



NO. S-227894  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

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

AND

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

AND

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

PETITIONER

**NOTICE OF APPLICATION**

**NAME OF APPLICANT:** Great Panther Mining Limited.

**TO:** Service List, attached hereto as **Schedule "A"**

TAKE NOTICE that an application will be made by the Petitioner to the Honourable Mr. Justice Walker at the courthouse at 800 Smithe Street, Vancouver, British Columbia, **on October 14, 2022 at 9:00 a.m.**, for the order set out in Part 1 below.

**Part 1: ORDER SOUGHT**

1. The Petitioner, Great Panther Mining Limited ("**GPML**"), seeks the following orders:
  - (a) an order substantially in the form of the draft order attached hereto as **Schedule "B"** (the "**ARIO**") amending and restating the Initial Order pronounced by the Honourable Mr. Justice Walker on October 4, 2022 (the "**Initial Order**") and granting, among other things, the following relief:
    - (i) deeming service of the application for the ARIO to be good and sufficient;
    - (ii) granting a charge (the "**D&O Charge**") against GPML's current and future assets, undertakings and properties of every nature and kind whatsoever,

and wherever situated including all proceeds thereof (collectively, the “**Property**”), in favour of GPML’s directors and officers (collectively, the “**D&Os**”), up to the maximum amount of CAD\$150,000.00, as security for GPML’s obligations to indemnify the D&Os;

- (iii) increasing the quantum of the administration charge (the “**Administration Charge**”) granted pursuant to the Initial Order, from CAD\$100,000 to CAD\$150,000;
  - (iv) declaring that the D&O Charge and the Administration Charge (collectively, the “**Charges**”) rank in priority to all existing liens, security interests, encumbrances, or claims, with respect to, concerning, or as and against all of GPML’s Property other than perfected security interests as at the date of the Initial Order; and
  - (v) extending the Stay Period (as defined below) up to and including November 3, 2022;
- (b) an order substantially in the form attached hereto as **Schedule “C”** (the “**Sealing Order**”), sealing the Third Affidavit of Sandra Daycock affirmed on October 12, 2022 (the “**Confidential Affidavit**”) and all exhibits thereto on the Court file pending further order of the Court; and
- (c) such further and other relief as may be sought by GPML.

## **Part 2: FACTUAL BASIS**

### **A. Background**

1. The facts supporting this application are fully set out in the Second Affidavit of Sandra Daycock affirmed on October 12, 2022 (“**Second Daycock Affidavit**”). A subset of the facts pertinent to the relief sought by GPML pursuant to this Notice of Application are set out below. Capitalized terms used but not otherwise defined in this Petition have the same meaning as ascribed to them in the Second Daycock Affidavit or the Affidavit of Sandra Daycock affirmed on September 27, 2022 (the “**First Daycock Affidavit**”), as context may require.

2. On October 4, 2022, the Honourable Mr. Justice Walker pronounced the Initial Order in respect of GPML pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36,

as amended (the “**CCAA**”). Among other things, the Initial Order established a stay of proceedings against GPML for an initial period of ten (10) days (the “**Stay Period**”). Alvarez & Marsal Canada Inc. (“**A&M**”) was appointed as the monitor (when referred to in such capacity, the “**Monitor**”) of GPML.

Second Daycock Affidavit at para 2

3. As described in further detail below, GPML has made substantial progress in advancing the formulation and implementation of its proposed restructuring plan during the initial Stay Period, given the short period of time. Most significantly, GPML has selected a financial advisor to assist it in preparing a sales and investment solicitation process (the “**SISP**”) with respect to GPML and its subsidiaries (collectively, the “**Group**”). GPML has not yet finalized the terms of engagement of the Proposed Financial Advisor (as defined below) (which is in progress) or the terms of the SISP (which will be completed at the earliest opportunity upon finalization of the engagement terms). GPML’s management currently intends to seek the approval of this Honourable Court with respect to both such matters by way of a subsequent motion, which is anticipated to be brought in the near term. However, based upon the range of values indicated in preliminary assessments prepared by the proposed financial advisor, as set out in the Confidential Financial Advisor Exhibit (as defined in the Second Daycock Affidavit), there is a reasonable likelihood that significant value will be available to the creditors and shareholders of GPML, upon completion of the proposed SISP.

