

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

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

AND IN THE MATTER OF A PROPOSED PLAN
OF COMPROMISE OR ARRANGEMENT WITH RESPECT TO
LI-CYCLE HOLDINGS CORP., LI-CYCLE CORP., LI-CYCLE AMERICAS CORP.,
LI-CYCLE U.S. INC., LI-CYCLE INC. AND LI-CYCLE NORTH AMERICA HUB,
INC.

Applicants

**FACTUM OF THE APPLICANT
(Stay Extension and DIP and Stalking Horse Amendments)
(Returnable July 14, 2025)**

July 11, 2025

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PART I. INTRODUCTION

1. The Applicants are seeking an order (the “**Stay Extension and DIP and Stalking Horse Amendments Order**”)¹, which, among other things:

- (a) extends the Stay Period from July 14, 2025 until and including August 7, 2025;

¹ Capitalized terms used and not otherwise defined in this factum have the meanings given to them in the Affidavit of William E. Aziz sworn July 9, 2025 (“**Aziz Affidavit**”), Motion Record of the Applicants dated July 9, 2025 (“**Motion Record**”), Tab 2.

(b) authorizes the Applicants to enter into the Second Amendment to the DIP Term Sheet dated July 9, 2025 (the “**Second DIP Amendment**”) and makes certain related amendments to the ARIO; and

(c) authorizes the Applicants to enter into the Second Amendment to the Stalking Horse Agreement dated July 9, 2025 (the “**Second Stalking Horse Amendment**”) and makes certain related amendments to the SISP Order.

2. The Stalking Horse Bidder has requested additional time to complete the necessary steps to close the Transaction contemplated by the Stalking Horse Agreement. The Stalking Horse Bidder has asked to extend the Outside Date to close the Transaction to July 31, 2025, with an option to extend further to August 7, 2025. The Applicants, in consultation with the Monitor, agree that it is useful to provide additional time in order for these steps to occur so that the Transaction can be completed in an orderly manner.

3. The relief sought on this motion will extend the Stay Period during the extended timeframe to closing and provide additional to Li-Cycle to enable it to continue to meet its obligations during that timeframe.

PART II. THE FACTS

4. The Applicants commenced proceedings pursuant to the CCAA (the “**CCAA Proceedings**”) and obtained an initial order on May 14, 2025. The initial order was amended and restated on May 22, 2025 (the “**ARIO**”).²

5. Pursuant to the ARIO, the Court, among other things, granted a stay of proceedings until and including July 7, 2025 (the “**Stay Period**”). Pursuant to the Stay Extension Order granted on July 7, 2025, the Court extended the Stay Period until and including July 14, 2025.³

6. On May 22, 2025, the Court also granted an order (the “**SISP Order**”) approving a sale and investment solicitation process for the assets and business of the Applicants (the “**SISP**”).⁴

7. Following a broad and robust canvassing of the market with the assistance of Alvarez & Marsal Canada Securities ULC (the “**Financial Advisor**”) and Alvarez & Marsal Canada Inc., in its capacity as the monitor of the Applicants (the “**Monitor**”), on June 30, 2025, the stalking horse bid of Glencore Canada Corporation (the “**Stalking Horse Bidder**”) was selected as the Successful Bid (as defined in the SISP) and three other bids were selected as Back-Up Bids (as defined in the SISP).⁵

² Aziz Affidavit at para. 4, Motion Record, Tab 2; Exhibit “A” to the Aziz Affidavit, Motion Record, Tab 2A.

³ Aziz Affidavit at para. 6, Motion Record, Tab 2.

⁴ Aziz Affidavit at para. 7, Motion Record, Tab 2.

⁵ Aziz Affidavit at para. 8, Motion Record, Tab 2.

8. The SISP currently provides that the Closing Date will be July 16, 2025 and the Outside Date will be July 18, 2025. The SISP provides that these milestone dates may be extended by the Applicants in consultation with the Financial Advisor, with the consent and approval of the Monitor and the Stalking Horse Bidder.⁶

9. The Stalking Horse Bidder has requested additional time to complete the necessary steps to close the transactions (the “**Transaction**”) contemplated by the Stalking Horse Agreement (defined below).⁷

10. On this motion, the Applicants seek approval of amendments to the Stalking Horse Agreement to reflect an Outside Date of July 31, 2025 (the “**Extended Closing Date**”) with the Stalking Horse Bidder having the option to extend the Outside Date further to August 7, 2025 (the “**Extended Outside Date**”). The Applicants have been informed that the Monitor and the Stalking Horse Bidder are supportive of the Extended Closing Date and Extended Outside Date.⁸

11. The proposed extensions to the Closing Date and Outside Date require additional DIP financing and some corresponding changes to the Stalking Horse Agreement.

