30, 2024, the US Court issued the Sale Recognition Order substantially in the form of the P&N Sale Recognition Order, with the removal of certain language contained in the P&N Sale Recognition Order.
23. The Sale Recognition Order included the following language: “*All “GVC Residual Assets” ... (iii) shall not be consumed, used, or disbursed in any way by the Monitor or the Debtors pending further order of this Court.*”
24. In the Monitor’s view, the Sale Recognition Order is inconsistent with the ARIIO, which was not opposed by Patriot and Nomad and which was recognized by the US Court under the Recognition Order, including for, among others, the following reasons:
  - (a) the Sale Recognition Order prevents GVC from using the GVC Residual Assets for any purpose, including to fund legal counsel in order to defend the Determination Motions and adversary proceedings commenced by each of Patriot and Nomad against the Petitioners. As a result, absent a further order of the US Court, it will be necessary for Elevation to fund such litigation using the net proceeds of the Transaction; and
  - (b) by adding the words “rights to proceeds from minerals extraction”, the US Court expanded the definition of GVC Residual Assets from the definition in the APS and incorporated in the Sale Approval Order, thereby altering the effect of the Sale Approval Order issued by the BC Court.
25. GVC’s inability to fund its litigation with Patriot and Nomad without access to the GVC Residual Assets is directly prejudicial to Maverix, as the Petitioner’ senior secured creditor. Specifically, the present terms of the Sale Recognition Order would require Elevation to fund GVC’s litigation, thereby leaving the entirety of the GVC Residual Assets available for distribution to Patriot and Nomad, should they succeed in their claims to same (subject to payment of any amount owing under the Charges)
26. In light of the foregoing, the Monitor is seeking a declaration from this Court confirming that the Charges continue to attach to the GVC Residual Assets in priority to any claims of Patriot and Nomad, including any constructive trust claims, and is seeking approval of the Cross-Border Communication Protocol to address issues arising from inconsistent orders in each of the BC and US Courts.

#### CROSS-BORDER COMMUNICATION PROTOCOL

27. In light of the language included in the Sale Recognition Order, and in order to facilitate the completion of these proceedings and address concerns regarding inconsistent orders in the Canadian Proceeding and the US Proceeding, as well as potential further inefficiencies arising from the multi-jurisdictional nature of the proceedings, the Monitor is seeking approval of a cross-border insolvency protocol, substantially in the form attached as **Appendix “D”** the Fifth Report (the “**Cross-Border Communication Protocol**”).
28. The Cross-Border Communication Protocol, among other things:

- (a) is intended to: (i) coordinate the Canadian Proceeding and US Proceeding in order to avoid inconsistent or conflicting rulings by the BC Court and US Court; (ii) provide stakeholders with sufficient notice of material developments in both proceedings; (iii) protect and preserve the substantive rights of all stakeholders; and (iv) preserve the jurisdictional integrity of the BC Court and US Court; and
  - (b) provides for court-to-court communication and joint hearings, if required and appropriate in the circumstances.
29. In the circumstances of this case, the Monitor believes that it is necessary and appropriate to have the Cross-Border Communication Protocol to avoid concerns arising from inconsistent positions being taken in each of the BC and US courts, and the resultant possibility of inconsistent or conflicting orders.

#### SEALING ORDER

30. The Confidential Affidavit attaches an unredacted copy of the APS and a summary of the bids received on the Final Bid Deadline under the SISP.
31. The Confidential Affidavit was originally sealed as the terms of the Transaction, including the purchase price, deposit and purchase price adjustment, and the value of the competing bids received for the Petitioners' business and assets, comprised commercially sensitive information, disclosure of which would have prejudiced the Petitioners, the Purchaser and the other stakeholders in these proceedings.
32. When the Confidential Affidavit was originally sealed, the Petitioners and the Monitor each believed that the Determination Motions would have been heard and the US Court would have rendered its decisions in relation to the claims of Patriot and Nomad. As detailed above, the US Court has not made a determination as to the validity of the respective claims of Patriot or Nomad and, consequently, the ultimate purchase price payable in relation to the APS has not been settled.
33. Accordingly, although the Transaction has closed, the purchase price adjustments in relation to the outcome of the Determination Motions have not yet been finalized and disclosure of those adjustments would similarly prejudice the Petitioners, the Purchaser and the other stakeholders in these proceedings.
34. A redacted copy of the APS, redacted only to conceal the amounts of the purchase price adjustments, is attached as **Appendix "C"** to the Fifth Report ensuring that all stakeholders are given the opportunity to review the terms of the APS that are no longer required to be kept confidential.
35. Given that a redacted copy of APS has been made public, and in order to continue to conceal the purchase price adjustments until the Determination Motions have been finally decided by the US Court, the Monitor seeks the Sealing Order to seal the Confidential Affidavit until further order of the BC Court to limit potential prejudice to the parties.