4. The critical relief sought by GPML on this application is consistent with the underlying purpose of the CCAA.

5. Unless otherwise noted, all references to monetary amounts in this Notice of Application are in Canadian dollars (“**CAD**”).

#### **B. Financial Advisor Engagement**

6. The Group’s operations include assets in multiple countries, including Canada, Brazil, Peru (pending the closing of the LOI, as defined and described in further detail in the First Daycock Affidavit), and, to a much lesser extent, Mexico. The Group’s most significant asset is the Tucano Gold Mine (the “**Tucano Mine**”), located in the state of Amapá in northern Brazil. Accordingly, GPML’s senior management believes that it will be necessary to engage a financial advisor to assist in the proposed SISP.

Second Daycock Affidavit at para 6

7. On or around September 13, 2022, GPML began the process of identifying a financial advisor to assist in marketing GPML's business and assets and negotiating and completing a transaction, to be carried out in connection with and pursuant to the terms of a court-approved SISP.

Second Daycock Affidavit at para 7

8. GPML's senior management believes that, in light of the complexities involved in pursuing and completing the sale of an international mining company, any potential financial advisor would require a specific skillset. Among other things, the financial advisor would require broad mining industry connections, extensive experience in capital markets transactions, industry-specific knowledge with respect to precious metals mining, experience in negotiating transactions with a cross-border component, experience in distressed transactions and restructuring proceedings, and a large and experienced team of representatives. GPML sought and received the Monitor's assistance in identifying potential financial advisor candidates which could satisfy these requirements.

Second Daycock Affidavit at para 8

9. With the Monitor's assistance, GPML identified and approached seven (7) candidates: four (4) Canadian banks, one (1) Canadian advisory firm and two (2) Brazilian banks. Two (2) of the Canadian banks, one (1) of the Brazilian banks declined the opportunity. GPML's senior management engaged with the remaining candidates and received various proposals and presentations from those candidates during the initial Stay Period, recently narrowing the choice to two (2) candidates.

Second Daycock Affidavit at para 9

10. GPML's management determined that the engagement of a Canadian financial advisor would provide numerous benefits, as set out in further detail in the Second Daycock Affidavit.

Second Daycock Affidavit at para 10

11. GPML's management ultimately determined that it would seek to engage an affiliate of a Canadian financial institution (the "**Proposed Financial Advisor**") to serve as the exclusive financial advisor to GPML. Both of the final candidates had suitable qualifications, including relevant recent experience, restructuring knowledge, broad and experienced teams, and deep knowledge bases. However, the Proposed Financial Advisor was able to offer the most competitive fee structure, including: (i) a significantly lower work fee in comparison with the

other final candidate, which is an important concern in light of GPML's limited cash flow; and (ii) a fee structure which is weighted more heavily to closing a successful transaction.

Second Daycock Affidavit at para 11

12. GPML and the Proposed Financial Advisor are currently in the process of negotiating the terms of the Proposed Financial Advisor's engagement, which will be subject to court approval. Due to timing considerations and the need to urgently seek an extension of the Stay Period prior to its expiry on October 14, 2022, the parties have not yet been able to finalize such terms. It is anticipated that GPML will seek approval of the executed engagement letter in a motion, to be filed at the earliest opportunity. As GPML and the Proposed Financial Advisor have not yet reached a definitive agreement regarding the terms of engagement, GPML's senior management has determined not to publicly name the Proposed Financial Advisor at this time. However, the identity of the Proposed Financial Advisor is set out in the Confidential Financial Advisor Exhibit (as defined in the Second Daycock Affidavit). While the final terms of engagement have not yet been determined, GPML is exploring potential options for having the Proposed Financial Advisor's costs and success fees partially funded by GPML's indirect Brazilian subsidiary Mina Tucano Ltda ("**Mina Tucano**") or directly by the investor in the case of the success fee, to further reduce strain on GPML's cash flow.

Second Daycock Affidavit at para 12

13. The Confidential Financial Advisor Exhibit (as defined in the Second Daycock Affidavit) incorporates a preliminary assessment of the potential realizable value of the Tucano Mine, including a range of potential transaction values based on various indicators. Based upon the indicative values set out therein, there is a reasonable likelihood that a sales process which includes the Tucano Mine will return material value to GPML's Canadian stakeholders. Further, in many of the potential scenarios described therein, such a transaction could not only result in the payment in full of GPML's outstanding indebtedness to its creditors, but also lead to some returns for shareholders of GPML. While the values set out in the Confidential Financial Advisor Exhibit are preliminary in nature and based upon certain assumptions, GPML's senior management considers this to be a significant positive indicator regarding the value of the Group.