PART III. ISSUES AND THE LAW

12. The issues before the court are whether to: (i) extend the Stay Period until August 7, 2025; (ii) authorize the Applicants to enter into the Second DIP Amendment and make

⁶ Aziz Affidavit at para. 10, Motion Record, Tab 2.

⁷ Aziz Affidavit at para. 9, Motion Record, Tab 2.

⁸ Aziz Affidavit at para. 11, Motion Record, Tab 2.

corresponding changes to the ARIO; and (iii) authorize the Applicants to enter into the Second Stalking Horse Amendment and make corresponding changes to the SISP Order.

A. Second DIP Amendment

13. The ARIO authorized the Applicants to borrow under a credit facility (the “**DIP Facility**”) from Glencore International AG (the “**DIP Lender**”) pursuant to a DIP Term Sheet dated May 14, 2025, as amended pursuant to the First Amendment to the DIP Term Sheet dated May 22, 2025 (as amended, the “**DIP Term Sheet**”).⁹

14. In order to fund the Applicants’ operations as needed and to account for the Extended Closing Date and the Extended Outside Date, the Applicants and the DIP Lender have entered into the Second DIP Amendment which, among other things:¹⁰

- (a) provides the ability to use European Facility funds (in the amount of \$1.5 million) for either the North American or European operations, as needed;
- (b) increases the maximum principal amount of the DIP Facility to \$13,079,000 to cover costs and fees that may be incurred to the Extended Outside Date;
- (c) provides the flexibility to have any budgeted professional fees that are not used in a given week apply to future weeks in the budget;

⁹ Aziz Affidavit at para. 14, Motion Record, Tab 2.

¹⁰ Aziz Affidavit at para. 19, Motion Record, Tab 2; Exhibit “C” to the Aziz Affidavit, Motion Record, Tab 2C.

(d) waives an Event of Default in respect of compliance with certain variance tests; and

(e) provides that, in the event that certain amounts currently held by Holdings in a CIBC account that constitute restricted cash or cash collateral currently unavailable to Holdings because it supports a line of credit to the Town of Greece where the Rochester Hub is located, are released to Holdings for its use prior to closing of the Transaction, then the availability under the DIP Facility will be reduced by the amount that becomes available to Holdings.

15. In determining whether to approve DIP amendments, this Court has applied the factors set out in section 11.2(4) of the CCAA governing interim financing generally.¹¹

16. The factors the Court must consider include:

(a) the period during which the company is expected to be subject to proceedings under the CCAA;

(b) how the company's business and financial affairs are to be managed during the proceedings;

(c) whether the company's management has the confidence of its major creditors;

¹¹ *Just Energy Group Inc. et al.*, [2021 ONSC 7630](#) at [para. 35](#); *Laurentian University of Sudbury*, [2021 ONSC 3545](#) at [para. 39](#).

- (d) whether the loan would enhance the prospects of a viable compromise or arrangement being made in respect of the company;
- (e) the nature and value of the company's property;
- (f) whether any creditor would be materially prejudiced as a result of the security or charge; and
- (g) the Monitor's report.¹²

17. The factors set out in section 11.2(4) support the approval of the Second DIP Amendment. The Second DIP Amendment would provide the Applicants crucial additional financing that will facilitate the Applicants and the Stalking Horse Bidder continuing to advance the Transaction towards a successful closing for the benefit of Li-Cycle and its stakeholders.¹³ Approval of the Second DIP Amendment is supported by the Monitor. No creditor would be materially prejudiced.

18. The amendments in the Second DIP Amendment are reasonable and appropriate in the circumstances. The Applicants should be authorized to enter into the Second DIP Amendment.

¹² *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, s 11.2(4) [CCAA].

¹³ Aziz Affidavit at para. 20, Motion Record, Tab 2.