### ACTIVITIES OF THE MONITOR

36. The activities of the Monitor for which the BC Court's approval is sought are particularized in the First Report of the Monitor dated August 7, 2024, the Second Report of the Monitor dated September 20, 2024, the Third Report of the Monitor dated October 23, 2024, the Supplement to the Third Report of the Monitor dated November 21, 2024, the Second Supplement to the Third Report of the Monitor dated December 3, 2024, the Fourth Report of the Monitor dated December 3, 2024, the Supplement to the Fourth Report of the Monitor dated December 11, 2024 and the Fifth Report (collectively, the "**Monitor's Reports**").
37. Generally speaking, in performing the Monitor's duties pursuant to the CCAA, KSV performed the usual tasks anticipated in such proceedings, including: (a) preparing the notices to all known creditors of the Original Petitioners; (b) monitoring the Petitioners' cash flows; (c) responding to inquiries from creditors and other stakeholders; (d) working with the Petitioners and their sales advisor to market the assets and advance the SISF, including in relation to the negotiation of the APS and the closing of the Transaction; (e) preparing the Monitor's Reports; and (f) working with its Canadian counsel, its US counsel and the Petitioners in relation to the numerous applications and hearings described above in both the Canadian Proceeding and the US Proceeding.
38. In addition, the issues concerning Nomad and Patriot as mentioned above, including in relation to the claims of Nomad and Patriot and the positions taken by each in both the Canadian Proceeding and the US Proceeding, have required significant time by the Monitor and its counsel (among others) to address.

### EXTENSION OF THE STAY

39. The current Stay Period expires on January 31, 2025, which the Monitor seeks to extend up to and including June 27, 2025, in anticipation that within that time:
- (i) the Determination Motions shall have been finally decided;
  - (ii) the final amount payable in respect of the Transaction will have been determined; and
  - (iii) the Monitor shall have had the opportunity to make distributions in accordance with the Distribution Order.

### **Part 3 LEGAL BASIS**

40. The Petitioners plead and rely on:
- (a) The CCAA;
  - (b) The *Supreme Court Civil Rules*, B.C. Reg. 168/2009 (the "**Rules**");
  - (a) The inherent and equitable jurisdiction of this Honourable Court; and

- (b) Such further and other legal basis as counsel may advise and this Honourable Court may allow.

#### EXTENSION OF THE STAY PERIOD

41. The Monitor seeks to extend the Stay Period until 11:59 p.m. on June 27, 2025.
42. The Monitor relies on sections 11 and 11.02 of the CCAA and the inherent jurisdiction and statutory discretion of this Honourable Court.
43. Subsection 11.02(2) of the CCAA provides that a debtor company may apply for an extension of the stay of proceedings for a period that the court considers necessary on any terms that it may impose. Subsection 11.02(3) of the CCAA provides that the court shall not make an order extending the stay period unless it is satisfied that: (a) the circumstances exist that make the order appropriate; and (b) the debtor company has acted and is acting in good faith and with due diligence.
44. The Monitor recommends that this Court grant the extension being sought, including for the following reasons:
- (a) the proposed extension will allow the Monitor, on behalf and in the name of the Petitioners, to advance the Determination Motions and to make distributions to creditors in accordance with priorities and the Distribution Order;
  - (b) the Monitor does not believe that any stakeholder will be materially prejudiced if the stay is extended;
  - (c) as of the date of this Fifth Report, the Monitor is not aware of any party opposed to the extension being sought; and
  - (d) the Cash Flow Forecast reflects that the Petitioners are projected to have sufficient liquidity to fund the Canadian Proceeding and the US Proceeding during the proposed extension period.
45. Under the Enhanced Powers Order, the Monitor has similar powers and duties as that of a “super-monitor” in these proceedings and the Monitor believes that it has been and is currently discharging its duties and obligations in good faith and with due diligence to the benefit of all stakeholders. Accordingly, the Monitor submits that the proposed stay extension is warranted at this time.

#### PRIORITY OF THE CHARGES UNDER THE ARIO

46. The ARIO approved and created the Administration Charge, the Directors’ Charge, and the Intercompany Charge. Paragraph 38 of the ARIO says:

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



(collectively, “Encumbrances”), in favour of any Person, save and except those claims contemplated by section 11. 8(8) of the CCAA.” **emphasis added**

47. Although, in the Monitor’s view, the priority of the foregoing charges is not in question, it seeks confirmation of the relative priority of the Charges under the ARIO for greater clarity and certainty for all stakeholders.

#### APPROVAL OF ACTIVITIES

48. The Monitor’s Reports outline the specific activities undertaken by the Monitor for which the Monitor is now seeking this Court’s approval.
49. Approval of the Monitor’s activities is appropriate in the circumstances because such approval will, among other things:
- (a) bring the Monitor’s activities before the BC Court, providing an opportunity for any concerns of this Court and other stakeholders to be addressed;
  - (b) provide certainty and finality to processes in these CCAA proceedings and the Monitor’s activities undertaken, all parties having been given an opportunity to raise specific objections and concerns;
  - (c) enable the BC Court, tasked with supervising the CCAA process, to satisfy itself that the Monitor’s court-mandated activities have been conducted in a prudent and diligent manner;
  - (d) provide protection for the Monitor not otherwise provided by the CCAA; and
  - (e) protect creditors from delay that would be caused by: (i) the re-litigation of steps taken to date; and (ii) potential indemnity claims by the Monitor.<sup>1</sup>
50. The approval sought by the Monitor is not a general approval of its activities, but the approval of the specific activities undertaken by the Monitor as detailed in the Monitor’s Reports.
51. As set out in the Monitor’s Reports, the activities of the Monitor have all been necessary and conducted in accordance with the Monitor’s powers as granted in the ARIO and the Enhanced Powers Order and the Monitor has conducted itself and is currently discharging its duties and obligations in good faith and with due diligence to the benefit of the various stakeholders. In the circumstances, the Monitor submits that such approval is appropriate.