Second Daycock Affidavit at paras 13-14

Confidential Affidavit at Exhibit "A"

14. The disclosure of the Confidential Financial Advisor Exhibit at this time would be likely to cause significant prejudice to GPML and to the Proposed Financial Advisor, including as it contains detailed information concerning GPML's financial and operational projections, the Proposed Financial Advisor's proposed fee structure and strategy, information regarding indicators of the potential value of the Tucano Mine which could potentially prejudice the results of the SISP if disclosed (including by establishing a "ceiling" for bids or otherwise influencing the quantum of bids), and other commercially-sensitive information.

Second Daycock Affidavit at para 13

**C. Status of Restructuring Proceedings**

15. In addition to the matters discussed above, GPML and Mina Tucano have continued to engage and negotiate with their material stakeholders. Among others, GPML has continued to engage with Asahi Refining Canada Ltd. ("**Asahi**") regarding the Post-Filing Asahi Agreement (as defined and discussed in the First Daycock Affidavit), GPML's proposed restructuring plan, and the prospects for the Group moving forward, as well as GPML's intention to conduct a SISP. GPML has also continued to work with Newrange Gold, the counterparty to the LOI (as defined and discussed in the First Daycock Affidavit) to reach a definitive agreement for the sale of GPML's Peruvian subsidiaries. Mina Tucano has continued negotiations with its creditors, contractual counterparties, and others, regarding the Judicial Reorganization (as defined and discussed in the First Daycock Affidavit). GPML has also continued to work with the Monitor regarding financial matters and cash flow projections, the engagement of a financial advisor, and the Group's ongoing operations.

Second Daycock Affidavit at para 18

16. As part of GPML's current restructuring efforts, GPML has implemented or announced a number of board and management changes. Such board member and management changes are intended as a cost-saving measure in light of GPML's insolvency and current limited operations, and are also intended to streamline operations and increase management efficiency.

Second Daycock Affidavit at paras 16-17

17. As set out in the First Daycock Affidavit, part of the Group's restructuring plan involves (i) processing existing ore stockpiles at the Tucano Mine in order to obtain additional working capital; and (ii) completing construction work at the Tucano Mine's east tailings dam. Currently,

Mina Tucano has engaged mining contractors to process the existing ore stockpiles, which is proceeding on schedule. Work is also ongoing with respect to the tailings dam construction. It is currently anticipated that the ore processing will be completed by the end of October and tailings dam construction will be completed by December 2022. These projects are being paid for using funds from Mina Tucano's cash flow.

Second Daycock Affidavit at paras 19

**D. Stay of Proceedings**

18. The stay of proceedings is necessary for GPML to pursue and implement a viable restructuring plan.

19. As at June 30, 2022, GPML's Tucano Mine operating segment had estimated total assets of \$184,139,000, with \$101,798,000 in total liabilities. While the ultimate restructuring of the Tucano Mine remains to be determined, it is clear that there is potentially material value for Canadian stakeholders, including shareholders. As at September 5, 2022: (a) estimated third-party creditors of Mina Tucano are approximately \$74,107,441.94 (excluding contingencies and intercompany debts, but including certain claims which are not subject to the Judicial Reorganization, such as tax claims); and (b) GPML is owed approximately \$25,254,380.80 from Mina Tucano in direct inter-corporate loans (in addition to its indirect equity interest, and excluding intercompany claims against Beadell Brazil 1 and Beadell Brazil 2 (each as defined in the First Daycock Affidavit)). GPML and its stakeholders are material beneficiaries of any value from Mina Tucano beyond the third-party debts.

First Daycock Affidavit at para 85

20. However, the continuation of the relationship between these Canadian proceedings and the related Brazilian proceeding is necessary to maximize the value of the Group's business for the benefit of all stakeholders.

21. The Group operates as a highly-integrated enterprise with substantive connections between its operating units, which are centrally managed through GPML. GPML is the ultimate parent company of all members of the Group and is responsible for head office, strategic management, sales, contractual negotiations, risk management, treasury, investment management, and cash management functions for the Group.