19. The minor related amendments to the ARIO involve increasing the Applicants' maximum borrowings under the DIP Facility from \$10.5 million to \$13,079,000 and referring to the DIP Term Sheet as amended by the Second DIP Amendment.¹⁴

B. Second Stalking Horse Amendment

20. The SISP Order provides that the Applicants may enter into minor amendments to the Equity and Asset Purchase Agreement dated May 14, 2025 between Li-Cycle Holdings Corp. et al., as Seller, and the Stalking Horse Bidder (the "**Stalking Horse Agreement**") with the consent of the Monitor.¹⁵

21. The Applicants have entered into the Second Stalking Horse Amendment which, among other things:¹⁶

(a) updates the date by which the AVO must be obtained (from July 7, 2025 to July 28, 2025), the date by which the AVO Recognition and Section 363 Order must be obtained in the U.S. Proceedings (from July 16, 2025 to July 29, 2025) and updates the Outside Date from July 18, 2025 to the Extended Outside Date (July 31, 2025, with the Stalking Horse Bidder having the right in its sole discretion to extend the Outside Date further to August 7, 2025);

(b) amends the definition of the "Purchase Price Cash Component" to provide that the amount that the Stalking Horse Bidder will be required to pay pursuant to

¹⁴ Draft Order, paras. 4-5, Motion Record, Tab 3.

¹⁵ Aziz Affidavit at para. 21, Motion Record, Tab 2; Exhibit "B" to the Aziz Affidavit, Motion Record, Tab 2B.

¹⁶ Aziz Affidavit at para. 22, Motion Record, Tab 2; Exhibit "D" to the Aziz Affidavit, Motion Record, Tab 2D.

the Second Stalking Horse Amendment to satisfy accrued but unpaid amounts for professional fees (other than the Monitor and its counsel) secured by the Administration Charge will be no greater than USD\$1,203,000 (the “**Cash Component Amendment**”); and

(c) provides that the parties will negotiate in good faith further amendments (i) to the Stalking Horse Agreement as may be necessary to address the treatment of incremental amounts being made available pursuant to the Second DIP Amendment; and (ii) to the form of AVO in respect of any necessary amendments thereto.¹⁷

22. The Second Stalking Horse Agreement addresses certain matters related to the increase in the maximum amount of the DIP Facility and the extended Closing Date and Outside Date. Approval of the Second Stalking Horse Amendment is supported by the Monitor. No creditor would be materially prejudiced.

23. The amendments in the Second Stalking Horse Amendment are reasonable and appropriate in the circumstances. The Applicants should be authorized to enter into the Second Stalking Horse Amendment. The Applicants are not seeking the approval of the Stalking Horse Agreement at this time. That approval will be sought on July 28, 2025.

¹⁷ Aziz Affidavit at para. 22, Motion Record, Tab 2.

24. The minor related amendments to the SISP Order involve referring to the Stalking Horse Agreement as amended by the Second Stalking Horse Amendment.¹⁸

C. Stay Extension

25. The Applicants are also seeking an extension of the Stay Period until and including August 7, 2025 (the “**Extended Stay Period**”).¹⁹

26. Section 11.02(2) of the *Companies’ Creditors Arrangement Act* (“**CCAA**”) gives the court the discretion to grant or extend a stay of proceedings, “for any period that the court considers necessary.”²⁰

27. Pursuant to section 11.02(3) of the CCAA, to exercise its discretion to extend the stay of proceedings, the court must be satisfied that:

- (a) circumstances exist that make the order appropriate; and
- (b) the applicant has acted, and is acting, in good faith and with due diligence during the CCAA proceedings.²¹

¹⁸ Draft Order, para. 7, Motion Record, Tab 3.

¹⁹ Aziz Affidavit at para. 29, Motion Record, Tab 2.

²⁰ *Companies’ Creditors Arrangement Act*, RSC 1985, c. C-36, s. 11.02(2).

²¹ *U.S. Steel Canada Inc., Re*, 2016 ONSC 3106 at para. 2; 9354-9186 *Québec Inc v Callidus Capital Corp*, 2020 SCC 10 at para. 49.

28. The court will also consider, among other factors, whether the debtor company has sufficient available cash resources during the proposed extension of the Stay Period, and whether the Monitor supports the requested stay extension.²²

29. The Applicants believe that the Stay Extension will facilitate a more orderly and efficient sale approval hearing and provide the Stalking Horse Bidder with the time that it requires to advance matters towards a successful closing of the Transaction. The SISP Order contemplated that the Applicants, in consultation with the Monitor and the Stalking Horse Bidder, could reschedule the approval motion on notice to the service list. The Applicants anticipate returning to Court on July 28, 2025 for the sale approval hearing.²³

30. The Applicants have acted in good faith and with due diligence over the course of the CCAA Proceedings, including by, among other things:

- (a) carrying out, with the assistance of the Financial Advisor and under the supervision of the Monitor, the SISP;
- (b) carrying out, with the assistance of the Monitor, the procedures for the identification and resolution of Priority Claims and the procedures for the identification and resolution of Cure Amounts under certain Assumed Contracts that were approved by this Court pursuant to an Order dated June 9, 2025 (the

²² *Canwest Global Communications Corp. (Re.)*, [2009 CanLII 63368](#) at para. 43 (SCJ).