#### CROSS-BORDER COMMUNICATION PROTOCOL

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<sup>1</sup> *Target Canada Co. (Re)*, 2015 ONSC 7574 at paras. 12 and 13.

52. It is trite law that Canadian courts have consistently encouraged comity and cooperation between courts in various jurisdictions in order to enable enterprises to restructure on a cross-border basis.<sup>2</sup>
53. Cross-border communication protocols have been approved and implemented by courts across Canada in CCAA proceedings where U.S. proceedings have been commenced. In particular, cross-border communication protocols have been adopted where “it is clear that there are issues of overlapping jurisdiction that would make a form of cross-border communication protocol appropriate”.<sup>3</sup>
54. In *Nortel*, the Honourable Justice Morawetz held that cross-border communication protocols provide “the basis for communication and cooperation between the Canadian and U.S. courts, while confirming their independence”.<sup>4</sup>
55. One of the principle objectives of adopting such an approach to cross-border insolvencies is to avoid multiple proceedings, inconsistent judgments and general uncertainty, all of which could enure to the detriment of stakeholders.<sup>5</sup>
56. The Cross-Border Communication Protocol achieves the foregoing objectives by establishing principles by, among other things:
- (a) coordinating these Canadian Proceeding and the US Proceeding in order to avoid inconsistent or conflicting rulings by the BC Court and the US Court;
  - (b) providing stakeholders with sufficient notice of material developments in both these Canadian Proceeding and the US Proceeding;
  - (c) protecting and preserving the substantive rights of all stakeholders;
  - (d) preserving the jurisdictional integrity of this Court and the US Court; and
  - (e) providing for court-to-court communication and joint hearings, if required and appropriate in the circumstances.
57. The Cross-Border Communication Protocol shall only become effective upon approval by both the BC Court and the US Court and largely adopts the Judicial Insolvency Network’s Guidelines for Communication and Cooperation between Courts in Cross-border

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<sup>2</sup> *Payless Holdings LLC (Re)*, 2017 ONSC 2242.

<sup>3</sup> *Northstar Aerospace, Inc. (Re)*, 2012 ONSC 3974 (“Northstar”); *Nortel Networks Corporation (Re)*, 2009 CanLII 726 (ON SC) (“*Nortel*”); *Calpine Canada Energy Limited (Companies’ Creditors Arrangement Act)*, 2006 ABQB 743.

<sup>4</sup> *Nortel* at para. 42.

<sup>5</sup> *Instant Brands Acquisition Holdings Inc. et al.*, 2023 ONSC 4252 at para. 14.

Insolvency Matters and is consistent with protocols approved by Canadian courts in other cross-border restructuring proceedings.<sup>6</sup>

58. Accordingly, the Monitor submits that approval of the Cross-Border Communication Protocol is warranted in the circumstances.

#### SEALING ORDER

59. The court has the authority to order that certain materials filed with the court be sealed in the court file. The Supreme Court of Canada recently “recast” the long-standing test set forth in *Sierra Club of Canada v. Canada (Minister of Finance)*, 2002 SCC 41, and stated that a sealing order can be granted where the applicant establishes that:
- (a) court openness (i.e. not sealing the document in question in the court file) poses a serious risk to an important public interest;
  - (b) such order 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 such order outweigh its negative effects.
60. The need to keep confidential the contents of the Confidential Affidavit fits squarely within the test established by *Sherman Estate*. In particular:
- (a) there is a public risk in disclosing the amounts of the purchase price adjustments, particularly given the ongoing litigation between the Petitioners and each of Patriot and Nomad. To that end it is necessary to seal the Confidential Affidavit which, if publicly disclosed, has the potential to negatively impact the ongoing litigation, including potential settlement of the respective claims of Patriot and Nomad and the additional consideration payable under the APS if the Determination Motions are decided in favour of GVC;
  - (b) the Sealing Order is necessary to prevent this risk – the Monitor is not aware of any alternative to prevent it; and
  - (c) the Monitor is not aware of any prejudice to stakeholders if the Confidential Affidavit is filed under seal, particularly given that a redacted copy of the APS is appended to the Fifth Report.
61. The Monitor submits that the Sealing Order is appropriate and should be granted for the reasons set forth above.

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<sup>6</sup> *Northstar; Nortel; In The Matter of a Plan of Compromise or Arrangement of Aralez Pharmaceuticals Inc. and Aralez Pharmaceuticals Canada Inc* (October 25, 2018), Toronto CV-18-603054-00CL (O.S.C.J).

**Part 4: MATERIAL TO BE RELIED ON**

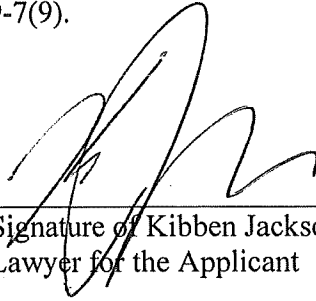
62. Affidavit #1 of Tim Swendseid, sworn July 29, 2024;
63. Affidavit #6 of Tim Swendseid, sworn December 3, 2024;
64. Affidavit #8 of Tim Swendseid, sworn December 9, 2024;
65. First Report of the Monitor dated August 7, 2024;
66. Second Report of the Monitor dated September 20, 2024;
67. Third Report of the Monitor dated October 23, 2024;
68. Supplement to the Third Report of the Monitor dated November 21, 2024;
69. Second Supplement to the Third Report of the Monitor dated December 3, 2024;
70. Fourth Report of the Monitor dated December 3, 2024;
71. Supplement to the Fourth Report of the Monitor dated December 11, 2024;
72. Fifth Report of the Monitor dated January 27, 2025; and
73. Such further and other materials as counsel may advise and this Honourable Court may allow.