Second Daycock Affidavit at para 22



22. As set out in further detail in the Second Daycock Affidavit, GPML's key management team possesses unique experience, knowledge, business relationships and expertise with regards to finance, capital markets, and the mining industry, which will be critical to ensuring a successful SISP. Mina Tucano does not have a senior executive team which has experience in completing the tasks which are anticipated to be required in that respect.

Second Daycock Affidavit at paras. 23 - 24

23. The success of the SISP and the preservation and maximization of value realized by stakeholders thereunder, including creditors, employees, shareholders and the environment, would be significantly hindered if the current relationship between GPML and Mina Tucano is not maintained.

Second Daycock Affidavit at para 25

### **Part 3: LEGAL BASIS**

#### **Stay Period**

#### ***This Court has the jurisdiction to grant the Stay Period***

1. GPML seeks an extension of the Stay Period up to and including November 3, 2022.

2. Subsection 11.02(2) of the CCAA grants this Court the discretion to grant the Stay Period for a period that this Court considers necessary and on any terms that this Court may impose. However, subsection 11.02(3) of the CCAA further provides that this court cannot exercise its discretion to grant the Stay Period unless it is satisfied that:

- (a) the Stay Period is appropriate in the circumstances; and
- (b) the Petitioner has acted and continues to act in good faith and with due diligence.

CCAA, ss 11.02(2), (3)

*Worldspan Marine Inc, Re*, 2011 BCSC 1758 at para 12 [*Worldspan*]

#### ***The Stay Period is appropriate in the circumstances***

3. In assessing whether an extension of the Stay Period is appropriate in the circumstances, this Court ought to inquire whether the extension advances the remedial purpose of the CCAA.



*Century Services Inc v Canada (Attorney General)*,  
2010 SCC 60 at para 70 [*Century Services*]  
*Worldspan* at para 13

4. The Supreme Court of Canada has held that the purpose of the CCAA is “to facilitate the survival of going concerns” by “permit[ing] the debtor to continue to carry on business and, where possible, avoid the social and economic costs of liquidating its assets”.

*Century Services* at para 15  
*Canada v Canada North Group Inc*, 2021 SCC 30 at para 21

5. A stay of proceedings helps achieve this purpose by preserving the *status quo* for the debtor company, facilitating the ongoing operations of the debtor company’s business, preserving the value of the business, and providing the debtor company with the necessary time, flexibility, and “breathing room” to carry out a supervised restructuring or organised sale process.

*Re Lehndorff General Partners Ltd* (1993), 17 CBR (3d) 24,  
9 BLR 275 (Ont Gen Div) at paras 5 – 7  
*Re North American Tungsten Corp*, 2015 BCSC 1376 at para 25  
*1057863 B.C. Ltd. (Re)*, 2020 BCSC 1359 at para 118,  
citing *Timminco Limited (Re)*, 2012 ONSC 2515 at para 15 [*Timminco*]

6. The CCAA is a flexible instrument and debtor companies are entitled to seek protection in the context of a wide range of restructuring options.

*Century Services* at para 57, citing *Re Metcalfe & Mansfield Alternative Investments II Corp*, 2008 ONCA 587 at para 44

7. In this case, GPML requires additional time to continue the restructuring of its affairs, in the best interest of its creditors and other stakeholders, including to continue to:

- (a) complete the LOI (as defined and discussed in the First Daycock Affidavit);
- (b) negotiate with Asahi and other stakeholders;
- (c) engage with the Proposed Financial Advisor; and
- (d) develop a SISP and seek Court approval of the same.

8. These activities are necessary for GPML to complete its proposed restructuring. The stay extension sought is short, as GPML intends to formulate and seek approval of the SISP and related matters at the earliest opportunity. In light of the progress made to date, and the steps contemplated to be completed during the extended Stay Period, the extension of the Stay Period sought by GPML is appropriate in the circumstances.

***GPML has been acting in good faith and with due diligence***

9. GPML has been working in good faith and with due diligence to advance these CCAA proceedings.

Second Daycock Affidavit at para 29

10. As noted above, since the commencement of the Stay Period, GPML has continued to progress the formulation and implementation of its restructuring plan, including by:

- (a) identifying and engaging with financial advisor candidates and negotiating with the Proposed Financial Advisor regarding the proposed terms of its engagement;
- (b) preparing for the process of developing and implementing the SISP;
- (c) continuing operations in Canada and Brazil, including the construction work and ore processing efforts at the Tucano Mine;
- (d) advancing the LOI concerning the sale of its Peruvian subsidiaries; and
- (e) engaging with its counsel, the Monitor, and its material stakeholders regarding GPML's restructuring process and prospects.