²³ Aziz Affidavit at para. 28, Motion Record, Tab 2.

“Priority Claims and Cure Amounts Procedure Order” and each capitalized term in this subparagraph is as defined in that Order);

- (c) continuing to operate the business in accordance with the ARIO;
- (d) providing reporting and information to, and engaging in discussions with the DIP Lender;
- (e) engaging in discussions with the Stalking Horse Bidder to work towards closing the transaction arising from the SISP;
- (f) meeting with and providing business updates and information to the Monitor; and
- (g) communicating with their various stakeholders, including employees, suppliers, customers, regulators and creditors to provide information and answer questions about these CCAA Proceedings.²⁴

31. The Applicants are therefore seeking an extension of the Stay Period until and including August 7, 2025. If the Second DIP Amendment is approved, the Applicants are projected to have adequate liquidity to fund their remaining operations and activities during the Extended Stay Period.²⁵

²⁴ Aziz Affidavit at para. 27, Motion Record, Tab 2.

²⁵ Aziz Affidavit at para. 30, Motion Record, Tab 2.

32. The Monitor, the DIP Lender and the Stalking Horse Bidder support the requested stay extension.²⁶ No other creditor will be materially prejudiced by the proposed extension of the Stay Period.²⁷

PART IV. ORDER REQUESTED

33. For the reasons set out above, the Applicants request that the Court grant the Stay Extension and DIP and Stalking Horse Amendments Order.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 11th day of July, 2025.



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²⁶ Aziz Affidavit at para. 31, Motion Record, Tab 2.

²⁷ Aziz Affidavit at para. 32, Motion Record, Tab 2.

**SCHEDULE “A”
LIST OF AUTHORITIES**

Jurisprudence

1. *Just Energy Group Inc. et al.*, [2021 ONSC 7630](#)
2. *Laurentian University of Sudbury*, [2021 ONSC 3545](#)
3. *U.S. Steel Canada Inc., Re*, [2016 ONSC 3106](#)
4. *9354-9186 Québec Inc v Callidus Capital Corp*, [2020 SCC 10](#)
5. *Canwest Global Communications Corp. (Re.)*, [2009 CanLII 63368](#) (SCJ)

**SCHEDULE “B”
RELEVANT STATUTES**

Companies' Creditors Arrangement Act, RSC 1985, c C-36

General power of court

11 Despite anything in the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act*, if an application is made under this Act in respect of a debtor company, the court, on the application of any person interested in the matter, may, subject to the restrictions set out in this Act, on notice to any other person or without notice as it may see fit, make any order that it considers appropriate in the circumstances.

Stays, etc. — other than initial application

11.02 (2) A court may, on an application in respect of a debtor company other than an initial application, make an order, on any terms that it may impose,

- (a) staying, until otherwise ordered by the court, for any period that the court considers necessary, all proceedings taken or that might be taken in respect of the company under an Act referred to in paragraph (1)(a);
- (b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the company; and
- (c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the company.

Burden of proof on application

(3) The court shall not make the order unless

- (a) the applicant satisfies the court that circumstances exist that make the order appropriate; and
- (b) in the case of an order under subsection (2), the applicant also satisfies the court that the applicant has acted, and is acting, in good faith and with due diligence.

Interim financing

Factors to be considered

11.2 (4) In deciding whether to make an order, the court is to consider, among other things,

- (a) the period during which the company is expected to be subject to proceedings under this Act;

- (b) how the company's business and financial affairs are to be managed during the proceedings;
- (c) whether the company's management has the confidence of its major creditors;
- (d) whether the loan would enhance the prospects of a viable compromise or arrangement being made in respect of the company
- (e) the nature and value of the company's property;
- (f) whether any creditor would be materially prejudiced as a result of the security or charge; and
- (g) the monitor's report referred to in paragraph 23(1)(b), if any.

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Court File No. CV-25-00743053-00CL

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Proceeding Commenced at Toronto

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