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 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).

Dated: 28-Jan-2025




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Signature of Kibben Jackson  
Lawyer for the Applicant

***To be completed by the court only:***

Order made

in the terms requested in paragraphs ..... of Part 1 of this Notice of Application

with the following variations and additional terms:

.....

.....

.....

Date:

.....

Signature of  Judge  Associate Judge

The Solicitors for the Applicant are Fasken Martineau DuMoulin LLP, whose office address and address for delivery is 550 Burrard Street, Suite 2900, Vancouver, BC V6C 0A3 Telephone: +1 604 631 3131 Facsimile: +1 604 631 3232 (Reference: Kibben Jackson/ 267908.00021)

**APPENDIX**

The following information is provided for data collection purposes only and is of no legal effect.

**THIS APPLICATION INVOLVES THE FOLLOWING:**

- discovery: comply with demand for documents
- discovery: production of additional documents
- other matters concerning document discovery
- 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
- none of the above

**SCHEDULE "A"**  
**SERVICE LIST**

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

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

AND

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

AND

IN THE MATTER OF ELEVATION GOLD MINING CORPORATION, ECLIPSE GOLD MINING CORPORATION, ALCMENE MINING INC., GOLDEN VERTEX CORP., GOLDEN VERTEX (IDAHO) CORP., and HERCULES GOLD USA, LLC

PETITIONERS

**SERVICE LIST**

(as of December 16, 2024)

<b>Party</b>	<b>Contact</b>
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<b>Maxis Legal</b> Suite 910 – 800 West Pender Street Vancouver BC V6V 2V6  <i>Canadian Securities Counsel to Elevation Gold</i>	Morgan Hay <a href="mailto:mhay@maxislaw.com">mhay@maxislaw.com</a>



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**SCHEDULE "B"**  
**DRAFT ORDER**



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 ELEVATION GOLD MINING CORPORATION,  
ECLIPSE GOLD MINING CORPORATION, and GOLDEN VERTEX (IDAHO) CORP.

PETITIONERS

**ORDER MADE AFTER APPLICATION**

**(Stay extension and Cross-Border Communication Protocol)**

BEFORE THE HONOURABLE )  
 ) January 31, 2025  
MADAM JUSTICE FITZPATRICK )

ON THE APPLICATION of KSV Restructuring Inc. (“**KSV**”), in its capacity as monitor (in such capacity, the “**Monitor**”) of the Petitioners, coming on for hearing at Vancouver, British Columbia on this day; AND ON HEARING Kibben Jackson and Mishaal Gill, counsel for the Monitor, and those other counsel listed on Schedule “A” hereto; AND UPON READING the material filed, including the First Report of the Monitor dated August 7, 2024, the Second Report of the Monitor dated September 20, 2024, the Third Report of the Monitor dated October 23, 2024, the Supplement to the Third Report of the Monitor dated November 21, 2024, the Second Supplement to the Third Report of the Monitor dated December 3, 2024, the Fourth Report of the Monitor dated December 3, 2024 and the Supplement to the Fourth Report of the Monitor dated December 11, 2024 and the Fifth Report of the Monitor dated January [●], 2025 (collectively, the “**Monitor’s Reports**”); 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:

1. The time for service of the Notice of Application for this order and the supporting materials is hereby abridged and this application is properly returnable today, and service upon any

interested party other than those parties on the service list maintained in these proceedings is hereby dispensed with.

### **DEFINED TERMS**

2. Capitalized terms used but not otherwise defined in this order shall have the meanings given to them in the Amended and Restated Initial Order granted in these proceedings on August 12, 2024 (the "ARIO").

### **CROSS-BORDER PROTOCOL**

3. The Cross-Border Protocol in the form attached as Schedule "B" hereto is hereby approved and shall become effective upon its approval by the United States Bankruptcy Court for the District of Arizona, and the parties to these proceedings and any other Person having notice of this order shall be governed by and shall comply with the Cross-Border Protocol

### **PRIORITY OF CHARGES**

4. The Administration Charge, the Director's Charge and the Intercompany Charge granted under the ARIO each rank in priority to any and all claims and interests asserted in to and in the GVC Residual Assets (as defined in the Agreement for Purchase and Sale dated December 2, 2024, as between Elevation Gold Mining Corporation and EG Acquisition LLC), including in priority to any claims of Nomad Royalty Company Limited or Patriot Gold Corporation.

### **STAY EXTENSION**

5. The Stay Period granted in paragraph 16 of the ARIO is hereby extended up to and including June 27, 2025.

### **APPROVAL OF THE MONITOR'S ACTIVITIES**

6. The activities of the Monitor as described in the Monitor's Reports are hereby approved, provided however that only KSV in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

### **GENERAL**

7. The Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
8. Endorsement of this Order by counsel appearing on this application other than counsel for the Petitioners is hereby dispensed with.

9. THIS COURT REQUESTS the aid and recognition of other Canadian and foreign courts, tribunals, and regulatory or administrative bodies having jurisdiction in Canada or in the United States of America, or in any other foreign jurisdiction, to give effect to this Order and to assist the Petitioners, the Monitor, and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Petitioners and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, or to assist the Petitioners and the Monitor and their respective agents in carrying out the terms of this Order.