11. GPML has also confirmed that it has sufficient liquidity to meet its obligations during the Stay Period. Accordingly, this Court ought to approve the requested extension of the Stay Period.

**The D&O Charge is Appropriate**

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

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

CCAA, s 11.51(1)

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

14. The D&O Charge is vital to encouraging the continued participation of GPML's directors and officers in these CCAA proceedings. GPML's directors and officers will provide the necessary experience and stability to the Group's business and guide GPML's restructuring efforts. It is critical that a level of continuity be maintained within GPML to ensure focus on achieving a restructuring plan that will benefit GPML's stakeholders. If a D&O Charge is not obtained, there is a very real possibility that the current Canadian D&Os (as defined in the Second Daycock Affidavit) will resign. Specifically, GPML has been advised that one such Canadian D&O may resign absent a D&O Charge. As set out in the First Daycock Affidavit, the Canadian D&Os are currently exposed to various potential liabilities and the Group's directors' and officers' insurance is held at the Group level, and thus may be utilized in the event that claims arise concerning events in Brazil or Peru.

Second Daycock Affidavit at para 32 - 33

First Daycock Affidavit at paras 104 - 109

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

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

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

**The Administrative Charge is Appropriate**

18. The Initial Order established an Administrative Charge in the amount of CAD\$100,000, in favour of the Monitor, the Monitor's counsel, and GPML's counsel, to secure their respective fees and disbursements incurred at their standard rates and charges. GPML seeks an increase the quantum of the Administration Charge to CAD\$150,000.

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

CCAA, s 11.52

20. The increase in the amount of the Administration Charge sought by GPML is appropriate in the circumstances given: (i) the length of the extension of the Stay Period which is being sought by GPML; and (ii) the anticipated liabilities to be incurred with respect to the fees and disbursements of the Monitor, the Monitor's counsel, and GPML's counsel, during such period.

21. GPML has consulted with and obtained guidance from the Monitor in proposing this amount. The Monitor is of the view that the increased quantum of the Administrative Charge is reasonable and appropriate in the circumstances.

**The Sealing Order is Appropriate**

22. GPML seeks the Sealing Order authorizing it to file the Confidential Affidavit under seal, with such affidavit to remain under seal pending further Order of the Court. The Sealing Order is necessary to ensure the integrity of GPML's restructuring efforts.

23. This Court has jurisdiction to order that certain materials be file under seal when:

- (a) court openness poses a serious risk to a "public interest", which is not restricted solely to the interests of the parties, but applies at the level of a general principle;
- (b) such an order is necessary in order to prevent serious risk to the identified interest, including a commercial interest, in the context of litigation because reasonable alternative measures will not prevent the risk; and
- (c) as a matter of proportionality, the salutary effects of the confidentiality order, including the effects on the right of civil litigants to a fair trial, outweigh the deleterious effects, including the effects on the right to free expression, which in

this context 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

*Sherman Estate v Donovan*, 2021 SCC 25, at paras 38, 41 - 43

24. The public disclosure of the information contained in the Confidential Financial Advisor Exhibit, as described above, could affect the bids received pursuant to the sales process to be completed under the SISP. Additionally, the Confidential Financial Advisor Exhibit includes detailed information regarding the Proposed Financial Advisor's proposed fee structure and strategy, GPML's financial and operational projections, and information regarding indicators of the potential value of the Tucano Mine. Asahi has executed a non-disclosure agreement in favour of GPML and has been provided with a copy of the Confidential Financial Advisor Exhibit. The sealing of the Confidential Affidavit is necessary in order to prevent serious risk to the GPML's and the Proposed Financial Advisor's commercial interests, and no other person (other than Asahi, which has already received a copy of the confidential information) has a reasonable expectation of accessing the confidential information.

Second Daycock Affidavit at paras 13, 15

25. Further, there is an important public interest in preserving: (i) the integrity of distressed sales processes generally; and (ii) confidentiality with respect to the assessed value of assets to be sold pursuant to sales process within an insolvency proceeding.

26. The request to seal the Confidential Affidavit until further Order of the Court is necessary as it is not currently possible to identify the period of time during which such information must be sealed, as such period will depend upon the details and results of the SISP; and the unfolding of events in Brazil.

