

1 Fennemore Craig, P.C.
2 Anthony W. Austin (No. 025351)
3 Tyler D. Carlton (No. 035275)
4 Stacy Porche (No. 037193)
5 2394 E. Camelback Road, Suite 600
6 Phoenix, Arizona 85016
7 Telephone: (602) 916-5000
8 Email: aaustin@fennemorelaw.com
9 Email: tcarlton@fennemorelaw.com
10 Email: sporche@fennemorelaw.com
11 *Attorneys for Debtor Golden Vertex Corp.*

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA

10 In re: 11 ELEVATION GOLD MINING 12 CORPORATION, 13 Debtor in a Foreign Proceeding.	Chapter: 15 Jointly Administered Case No. 2:24-bk-06359-EPB
14 In re: 15 Golden Vertex Corp., 16 Debtor in a Foreign Proceeding.	Case No. 2:24-bk-06364-DPC
17 In re: 18 Golden Vertex (Idaho) Corp., 19 Debtor in a Foreign Proceeding.	Case No. 2:24-bk-06367-BKM
20 In re: 21 Eclipse Gold Mining Corporation, 22 Debtor in a Foreign Proceeding.	Case No. 2:24-bk-06368-MCW
23 In re: 24 Alcmene Mining Inc., 25 Debtor in a Foreign Proceeding.	Case No. 2:24-bk-06370-EPB
26 In re: 27 Hercules Gold USA LLC, 28 Debtor in a Foreign Proceeding.	Case No. 2:24-bk-06371-DPC

1 **STATEMENT OF FACTS IN SUPPORT OF THE GROUP’S MOTION FOR**
2 **SUMMARY JUDGMENT AGAINST NOMAD ROYALTY COMPANY LIMITED**

3 Elevation Gold Mining Corporation (“Elevation”) and its direct and indirect
4 subsidiaries, which include Eclipse Gold Mining Corporation (“Eclipse”), and Golden
5 Vertex Corp. (“GVC”) (collectively, the “Group”), through undersigned counsel, submits
6 the following Statement of Facts (“SOF”) in support of its Motion for Summary Judgment.

7 **A. Procedural Background**

8 1. The Group obtained protection from its creditors in proceedings (the
9 “Canadian Proceeding”) commenced under Canada’s Companies’ Creditors Arrangement
10 Act, R.S.C. 1985, c. C-36 (as amended, the “CCAA”), pending before the Supreme Court
11 of British Columbia (the “Canadian Court”) as Action No. S-245121.

12 2. This instant Chapter 15 case was commenced ancillary to the Canadian
13 Proceeding. [DE 49].

14 3. This Court entered an order setting forth that: (i) the Canadian Proceeding is
15 recognized as a “foreign main proceeding” under 11 U.S.C. § 1517 and (ii) giving full force
16 and effect in the United States to the Initial Order of the Canadian Court made by Justice
17 Fitzpatrick dated August 1, 2024 and the Amended and Restated Initial Order dated
18 August 12, 2024. [DE 49].

19 **B. The Moss Mine and the Letter Agreement**

20 4. GVC owns the Moss Mine in Mohave County, Arizona, which is comprised
21 of certain patented (fee owned) and unpatented mining claims and state land mineral
22 exploration permits. *See* Decl. of Tim Swendseid (“Swendseid Decl.”) ¶ 4, attached as
23 **Exhibit 1.**

24 5. Portions of the Moss Mine are burdened with certain payment obligations.
25 **Ex. 1 ¶ 5.**

26 6. One of these payment obligations is to Nomad Royalty Company Limited
27 (“Nomad”). **Ex. 1 ¶ 6.** Specifically, in March 2004, Patriot Gold Corp. entered into the
28

1 “Letter Agreement” with MinQuest, Inc. (“MinQuest”). A true and correct copy of the
2 Letter Agreement is attached to Swendseid’s Declaration as **Exhibit 1-A**.

3 7. The Letter Agreement provided that it would be binding until such time as
4 MinQuest and Patriot Gold entered into a “formal and comprehensive agreement.” **Ex. 1**
5 **¶ 7; Ex. 1-A**.

6 8. No additional agreement was documented. **Ex. 1 ¶ 8**.