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

---

Signature of Kibben Jackson  
 Party  Lawyer for the Monitor

BY THE COURT

---

REGISTRAR

**Schedule "A"**

**List of Counsel**

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Lance Williams Ashley Bowron	Patriot Gold Corp.
Vicki Tickle	Nomad Royalty Company Limited
Robin Schwill	EG Acquisition LLC

**Schedule "B"**

**CROSS-BORDER INSOLVENCY PROTOCOL**

1. This cross-border insolvency protocol (the "**Protocol**") shall govern the conduct of all parties in interest in the Insolvency Proceedings (as such term is defined herein).
2. The "Guidelines for Communication and Cooperation Between Courts in Cross-Border Insolvency Matters" (the "**Guidelines**"), attached hereto as Schedule "A-1" shall be incorporated by reference and form part of this Protocol. To the extent there is any discrepancy between the Protocol and the Guidelines, this Protocol shall prevail.

**BACKGROUND**

3. Pursuant to an order (the "**Initial Order**") issued by the Supreme Court of British Columbia (the "**BC Court**") in BCSC Action Number S – 245121 (the "**Canadian Proceeding**") on August 1, 2024, Elevation Gold Mining Corporation ("**Elevation**") and its subsidiaries, Golden Vertex Corp. ("**GVC**"), GVC (Idaho) Corp. ("**GVC Idaho**"), Eclipse Gold Mining Corporation ("**Eclipse**"), Alcmene Mining Inc. ("**Alcmene**"), and Hercules Gold USA, LLC ("**Hercules**", together with each of the above entities, and the "**Original Petitioners**") were granted protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), and KSV Restructuring Inc. was appointed monitor in the Canadian Proceeding (in such capacity, the "**Monitor**") and as the foreign representative for the purpose of commencing proceedings in the United States ancillary to the Canadian Proceeding (the "**US Proceeding**") and together with the Canadian Proceeding, the "**Insolvency Proceedings**") in the United States Bankruptcy Court for the District of Arizona (the "**US Court**" and together with the BC Court, the "**Courts**") pursuant to chapter 15 ("**Chapter 15**") of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "**US Bankruptcy Code**").
4. On August 12, 2024, the BC Court granted an order (the "**ARIO**") amending and restating the initial order.
5. On August 2, 2024, the Monitor sought recognition of the Canadian Proceeding by the US Court under Chapter 15 of the US Bankruptcy Code.
6. On September 16, 2024, the US Court entered an order, among other things, recognizing Canada as the Original Petitioners' centre of main interest (COMI), recognizing the Canadian Proceeding as a foreign main proceeding under Chapter 15 of the US Bankruptcy Code, affirming the Monitor as the duly appointed foreign representative of the Canadian Proceeding and giving full force and effect to the Initial Order and the ARIO in the United States.
7. On September 26, 2024, the BC Court granted an order, among other things, removing Alcmene and Hercules as petitioners in the Canadian Proceeding due to a sale of Hercules' business and assets completed earlier in the proceedings.
8. On December 17, 2024, the BC Court granted an order (the "**Sale Approval Order**"), among other things, approving a transaction (the "**Transaction**") in respect of the sale of

the shares of GVC owned by Elevation. On December 30, 2024, the US Court entered an order enforcing the Sale Approval Order in the United States.

9. Pursuant to the Sale Approval Order, upon closing of the Transaction, which took place on December 31, 2024, GVC was removed as a petitioner in the Canadian Proceeding, such that the only remaining petitioners in the Canadian Proceeding thereafter are Elevation, GVC Idaho and Eclipse (together, the “**Petitioners**”).

#### PURPOSE AND GOALS

10. While the Canadian Proceeding and the US Proceeding are separate proceedings in Canada and the U.S., respectively, the implementation at this time of basic administrative procedures is desirable to coordinate certain activities in the Insolvency Proceedings, protect the rights of parties thereto, promote comity and ensure the maintenance of each Court’s independent jurisdiction and comity. Accordingly, this Protocol has been developed to promote the following goals and objectives in the Insolvency Proceedings:
  - (a) harmonize and coordinate activities in the Insolvency Proceedings before each of the Courts;
  - (b) promote the orderly and efficient administration of the Insolvency Proceedings to, among other things, maximize the efficiency of the Insolvency Proceedings, reduce the costs associated therewith and avoid duplication of effort;
  - (c) honor the independence and integrity of the Courts and other courts and tribunals of Canada and the U.S.;
  - (d) promote international cooperation and respect for comity among the Courts, the Petitioners, the Monitor, creditors and other stakeholders in the Insolvency Proceedings;
  - (e) facilitate the fair, open and efficient administration of the Insolvency Proceedings for the benefit of all stakeholders of the Petitioners, wherever located; and
  - (f) implement a framework of general principles to address administrative issues arising out of the cross-border and international nature of the Insolvency Proceedings.

#### COMITY AND INDEPENDENCE OF THE COURTS

11. The approval and implementation of this Protocol shall not divest or diminish the BC Court's and the US Court's independent jurisdiction over the subject matter of the Canadian Proceeding and the US Proceeding, respectively. By approving and implementing this Protocol, none of the BC Court, the US Court, the Petitioners, the Monitor or any creditors or stakeholders shall be deemed to have approved or engaged in any infringement on the sovereignty of Canada or the U.S.
12. The BC Court shall have sole and exclusive jurisdiction with respect to the conduct of the Canadian Proceeding and the hearing and determination of matters arising in the Canadian Proceeding. The US Court shall have sole and exclusive jurisdiction with respect to the

conduct of the US Proceeding and the hearing and determination of matters arising in the US Proceeding.