27. As a matter of proportionality, in light of the period of time during which the Confidential Affidavit will be under seal, the salutary effects of the Sealing Order outweigh its deleterious effects. Accordingly, GPML submits that the Sealing Order is necessary and appropriate in the circumstances.

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

1. Affidavit #1 of Sandra Daycock, made September 28, 2022;

2. Affidavit #2 of Sandra Daycock, made 12, 2022;
3. Confidential Affidavit of Sandra Daycock, made 12, 2022;
4. First Report of the Proposal Trustee, dated October 3, 2022;
5. First Report of the Monitor, to be filed; and
6. such further and other materials as counsel may advise and this Honourable Court may permit.


The applicant estimates that the application will take 1 hour.

- ☐ This matter is within the jurisdiction of a Master.
- ☒ This matter is not within the jurisdiction of a Master. This matter is scheduled to be heard by the Honourable Mr. Justice Walker

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: October 12, 2022

  
Signature of Lawyer for the Petitioner  
McCarthy Tétrault LLP  
(H. Lance Williams)

To be completed by the Court only:

Order made

- ☐ in the terms requested in paragraphs \_\_\_\_\_ of Part 1 of this Notice of Application
- ☐ with the following variations and additional terms:

\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of ☐ Judge ☐ Master

## APPENDIX

### 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
- ☒ other



# SCHEDULE "A"

NO. S-227894

VANCOUVER REGISTRY

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PETITIONER

### SERVICE LIST

<p><b>McCarthy Tétrault LLP</b> Suite 2400 745 Thurlow Street Vancouver, BC V6E 0C5</p> <p>Attention: H. Lance Williams Forrest Finn Nathan Stewart</p> <p>Tel: (604) 643-7154</p> <p>Email: lwilliams@mccarthy.ca ffinn@mccarthy.ca nstewart@mccarthy.ca sdanielisz@mccarthy.ca</p> <p><b>Counsel for the Petitioner</b></p>	<p><b>Alvarez &amp; Marsal Canada Inc.</b> Suite 902 925 West Georgia Street Vancouver, BC V6C 3L2</p> <p>Attention: Anthony Tillman Pinky Law</p> <p>Email: atillman@alvarezandmarsal.com pinky.law@alvarezandmarsal.com</p> <p><b>Monitor</b></p>
<p><b>Fasken Martineau DuMoulin LLP</b> Suite 2900 – 550 Burrard Street Vancouver, BC V6C 0A3</p> <p>Attention: Kibben Jackson Rebecca Barclay Nguinambaye</p> <p>Tel: (604) 631-4786</p> <p>Email: kjackson@fasken.com rnguinambaye@fasken.com</p> <p><b>Counsel for the Monitor</b></p>	<p><b>Torys LLP</b> 79 Wellington Street West 30th Floor (deliveries) / 33rd Floor (reception) Box 270, TD South Tower Toronto, ON M5K 1N2</p> <p>Attention: David Bish</p> <p>Tel: (416) 865-7353</p> <p>Email: dbish@torys.com</p> <p><b>Counsel for Directors of Great Panther Mining Limited</b></p>

**Aird & Berlis LLP**

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Attention: Kyle Plunkett

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**MLT Aikins LLP**

Suite 2600  
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Attention: William E.J. Skelly

Tel: (604) 608-4597

Email: wskelly@mltaikins.com

***Counsel for Asahi Refining Canada Ltd.***

## SCHEDULE "B"

NO. S-227894  
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GREAT PANTHER MINING LIMITED

PETITIONER

### ORDER MADE AFTER APPLICATION (AMENDED AND RESTATED INITIAL ORDER)

BEFORE THE HONOURABLE

MR. JUSTICE WALKER

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)  
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FRIDAY, THE 14<sup>TH</sup> DAY OF

OCTOBER, 2022

THE APPLICATION of the Petitioner coming on for hearing at Vancouver, British Columbia, on the 14th day of October, 2022; AND ON HEARING H. Lance Williams and Forrest Finn, counsel for the Petitioner and those other counsel listed on **Schedule "A"** hereto; AND UPON READING the material filed, including the First Affidavit of Sandra Daycock sworn September 28, 2022 (the "**First Daycock Affidavit**"), the Second Affidavit of Sandra Daycock sworn October 12, 2022, and the consent of Alvarez & Marsal Canada Inc. ("**A&M**") to act as Monitor (in such capacity, the "**Monitor**"); AND pursuant to the *Companies' Creditors Arrangement Act*, RSC 1985 c C-36, as amended (the "**CCAA**"), the British Columbia Supreme Court Civil Rules and the inherent jurisdiction of this Honourable Court; and further to the Initial Order (the "**Initial Order**") pronounced by this Court on the 4<sup>th</sup> day of October, 2022 (the "**Order Date**");