7 9. The Letter Agreement itself relates to certain patented and unpatented lode
8 claims and specified areas of interest at the Moss Mine (“Property”). **Ex 1 ¶ 9; Ex. 1-A**.

9 10. GVC is the successor-in-interest to Patriot Gold’s rights and obligations
10 under the Letter Agreement pursuant to the Assignment and Assumption Agreement,
11 recorded as Fee #2016023502 in the Official Records of Mohave County. **Ex. 1 ¶ 10**.

12 **C. The Letter Agreement’s Provisions**

13 11. The “Production Royalties” section of the Letter Agreement provides for a
14 “production royalty” in the form of “[a] 3% Net Smelter Return on any and all production
15 derived from unpatented mining claims listed under ‘Property’ and on public land within
16 1 mile of Minquest, Inc.’s outside perimeter of the present claim boundary” and “a 1.0%
17 NSR on patented claims with no other royalty within the Property,” and “a 0.5% overriding
18 Net Smelter Return on all production within the Property derived from patented claims
19 with other royalty interests” (“Production Royalties”). **Ex. 1 ¶ 11; Ex. 1-A**.

20 12. The Letter Agreement contains no express language that it runs with the land
21 or that it is binding on successors and assigns. **Ex. 1 ¶ 12; Ex. 1-A**.

22 13. The Letter Agreement provides for a term of “20 years with automatic
23 extensions so long as Patriot Gold holds all or portions of the ‘Property’ (“Term”). **Ex. 1**
24 **¶ 13; Ex. 1-A**.

25 14. The Letter Agreement states that it is assignable “freely by either party so
26 long as Assignee accepts terms and conditions of the Lease in writing.” **Ex. 1 ¶ 14; Ex. 1-**
27 **A**.

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15. The Letter Agreement contains no obligation for GVC to pay the annual maintenance fees for the unpatented claims that comprise the Property. **Ex. 1 ¶ 15; Ex. 1-A.**

16. The Letter Agreement contains no obligation for GVC to report to anyone in any form or fashion or to notice anyone of any material events, including a sale, relating to the Property. **Ex. 1 ¶ 16; Ex. 1-A.**

17. The Letter Agreement contains no covenants of production, no indemnity provisions of any type or kind, and no security provisions. **Ex. 1 ¶ 17; Ex. 1-A.**

DATED this 12th day of November, 2024.

FENNEMORE CRAIG, P.C.

By: /s/ Anthony W. Austin
Anthony W. Austin
Tyler D. Carlton
Stacy Porche
Attorneys for Debtor
Golden Vertex Corp.

EXHIBIT 1

1 Fennemore Craig, P.C.
 2 Anthony W. Austin (No. 025351)
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 5 2394 E. Camelback Road, Suite 600
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Attorneys for Debtor Golden Vertex Corp.

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24 Debtor in a Foreign Proceeding.	
25 In re:	
26 Hercules Gold USA LLC,	Case No. 2:24-bk-06371-DPC
27 Debtor in a Foreign Proceeding.	

1 **DECLARATION OF TIM SWENDSEID IN SUPPORT OF DEBTOR’S MOTION**
2 **FOR SUMMARY JUDGEMENT AGAINST NOMAD ROYALTY COMPANY**
3 **LIMITED**

4 Pursuant to 28 U.S.C. § 1746, I, Tim Swendseid, declare as follows:

5 1. My name is Tim Swendseid. I am over the age of 18 years old, am of sound
6 mind, and am capable of making this declaration.

7 2. I am the Chief Executive Officer and Director of Petitioner Elevation Gold
8 Mining Corporation (“Elevation Gold”). I am also the sole director and an officer of
9 Petitioners Eclipse Gold Mining Corporation and Golden Vertex Corp. (“GVC”).

10 3. By virtue of my positions with these Petitioners, I have personal knowledge
11 of the facts and matters deposed to herein with respect to these entities and am competent
12 to testify to such matters and facts as necessary.

13 4. GVC owns the Moss Mine in Mohave County, Arizona, which is comprised
14 of certain patented (fee owned) and unpatented mining claims, and state land mineral
15 exploration permits.

16 5. Portions of the Moss Mine are burdened with certain payment obligations.

