



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-25-00743053-00CL

DATE: MAY 22, 2025

NO. ON LIST: 4

TITLE OF PROCEEDING: LI-CYCLE HOLDINGS CORPORATION

BEFORE: JUSTICE CONWAY

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

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ENDORSEMENT OF JUSTICE CONWAY:

- [1] **All defined terms used in this Endorsement shall, unless otherwise defined, have the meanings ascribed to them in the Factum of the Applicant dated May 21, 2025.**
- [2] On May 14, 2025, I granted the Initial Order providing protection to the Applicants under the CCAA. This is the comeback hearing. Today, the Applicants seek two orders:
- a. the Amended and Restated Initial Order (**ARIO**) approving, among other things: (i) an extension of the Stay of Proceedings to July 7, 2025; (ii) the DIP Facility and DIP Lender's Charge; (iii) the KERP and KERP Charge; (iv) the Transaction Fee Charge; and (v) payment of certain pre-filing amounts to critical suppliers; and
 - b. the **SISP Order** among other things: (i) approving the SISP for the Property and Business of the Applicants; (ii) authorizing and approving the Applicants' execution of the Stalking Horse Agreement for the purposes of acting as the

stalking horse bid in the SISP; and (iii) approving the payment of the Bid Protections and Bid Protections Charge to the Stalking Horse Bidder.

- [3] As a result of amendments made to the ARIIO to address the concerns of the U.S. Lienholders, the motion is now unopposed. The Monitor supports the relief sought. It has filed the First Report and the Supplementary First Report in support of the motion. In addition to the materials filed on the May 14 hearing, the Applicants have filed the affidavit of Saneea Tanvir sworn May 22, 2025.
- [4] I outlined the background and financial challenges faced by the Applicants in my previous endorsement. The Applicants' cash flow situation is even more dire at this point. They are forecasted to run out of cash next week. The DIP financing is critical. Glencore, a secured lender, is prepared to provide DIP financing and to act as the stalking horse bidder in the SISP process. The hope is that this will enable the Applicants, in a stabilized environment and with considerable flexibility, to properly canvass the market over the coming weeks.
- [5] The Applicants do not seek approval of the transaction set out in the Stalking Horse Agreement. They also are no longer seeking the approval of a liquidation agreement or the commencement of a realization process pursuant to the Amended Sale Process Order (as previously contemplated).

The ARIIO

- [6] The stay extension to July 7, 2025 is granted. I am satisfied that the Applicants are acting in good faith and with due diligence. The extension corresponds with the timelines in the SISP. With the DIP financing, the Applicants will have sufficient cash flow during the extension period.
- [7] The DIP Facility is in the maximum aggregate principal amount of \$10.5 million, potentially increasing by up to \$1.25 million if the Stalking Horse Bidder elects to exclude certain assets related to the Rochester Hub. It bears interest at rate of 11.3% per annum. A portion of the DIP will be used to provide liquidity to fund the operations of two European non-Applicants in the Li-Cycle group and enable them to remain solvent. The DIP facility is the product of intense negotiations. Its terms are more favourable than any others available to the Applicants.
- [8] The DIP Facility is secured by the DIP Lender's Charge. The terms were amended such that the charge is subordinate to the Encumbrances of US Lienholders, thereby addressing MasTec's concerns. The subordination is restricted to US Lienholders as the Monitor is not aware of any Canadian lienholders.
- [9] I approve the DIP Term Sheet and DIP Lender's Charge (as amended) pursuant to s. 11.2 and 11.2(2) of the CCAA.

- [10] The KERP and KERP Charge are acceptable. The KERP payments to employees are required to retain and incentivize the 25 employees during the restructuring process. The overall amount of the KERP Employee Funds is CAD \$869,973.92 and USD \$672,075.46 and of the Maplebriar Work Fee Funds is \$113,000, which are supported by the Monitor.
- [11] I grant a sealing order for Confidential Exhibit “H” to the Aziz Affidavit. This includes Schedule “A” to the KERP containing the names and compensation details of the individual KERP Employees. I am satisfied that the requested sealing order for the Confidential Exhibit meets the test in *Sierra Club/Sherman Estates* and that disclosure of this information would pose a risk to the public interest in protecting personal and sensitive employee information during a restructuring. **I direct counsel for the Monitor to file a hard copy of the Confidential Exhibit with the Commercial List office in a sealed envelope with a copy of the order and this Endorsement.**
- [12] The ARIO contains an increase in the Administration Charge from \$2 million to \$2.5 million. It further contains a Transaction Fee Charge of \$1 million to secure the Restructuring Fees potentially payable to the CRO and Maplebriar. Both are approved pursuant to s. 11.52 of the CCAA.
- [13] Payment of the pre-filing amounts to critical suppliers with the prior approval of the Monitor and in accordance with the DIP budget is approved.
- [14] ARIO to go as signed by me and attached to this endorsement. This order is effective from today's date and is enforceable without the need for entry and filing.

The SISP Order

- [15] The SISP Order includes a Stalking Horse Agreement with Glencore to acquire the assets and shares described therein. The terms of that agreement include a credit bid of \$41 million (increased from \$40 million since the assets of the Ontario spoke have now been included), the assumption of certain liabilities, a cash component, and a carve-out condition amount. The Bid Protections and corresponding charge are in line with other stalking horse agreements approved by this court. Considering the factors set out in *Validus Power Corp. et al. and Macquarie Equipment Finance Limited*, 2023 ONSC 6367 at para. 37, I approve the terms of the Stalking Horse Agreement.
- [16] The terms of the SISP (with the amendments described in the Supplementary First Report) are approved. I accept the submission that they strike a reasonable balance between the need to move quickly given the Applicants’ limited liquidity and the need to seek the highest price. The SISP Milestones take into account the extensive marketing efforts conducted in the Moelis Process and the marketing efforts already underway by the Financial Advisor since May 12, 2025, the relatively discrete group of potential

counterparties who have already been made aware of the opportunity, and the liquidity constraints facing the Applicants.

- [17] SISP Order to go as signed by me and attached to this endorsement. This order is effective from today's date and is enforceable without the need for entry and filing.

Next Hearing

- [18] This matter will return to me on **July 7, 2025 at noon for 90 minutes by Zoom (confirmed with the Commercial List office).**

A handwritten signature in blue ink, appearing to read "Conway J.", is written over a light gray rectangular background.