THIS COURT ORDERS AND DECLARES THAT:

1. This Amended and Restated Initial Order amends and restates the Initial Order. All capitalized terms used in this order but not otherwise defined herein have the meaning ascribed to them in the Initial Order.

## **JURISDICTION**

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

## **CONTINUANCE UNDER THE CCAA**

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

## **SUBSEQUENT HEARING DATE**

4. The hearing of the Petitioner's application for an extension of the Stay Period (as defined in paragraph 16 of this Order) and for any ancillary relief shall be held at the Courthouse at 800 Smithe Street, Vancouver, British Columbia at \_\_\_\_\_. on \_\_\_\_\_ the 3rd day of November, 2022 or such other date as this Court may order.

## **PLAN OF ARRANGEMENT**

5. 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**

6. 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.

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

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

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

- (a) all expenses and capital expenditures reasonably incurred and which are necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors' and officers' insurance), maintenance and security services, provided that any capital expenditure exceeding \$10,000 shall be approved by the Monitor;
- (b) all obligations incurred by the Petitioner after the NOI Date, including without limitation, with respect to goods and services actually supplied to the Petitioner following the NOI Date (including those under purchase orders outstanding at the NOI Date but excluding any interest on the Petitioner's obligations incurred prior to the NOI Date); and
- (c) fees and disbursements of the kind referred to in paragraph 7(b) which may be incurred after the NOI Date.

9. The Petitioner is authorized to remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from Wages, including, without limitation, amounts in respect of: (i) employment insurance; (ii) Canada Pension Plan; (iii) Quebec Pension Plan; and (iv) income taxes or any such claims which are to be paid pursuant to Section 6(3) of the CCAA;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Petitioner in connection with the sale of goods and services by the Petitioner, but only where such Sales Taxes accrue or are collected after the NOI Date, or where such Sales Taxes accrued or were collected prior to the NOI Date but not required to be remitted until on or after the NOI 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.

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

11. 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 NOI 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 NOI Date; and



- (e) to not incur liabilities except in the ordinary course of Business.

## **RESTRUCTURING**

12. Subject to such requirements as are imposed by the CCAA, 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 \$10,000 in any one transaction or \$50,000 in the aggregate.
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and
- (c) pursue all avenues of refinancing for its Business or Property, in whole or part;
- (d) all of the foregoing to permit the Petitioner to proceed with an orderly restructuring of the Business (the "**Restructuring**").

13. 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.

14. 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.

15. 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, 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

16. Until and including November 3, 2022, 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.

17. 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.

18. Nothing in this Order, including paragraphs 16 and 17, 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

19. 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**

20. 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 NOI 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**

21. 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 NOI 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 NOI Date. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

## **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

22. 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**

23. 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.

24. The directors and officers of the Petitioner shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$150,000, as security for the indemnity provided in paragraph 23 of this Order. The Directors' Charge shall have the priority set out in paragraphs 35 and 37 herein.

25. Notwithstanding any language in any applicable insurance policy to the contrary: (i) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge; and (ii) the Petitioner's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 23 of this Order.

## **APPOINTMENT OF MONITOR**

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

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

- (a) monitor the Petitioner's receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) advise the Petitioner in its development of the Plan and any amendments to the Plan;
- (d) advise the Petitioner in its preparation of the Petitioner's cash flow statements;
- (e) 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;
- (f) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the 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;
- (g) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (h) perform such other duties as are required by this Order or by this Court from time to time.

28. 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.

29. 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 relation to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Fisheries Act*, the *British Columbia Environmental Management Act*, the *British Columbia Fish Protection Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. For greater certainty, the Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

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

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

#### **ADMINISTRATION CHARGE**

32. The Monitor, counsel to the Monitor, if any, and counsel to the Petitioner shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by



the Petitioner as part of the cost of these proceedings. The Petitioner is hereby authorized and directed to pay the accounts of the Monitor, counsel to the Monitor and counsel to the Petitioner on a periodic basis. In addition, the prior payment to the Monitor, the Monitor's counsel, and the Petitioner's counsel of retainers in the amounts of \$75,000, \$25,000, and \$150,000, respectively are hereby approved, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

33. 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.