13. In accordance with the principles of comity and independence established in the two preceding paragraphs, nothing contained herein shall be construed to:
  - (a) increase, decrease or otherwise modify the independence, sovereignty or jurisdiction of the BC Court, the US Court or any other court or tribunal in Canada or the U.S., including the ability of any such court or tribunal to provide appropriate relief under applicable law on an ex parte or "limited notice" basis;
  - (b) require the BC Court to take any action that is inconsistent with its obligations under the laws of Canada;
  - (c) require the US Court to take any action that is inconsistent with its obligations under the laws of the U.S.;
  - (d) require the Petitioners, the Monitor, any creditors or any stakeholders to take any action or refrain from taking any action that would result in a breach of any duty imposed on them by any applicable law;
  - (e) authorize any action that requires the specific approval of one or both of the Courts under the CCAA or the US Bankruptcy Code after appropriate notice and a hearing (except to the extent that such action is specifically described in this Protocol); or
  - (f) preclude the Petitioners, the Monitor, or any creditor or stakeholder from asserting such party's substantive rights under the applicable laws of Canada, the U.S. or any other relevant jurisdiction including, without limitation, the rights of interested parties or affected persons to appeal from the decisions taken by one or both of the Courts.
  
14. Subject to the terms hereof, the Petitioners, the Monitor and their respective employees, members, agents and professionals shall respect and comply with the independent, non-delegable duties imposed upon them by the CCAA, the US Bankruptcy Code, the orders of the Courts and any applicable laws.

#### COOPERATION

15. To assist in the efficient administration of the Insolvency Proceedings, the Petitioners, the Monitor and all creditors and other stakeholders shall where appropriate:
  - (a) reasonably cooperate with each other in connection with actions taken in both the BC Court and the US Court; and
  - (b) take any other reasonable steps to coordinate the administration of the Canadian Proceeding and the US Proceeding and the for the benefit of the Petitioners' respective estates and stakeholders.

16. To harmonize and coordinate the administration of the Insolvency Proceedings, the BC Court and the US Court each may coordinate activities with and defer to the judgment of the other Court, where appropriate and feasible. In furtherance of the foregoing:
  - (a) the BC Court and the US Court may communicate with one another, with or without counsel present, with respect to any procedural or substantive matter relating to the Insolvency Proceedings;
  - (b) where the issue of the proper jurisdiction or Court to determine an issue is raised by an interested party in either of the Insolvency Proceedings with respect to a motion or an application filed in either Court, the Court before which such motion or application was initially filed may contact the other Court to determine an appropriate process by which the issue of jurisdiction will be determined. Such process shall be subject to submissions by the Petitioners, the Monitor and any interested party before any determination on the issue of jurisdiction is made by either Court; and
  - (c) the Courts may, but are not obligated to, coordinate activities in the Insolvency Proceedings such that the subject matter of any particular action, suit, request, application, contested matter or other proceeding is determined in a single Court.
  
17. The BC Court and the US Court may conduct joint hearings with respect to any matter relating to the conduct, administration, determination or disposition of any aspect of the Canadian Proceeding and the US Proceeding, if both Courts consider such joint hearings to be necessary or advisable and, in particular, to facilitate or coordinate the proper and efficient conduct of the Canadian Proceeding and the US Proceeding. With respect to any such hearing, unless otherwise ordered, the following procedures will be followed:
  - (a) a telephone or video link shall be established so that both the BC Court and the US Court shall be able to simultaneously hear the proceedings in the other Court;
  - (b) notices, submissions or applications by any party that are or become the subject of a joint hearing of the Courts (collectively, "**Pleadings**") shall be made or filed initially only to the Court in which such party is appearing and seeking relief. Promptly after the scheduling of any joint hearing, the party submitting such Pleadings with one Court shall file courtesy copies with the other Court. Pleadings seeking relief from both Courts shall be filed with both Courts;
  - (c) any party intending to rely on any written evidentiary materials in support of a submission to the BC Court or the US Court in connection with any joint hearing shall file such materials in both Courts, and such materials shall be identical insofar as possible and shall be consistent with the procedure and evidentiary rules and requirements of each Court, in advance of the time of such hearing or the submissions of such application;
  - (d) if a party has not previously appeared in or attorned or does not wish to attorn to the jurisdiction of either Court, it shall be entitled to file such materials without, by the act of filing, being deemed to have attorned to the jurisdiction of the Court in which such material is filed, so long as it does not request in its materials or



submissions any affirmative relief from the Court to which it does not wish to attain;