17 6. One of these payment obligations is to Nomad Royalty Company Limited
18 (“Nomad”). Specifically, in March 2004, Patriot Gold Corp. entered into the “Letter
19 Agreement” with MinQuest, Inc. (“MinQuest”). A true and correct copy of the Letter
20 Agreement is attached as **Exhibit 1-A**.

21 7. The Letter Agreement provided that it would be binding until such time as
22 MinQuest and Patriot Gold entered into a “formal and comprehensive agreement.” **Ex. 1-**
23 **A.**

24 8. No additional agreement was documented.

25 9. The Letter Agreement itself relates to certain patented and unpatented lode
26 claims and specified areas of interest at the Moss Mine (“Property”).

27 10. GVC is the successor-in-interest to Patriot Gold’s rights and obligations
28 under the Letter Agreement pursuant to the Assignment and Assumption Agreement,
 recorded as Fee #2016023502 in the Official Records of Mohave County.

1 11. The “Production Royalties” section of the Letter Agreement provides for a
 2 “production royalty” in the form of “[a] 3% Net Smelter Return on any and all production
 3 derived from unpatented mining claims listed under ‘Property’ and on public land within
 4 1 mile of Minquest, Inc.’s outside perimeter of the present claim boundary” and “a 1.0%
 5 NSR on patented claims with no other royalty within the Property,” and “a 0.5% overriding
 6 Net Smelter Return on all production within the Property derived from patented claims
 7 with other royalty interests” (“Production Royalties”). **Ex. 1-A.**

8 12. The Letter Agreement contains no express language that it runs with the land
 9 or that it is binding on successors and assigns. **Ex. 1-A.**

10 13. The Letter Agreement provides for a term of “20 years with automatic
 11 extensions so long as Patriot Gold holds all or portions of the ‘Property’” (“Term”). **Ex. 1-
 12 A.**

13 14. The Letter Agreement states that it is assignable “freely by either party so
 14 long as Assignee accepts terms and conditions of the Lease in writing.” **Ex. 1-A.**

15 15. The Letter Agreement contains no obligation for GVC to pay the annual
 16 maintenance fees for the unpatented claims that comprise the Property. **Ex. 1-A.**

17 16. The Letter Agreement contains no obligation for GVC to report to anyone in
 18 any form or fashion or to notice anyone of any material events, including a sale, relating to
 19 the Property. **Ex. 1-A.**

20 17. The Letter Agreement contains no covenants of production, no indemnity
 21 provisions of any type or kind, and no security provisions. **Ex. 1-A.**

22 DATED this 12th day of November, 2024

23 Signed by:
 24 *Tim Swendseid*
 25 By: _____
 26 274A721F012D494...
 27 Tim Swendseid
 28 Elevation Gold Mining Corporation
 Golden Vertex Corp.
 Eclipse Gold Mining Corporation

EXHIBIT 1-A

5

Recorded at the request of
and when recorded return to:
Hartmut W. Baitis
2705 Lorraine Drive
Missoula, Montana 59803

FEE# 2012001400

OFFICIAL RECORDS
OF MOHAVE COUNTY
CAROL MEIER,
COUNTY RECORDER



01/11/2012 12:20 PM Fee: \$10.00

PAGE: 1 of 5

The undersigned affirm that this instrument does
not contain the personal information of any person.

Memorandum of Agreement

This Memorandum of Agreement ("Memorandum") is made and entered into by and between by and among Northern Vertex Capital Inc., a British Columbia corporation ("NVC"), Golden Vertex Corp., and Arizona corporation ("GVC"), and Hartmut W. Baitis, Robert B. Hawkins and Larry L. Lackey ("BHL"). Notice is given that GVC, NVC and BHL have entered into a Finder's Fee Agreement (the "Agreement") in respect of the Exploration and Option to Enter Joint Venture Agreement effective February 28, 2011, between Patriot Gold Corp. and Idaho State Gold Company regarding certain rights in the patented and unpatented mining claims situated in Mohave County, Arizona, described in Exhibit A attached to and by this reference incorporated in this Memorandum.