34. 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 \$150,000, 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 paragraph 35 and 37 herein.

#### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

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

First - Administration Charge (to the maximum amount of \$150,000);

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

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

37. Each of the Charges shall constitute a mortgage, security interest, assignment by way of security and charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, mortgages, charges and encumbrances and claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**"), in favour of any Person, save and except those claims contemplated by section 11.8(8) of the CCAA and any security interests validly registered and perfected in the Personal Property Security Registry of British Columbia as of the Order Date.

38. 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.

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

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

40. Any charge created by this Order over leases of real property in Canada shall only be a charge in respect of the Petitioner's interest in such real property leases.

## SERVICE AND NOTICE

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

42. 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.

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

44. 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.

45. Notwithstanding paragraphs 42 and 44 of this Order, service of the Petition, the Notice of Hearing of Petition, any affidavits filed in support of the Petition and this Order shall be made on the Federal and British Columbia Crowns in accordance with the *Crown Liability and Proceedings Act*, RSC 1985, c C-50, and regulations thereto, in respect of the Federal Crown, and the *Crown Proceeding Act*, RSBC 1996, c 89, in respect of the British Columbia Crown.

## **ASAHI AGREEMENT**

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

## **GENERAL**

47. 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.

48. 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.

49. 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.

50. 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.

51. 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.

52. 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.

53. 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.

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

55. This Order and all of its provisions are effective as of 12:01 a.m. local Vancouver time on the October 14, 2022.

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

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

\_\_\_\_\_  
Signature of Lawyer for the Petitioner  
McCarthy Tétrault LLP  
(H. Lance Williams and Forrest Finn)

BY THE COURT

\_\_\_\_\_  
REGISTRAR

**SCHEDULE "A"**  
**(LIST OF COUNSEL)**

<b>Counsel Name</b>	<b>Party Represented</b>
David Bish (Torys LLP)	Directors of Great Panther Mining Limited
Kibben Jackson and Rebecca Barclay Nguinambaye (Fasken Martineau DuMoulin LLP)	Proposal Trustee and Proposed Monitor
William Skelly (MLT Aikins LLP)	Asahi Refining Canada Ltd.

## SCHEDULE "C"

NO. S-117894  
VANCOUVER REGISTRY

### IN THE SUPREME COURT OF BRITISH COLUMBIA

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

AND

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

AND

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

PETITIONER

### SEALING ORDER

BEFORE THE HONOURABLE	)	FRIDAY, THE 14 <sup>TH</sup> DAY
	)	
MR. JUSTICE WALKER	)	OF OCTOBER, 2022

ON THE APPLICATION of the Petitioner, Great Panther Mining Limited, coming on for hearing at Vancouver, British Columbia, on the 14<sup>th</sup> day of October, 2022; AND ON HEARING H. Lance Williams and Forrest Finn, counsel for the Petitioner, and those other counsel listed on **Schedule "A"** hereto; AND UPON READING the material filed herein, including the Second Affidavit of Sandra Daycock made October 12, 2022 and the Third Affidavit of Sandra Daycock made October 12, 2022;

THIS COURT ORDERS AND DECLARES THAT

1. Access to sealed items permitted by:
- ☐ Counsel of Record
  - ☐ Parties on Record
  - ☒ Further Court Order
  - ☐ Others

**Items to be Sealed**

Document Name	Date Filed (Date on Court Stamp)	Number of copies filed, including any extra copies for the judge	Duration of sealing order	Sought	Granted	
					Yes	No
<b>Entire File</b>				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Specific Documents</b>  Third Affidavit of Sandra Daycock made October 12, 2022, and all exhibits attached thereto.	To be filed	1	Until further Court Order	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Clerk's Notes</b>				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Order</b>				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

2. Endorsement of this Order by counsel appearing, 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 Lawyer for the Petitioner  
McCarthy Tétrault LLP  
(H. Lance Williams and Forrest Finn)

BY THE COURT

\_\_\_\_\_  
REGISTRAR



## Schedule "A"

### List of Counsel

Name of Counsel	Party Represented