- (e) the Justice of the BC Court and the Judge of the US Court who is to hear any such application shall be entitled to communicate with each other in advance of the hearing on the application, with or without counsel being present, to establish guidelines for the orderly submission of pleadings, papers and other materials and the rendering of decisions by the BC Court and the US Court, and to address any related procedural, administrative or preliminary matters; and
  - (f) the Justice of the BC Court and the Judge of the US Court, having heard any such application, shall be entitled to communicate with each other after the hearing on such application, without counsel present, for the purpose of determining whether consistent rulings can be made by both Courts, and coordinating the terms upon which such rulings shall be made, as well as to address any other procedural or non-substantive matter relating to such applications.
18. Notwithstanding the terms of the preceding paragraph, the Protocol recognizes that the BC Court and the US Court are independent Courts. Accordingly, although the Courts will seek to cooperate with each other in good faith, each of the Courts shall be entitled at all times to exercise its independent jurisdiction and authority with respect to:
- (a) the conduct of the parties appearing on matters before such Court; and
  - (b) the disposition of matters before such Court, including without limitation, the right to determine if such matters are properly before such Court.
19. In the interests of cooperation and coordination of these proceedings, each Court shall recognize and consider all privileges applicable to communications between counsel and parties, including those contemplated by the common interest doctrine or like privileges, which would be applicable in each respective Court. Such privileges in connection with communications shall be applicable in both Courts with respect to all parties to these proceedings having any requisite common interest.
20. Where one Court has jurisdiction over a matter which requires the application of the law of the jurisdiction of the other Court in order to determine an issue before it, the Court with jurisdiction over such matter may, among other things, hear expert evidence or seek the advice and direction of the other Court in respect of the foreign law to be applied, subject to paragraph 33 herein.

#### RETENTION AND COMPENSATION OF MONITOR AND RESTRUCTURING PROFESSIONALS

21. The Monitor, its officers, directors, employees, counsel, agents, and any other professionals related thereto, wherever located (collectively, the "**Monitor Parties**") shall all be subject to the sole and exclusive jurisdiction of the BC Court with respect to all matters, including:
- (a) the Monitor Parties' appointment and tenure in office;

- (b) the retention and compensation of the Monitor Parties;
- (c) the Monitor Parties' liability, if any, to any person or entity, including the Petitioners and any third parties, in connection with the Insolvency Proceedings; and
- (d) the hearing and determination of any matters relating to the Monitor Parties arising in the Canadian Proceeding under the CCAA or other applicable Canadian law.

22. Additionally, the Monitor Parties:

- (a) shall be compensated for their services solely in accordance with the CCAA and other applicable Canadian law or orders of the BC Court; and
- (b) shall not be required to seek approval of their compensation in the US Court.

23. Nothing in this Protocol creates any fiduciary duty, duty of care or other duty owed by the Monitor to the stakeholders in the Insolvency Proceedings that they would not otherwise have in the absence of this Protocol.

24. Any professionals retained by or with the approval of the Petitioners or the Monitor, including, in each case, counsel, financial advisors, accountants, consultants and experts (collectively, the "**Canadian Professionals**"), shall be subject to the sole and exclusive jurisdiction of the BC Court. Accordingly, the Canadian Professionals: (a) shall be subject to the procedures and standards for retention and compensation applicable in the BC Court under the CCAA, the Initial Order, the ARIO or any other applicable Canadian law or orders of the BC Court; and (b) shall not be required to seek approval of their retention or compensation in the US Court.

#### RIGHT TO APPEAR AND BE HEARD

25. Each of the Petitioners, the Monitor, the creditors and other stakeholders in the Insolvency Proceedings shall have the right and standing to:

- (a) appear and be heard in either the BC Court or the US Court in the Insolvency Proceedings to the same extent as a creditor and other interested party domiciled in the forum country, but solely to the extent such party is a creditor or other interested party in the subject forum, subject to any local rules or regulations generally applicable to all parties appearing in the forum; and
- (b) subject to 25(a), file notices of appearance or other papers with the BC Court or the US Court in the Insolvency Proceedings, provided, however, that any appearance or filing may subject a creditor or interested party to the jurisdiction of the Court in which the appearance or filing occurs.

#### NOTICE

26. Notice of any motion, application or other pleading or paper filed in one or both of the Courts relating to matters addressed by this Protocol and notice of any related hearings or other proceedings shall be given by appropriate means (including, where circumstances

warrant, by courier or electronic forms of communication) to the following Persons in accordance with the timelines for service applicable in the Court in which any such motion or application is brought:

- (a) all creditors and stakeholders in accordance with the practice and service requirements of the jurisdiction where the papers are filed or the proceedings are to occur; and
- (b) to the extent not otherwise entitled to receive notice under subpart (a) of this paragraph, to:
  - (i) counsel to the Petitioners, Lawson Lundell LLP, Brookfield Place, #1100 225 6<sup>th</sup> Avenue SW, Calgary, AB T2P 1N2 (Attn: Alexis Teasdale, [ateasdale@lawsonlundell.com](mailto:ateasdale@lawsonlundell.com));
  - (ii) to the Monitor, KSV Restructuring Inc., 220 Bay Street, 13<sup>th</sup> Floor, PO Box 20, Toronto, ON, M5J 2W4 (Attn: Bobby Kofman and Jason Knight, [bkofman@ksvadvisory.com](mailto:bkofman@ksvadvisory.com) and [jknight@ksvadvisory.com](mailto:jknight@ksvadvisory.com)) and its counsel, Fasken Martineau DuMoulin LLP, #2900 550 Burrard Street, Vancouver, BC, V6C 0A3 (Attn: Kibben Jackson and Mishaal Gill, [kjackson@fasken.com](mailto:kjackson@fasken.com) and [mgill@fasken.com](mailto:mgill@fasken.com)); and
  - (iii) such other parties as may be designated by the Courts from time to time.

27. Notice in accordance with this paragraph may be designated by either of the Courts from time to time. Notice in accordance with this paragraph shall be given by the party otherwise responsible for effecting notice in the jurisdiction where the underlying materials are filed or the proceedings are to occur. In addition to the foregoing, upon request, the Monitor shall provide the BC Court or the US Court, as the case may be, with copies of any orders, decisions, opinions or similar materials issued by the other Court in the Insolvency Proceedings.