The addresses of the parties for purposes of the Agreement and this Memorandum are:

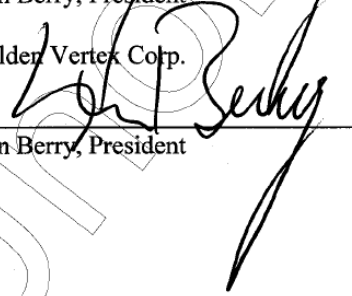
NVC: Northern Vertex Capital Inc.
Golden Vertex Corp.
Suite 920 - 1055 W. Hasting Street
Vancouver, British Columbia, Canada V6E 2E9

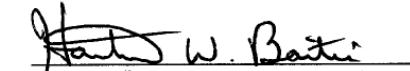
BHL: c/o Hartmut W. Baitis
2705 Lorraine Drive
Missoula, Montana 59803

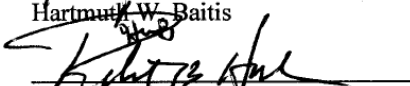
Northern Vertex Capital Inc.

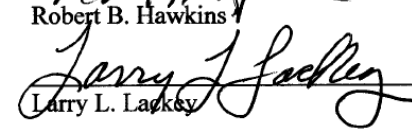
By 
Ken Berry, President

Golden Vertex Corp.


By 
Ken Berry, President


Hartmut W. Baitis


Robert B. Hawkins

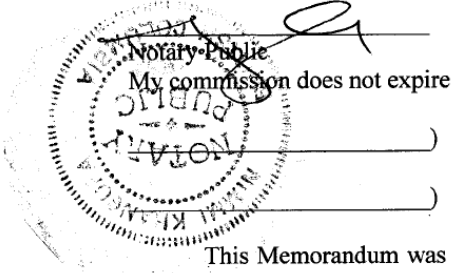

Larry L. Lackey

Unofficial Copy



ss.

This Memorandum was acknowledged before me on March 1th, 2011, by Ken Berry as President of Northern Vertex Capital Inc. and Golden Vertex Corp.


Notary Public
My commission does not expire _____

NIMMI KHANGURA
AXIUM LAW CORPORATION
Barrister and Solicitor
Suite 3350, Four Bentall Centre
1055 Dunsmuir Street, PO Box 49222
Vancouver, BC V7X 1L2
Phone: 604-685-6100 Fax: 604-692-4900

ss.

This Memorandum was acknowledged before me on March ____, 2011, by Hartmuth W. Baitis.

Notary Public

ss.

This Memorandum was acknowledged before me on March ____, 2011, by Robert B. Hawkins.

Notary Public

ss.

This Memorandum was acknowledged before me on March ____, 2011, by Larry L. Lackey.

Notary Public

_____)
_____)
ss.

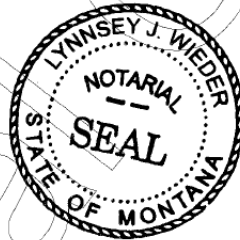
This Memorandum was acknowledged before me on March __, 2011, by Ken Berry as President of Northern Vertex Capital Inc. and Golden Vertex Corp.

_____)
Notary Public
My commission does not expire

Montana _____)
Missoula _____)
ss.

This Memorandum was acknowledged before me on March 18, 2011, by Hartmut W. Baitis.

Lynnsey Wierde
Notary Public



NOTARY PUBLIC for the State of Montana
Residing at Missoula
My Commission Expires May 6, 2013

Idaho _____)
Bannock County _____)
ss.

This Memorandum was acknowledged before me on March 14, 2011, by Robert B. Hawkins.

[Signature]
Notary Public

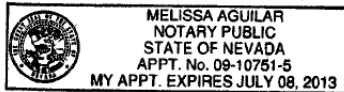


August 03, 2016

State of Nevada _____)
County of Douglas _____)

This Memorandum was acknowledged before me on March 11, 2011, by Larry L. Lackey.