28. When any cross-border issues or matters addressed by this Protocol are to be addressed before a Court, notices shall be provided in the manner and to the parties referred to in paragraph 26 above.

#### EFFECTIVENESS - MODIFICATION

29. This Protocol shall become effective only upon its approval by both the BC Court and the US Court.

30. This Protocol may not be supplemented, modified, terminated or replaced in any manner except by the BC Court and the US Court after notice and a hearing. Notice of any application or motion to supplement, modify, terminate or replace this Protocol shall be given in accordance with the notice provision contained in this Protocol.

#### PROCEDURE FOR RESOLVING DISPUTES UNDER THE PROTOCOL

31. Disputes relating to the terms, intent or application of this Protocol may be addressed by interested parties to either the BC Court, the US Court or both Courts upon notice as set

forth in paragraph 26 above. In rendering a determination in any such dispute, the Court to which the issue is addressed:

- (a) shall consult with the other Court; and
- (b) may, in its sole discretion, either:
  - (i) render a binding decision after such consultation;
  - (ii) defer to the determination of the other Court by transferring the matter, in whole or in part, to the other Court; or
  - (iii) seek a joint hearing of both Courts.

32. Notwithstanding the foregoing, each Court in making a determination shall have regard to the independence, comity and inherent jurisdiction of the other Court established under existing law.

33. In implementing the terms of the Protocol, the BC Court and the US Court may, in their sole, respective discretion, provide advice or guidance to each other with respect to legal issues in accordance with the following procedures:

- (a) the BC Court or the US Court, as applicable, may determine that such advice or guidance is appropriate in the circumstances;
- (b) the Court issuing such advice or guidance shall provide it to the non-issuing Court in writing;
- (c) copies of such written advice or guidance shall be served by the applicable Court in accordance with paragraph 26 hereof; and
- (d) the Courts may jointly decide to invite the Petitioners, the Monitor and any other affected stakeholder to make submissions to the appropriate Court in response to or in connection with any written advice or guidance received from the other Court.

34. For clarity, the provisions of paragraph 33 shall not be construed to restrict the ability of the BC Court or the US Court to confer, as provided herein, whenever they deem it appropriate to do so.

#### PRESERVATION OF RIGHTS

35. Except as specifically provided herein, neither the terms of this Protocol nor any actions taken under the terms of this Protocol shall (a) prejudice or affect the powers, rights, claims and defenses of the Petitioners and their estates, the Monitor or any of the Petitioners' creditors under applicable law, including the CCAA, the US Bankruptcy Code and the Orders of the Courts, or (b) preclude or prejudice the rights of any person to assert or pursue such person's substantive rights against any other person under the applicable laws of Canada or the U.S.

**SCHEDULE "C"**  
**SEALING ORDER**

• **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 ELEVATION GOLD MINING CORPORATION,  
ECLIPSE GOLD MINING CORPORATION and GOLDEN VERTEX (IDAHO) CORP.

PETITIONERS

**SEALING ORDER**

BEFORE THE HONOURABLE )  
MADAM JUSTICE FITZPATRICK ) JANUARY 31, 2025

ON THE APPLICATION of KSV Restructuring Inc., in its capacity as monitor (in such capacity, the “**Monitor**”) of the Petitioners, coming on for hearing at Vancouver, British Columbia on this day; AND ON HEARING Kibben Jackson and Mishaal Gill, counsel for the Monitor, and those other counsel listed on Schedule “A” hereto; AND UPON READING the material filed, including the Fifth Report of the Monitor dated January 27, 2025 and Affidavit #7 of Tim Swendseid made December 3, 2024; AND pursuant to the British Columbia Supreme Court Civil Rules, and the inherent jurisdiction of this Honourable Court;

**THIS COURT ORDERS AND DECLARES THAT:**

1. The following documents are to be sealed by the Registrar of this Honourable Court for the duration noted:

Description:	Date filed, if applicable	Number of copies filed, including any extra copies for the judge.	Duration of sealing order: <i>(until further order of the Court; until the first day of trial; or until a specific date)</i>	Sought	Granted	
					YES	NO

1a) Specific Documents Confidential Affidavit #7 of Tim Swendseid made December 3, 2024	December 17, 2024		Until Further Order of this Court.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1b) Entire File				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2) Clerk's Notes				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3) Order				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4) Reasons for Judgment				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

2. Access to the sealed items are permitted by:

- a.  Parties
- b.  Counsel for a party
- c.  Other: Further Order of the Court

3. Endorsement of this Sealing Order by parties other than counsel for the Applicant 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 Kibben Jackson, counsel for the Monitor

BY THE COURT

\_\_\_\_\_  
REGISTRAR

**Schedule A – Appearance List**

<b>Name of Counsel</b>	<b>Party Representing</b>
Alexis Teasdale	Elevation Gold Mining Corporation, Eclipse Gold Mining Corporation, Golden Vertex Corp. and Golden Vertex (Idaho) Corp
David Bish	Triple Flag Precious Metals Corp. Maverix Metals Inc.
Lance Williams Ashley Bowron	Patriot Gold Corp.
Vicki Tickle	Nomad Royalty Company Limited
Robin Schwill	EG Acquisition LLC



No. S-245121  
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 ELEVATION GOLD MINING  
CORPORATION,  
ECLIPSE GOLD MINING CORPORATION, AND  
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PETITIONERS

SEALING ORDER

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