[Signature]
Notary Public



**Memorandum Agreement
Exhibit A
Description of Moss Mine Property**

A. Patented Mining Claims, State Selections and Metric Conversion Parcels.
Sections 19, 20, 29 and 30, T20N, R20W, G&SR B&M, Mohave County, Arizona

Key No. 1	MS4484
Key 2	MS4484
California Moss Lot 37 (Greenwood)	MS182
California Moss Lot 38 (Gintoff)	MS796
Moss Millsite	MS4484
Divide	MS4484
Keystone Wedge	MS4484
Ruth Extension	MS4485
Omega	MS4484
Ruth	MS2213
Rattan Extension	MS4485
Rattan	MS857
Partnership	MS4485
Mascot	MS4485
Empire	MS4485

B. Unpatented Mining Claims.

Moss unpatented lode claims located in Sections 19, 20, 29 and 30, T20N, R20W, G&SR B&M

Mohave County, Arizona

<u>CLAIM NAME</u>	<u>CLAIMANT'S NAME</u>	<u>AMC NUMBER</u>
Moss 11-33	MinQuest Inc.	361998-362020
Moss 33F	MinQuest Inc.	362021
Moss 34-39	MinQuest Inc.	362022-362027
Moss 39F	MinQuest Inc.	362028
Moss 40-47	MinQuest Inc.	362029-362036
Moss 47B	MinQuest Inc.	362037
Moss 48-70	MinQuest Inc.	362038-362060
Moss 1-10	MinQuest Inc.	398978-398987
Moss 118-148	MinQuest Inc.	398988-399018

C. Underlying Agreements.

Letter Agreement between MinQuest, Inc. and Patriot Gold Corp. dated March 4, 2004.

Purchase Agreement among Patriot Gold Corp. and various parties in respect of the California Moss patented mining claim and the royalty deeds executed and delivered by Patriot Gold Corp. in accordance with the Purchase Agreement.

HR-

Tab B
Letter Agreement
March 4, 2004

B-1

March 4, 2004

Re: Binding Letter Agreement, Moss Mine Property, Mohave County, Arizona.

The following general terms and conditions for the agreement between MinQuest, Inc. and Patriot Gold Corp. embody the essence of verbal agreements between MinQuest, Inc. and Patriot Gold Corp. on the Moss Mine property, Mojave County, Arizona, (the "Property").

Form of Agreement	Mining Lease/purchase
Term	20 years with automatic extensions so long as Patriot Gold holds all or portions of the "Property".
Production Royalties	A 3% Net Smelter Return on any and all production derived from unpatented mining claims listed under "Property" and on public lands within 1 mile of MinQuest, Inc's outside perimeter of the present claim boundary. A 1.0% NSR on patented claims with no other royalty within the Property. A 0.5% overriding Net Smelter Return on all production within the Property derived from patented claims with other royalty interests.
One time payment	Upon Execution US\$50,000.00 Reimbursement Filing Fees US\$150.00/claim
Property	Patriot Gold will purchase 62 unpatented lode claims, specifically Moss 11-33, 33F, 34-39, 39F, 40-47, 47F and 48-70 held by MinQuest. These claims are located in Sections 19, 20, 29 and 30, T20N, R20W and Sections 24 and 25, T20N, R21W. Patented claims that the royalty applies to include, but are not limited to Key No. 1 and 2, Moss Millsite, Divide, Keystone Wedge, and the 2 California Moss claims.
Performance Requirements	Patriot shall engage MinQuest Inc. to perform any and all exploration work on the "Property". Federal and state mining claim maintenance fees will be paid for any year in which this agreement is maintained in good standing after July 1. Any and all property positions within the "Property" shall be offered to MinQuest Inc. before relinquishment to patent owners or relinquished back to the government.

March 5, 2004

Reclamation

Patriot Gold shall perform reclamation work on the Property as required by Federal, State, and Local laws for disturbances resulting from it's activities on the Property.

Assignment

Freely by either party so long as Assignee accepts terms and conditions of the Lease in writing.

Interest Area

One mile from the outside perimeter of the MinQuest, Inc. claim boundaries.

If the above terms and conditions are consistent with your understanding, please acknowledge by signing in the space provided below and return one copy. This will serve as a binding agreement between MinQuest, Inc. and Patriot Gold until such time as a formal and comprehensive agreement, incorporating these general terms, can be prepared.

Agreed and accepted to this 5 day of March, 2004.

By: [Signature] (MinQuest, Inc.)

By: [Signature] (Patriot Gold Corp.)