

**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 DE CLOET GREENHOUSE MFG. LTD.

APPLICATION OF DE CLOET GREENHOUSE MFG. LTD. UNDER
SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT
ACT*, R.S.C. 1985, c. C-36, AS AMENDED

**FACTUM OF THE APPLICANT
(Third Recognition Order)**

October 13, 2026

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PART I – NATURE OF THE MOTION¹

1. This factum is filed in support of a motion under section 49 of the CCAA by De Cloet Greenhouse Mfg. Ltd. (the “**Canadian Debtor**”), in its capacity as the foreign representative (in such capacity, the “**Foreign Representative**”) of itself and the other Debtors², for an Order (the “**Third Recognition Order**”), among other things, recognizing and giving full force and effect in Canada to the Foreign Orders (as defined below) to the extent entered by the U.S. Bankruptcy Court, and granting certain related relief, as discussed further herein.

2. The Foreign Representative submits that recognition of the Foreign Orders is necessary and appropriate to protect the Canadian Debtor and preserve the value of the Canadian Business (as defined below) for the benefit of stakeholders generally. The Foreign Representative respectfully requests that this Court issue the Third Recognition Order.

PART II – FACTS

3. The facts relating to this motion are more fully set out in the Second Zalev Affidavit and the Fourth Zalev Affidavit.

A. Background

4. The Debtors, including the Canadian Debtor, are a collection of complementary businesses, operating as a commercial enterprise to offer a shared customer base a broad suite of green industry-focused products and services. The Debtors operate one of North America’s leading wholesale distribution platforms in the professional green industry, along with several

¹ Capitalized terms used but not otherwise defined herein have the meaning given to them in the Affidavit of Adam Zalev sworn August 21, 2026 (the “**Second Zalev Affidavit**”) or the Affidavit of Adam Zalev sworn October 8, 2026 (the “**Fourth Zalev Affidavit**”), as applicable.

² The “**Debtors**” include BFG Supply Co., LLC; Bamboo Purchaser, Inc.; BFG Purchaser Parent, Inc.; BFG Supply Holdings, Inc.; BFG Holdings I, Inc.; BFG Supply Canada Holdings, Inc.; BFG Kalamazoo, LLC; BFG Logistics, LLC; L&L Nursery Supply, Inc.; Gard’N-Wise Distributors, Inc.; International Greenhouse Contractors, LLC; Greenhouse Solutions, LLC; Greenhouse Contracting Services, LLC; Green-Tek, LLC; GROSouth, Inc.; BFG VG Supply Acquisition, LLC; and the Canadian Debtor.

complementary specialized businesses.³ The Canadian Debtor operates out of a Canadian-based facility as a made-to-order designer and manufacturer of commercial greenhouse structures and systems (the “**Canadian Business**”) and accounts for approximately 2.5% of the Debtors’ annual revenue.

5. On August 18, 2026, the Debtors filed voluntary petitions for relief with the U.S. Bankruptcy Court pursuant to chapter 11 of the Bankruptcy Code.⁴ On August 20, 2026, the U.S. Bankruptcy Court granted various relief on an interim basis, authorizing the Debtors to continue to operate their business in accordance with the Bankruptcy Code (the “**First Day Orders**”).⁵

6. On August 28, 2026, this Court granted an Initial Recognition Order, among other things, recognizing the Canadian Debtor as the Foreign Representative of itself and the other Debtors, recognizing the United States of America as the centre of main interests for the Canadian Debtor, and recognizing the Canadian Debtor’s Chapter 11 Case as a foreign main proceeding. On the same day, this Court granted the Supplemental Order, among other things, recognizing certain of the First Day Orders, granting a stay of proceedings in respect of the Canadian Debtor and its directors and officers in Canada, granting an administration charge, a charge in favour of the directors and officers of the Canadian Debtor and a charge in favour of the lenders under the DIP Facility, and appointing AlixPartners Restructuring, Inc. as Information Officer in the Canadian Recognition Proceeding.⁶

7. On September 18, 2026, this Court granted the Second Recognition Order, among other things, recognizing and enforcing various orders entered by the U.S. Bankruptcy Court, including,

³ Fourth Zalev Affidavit at para. [19](#).

⁴ Fourth Zalev Affidavit at para. [12](#).

⁵ Fourth Zalev Affidavit at para. [14](#).

⁶ Fourth Zalev Affidavit at para. [15](#).

among other orders: (i) final versions of certain of the First Day Orders; (ii) the Second Interim Cash Management Order; and (iii) the Bidding Procedures Order.⁷

8. To further the ongoing restructuring of the Debtors, the Foreign Representative now seeks the Third Recognition Order recognizing certain orders that were entered by the U.S. Bankruptcy Court on September 28, 2026 and October 12, 2026, and to the extent granted, an order in respect of a motion scheduled to be heard before the U.S. Bankruptcy Court on October 14, 2026 and giving those orders (if granted) full force and effect in Canada (collectively, the “**Foreign Orders**”). The Foreign Orders consist of: (i) the Second Interim DIP Order; (ii) the Final DIP Order; and (iii) the Third Interim Cash Management Order.⁸

9. This Court has jurisdiction to grant the Third Recognition Order under Part IV of the CCAA, and the requested relief is consistent with the principles of comity and cooperation that underlie Part IV. Recognition of the Foreign Orders is necessary to protect and preserve the value of the Canadian Debtor’s business as a going concern for the benefit of a broad range of stakeholders.⁹

B. Status of the Restructuring

10. Although the Debtors obtained authorization to begin winding down their business, the Canadian Debtor has continued to operate the Canadian business since the Petition Date to preserve the going concern value thereof while the Debtors explore the possibility of a going concern sale.¹⁰

11. In accordance with the Bidding Procedures, the Debtors, with the assistance of their investment banker, SSG Advisors, LLC, marketed the Debtors’ business and solicited interest in

⁷ Fourth Zalev Affidavit at paras. [16](#) & [17](#).

⁸ Fourth Zalev Affidavit at para. [3](#); Second Report of the Information Officer dated October 13, 2026 at 1.0.12 and 1.0.13 [*Second Report*].

⁹ Fourth Zalev Affidavit at para. [8](#).

¹⁰ Fourth Zalev Affidavit at para. [22](#).

one or more going concern transactions for all or part of the Debtors' business, including the Canadian Business.¹¹ Through these efforts, the Debtors identified Stalking Horse Bidders for three segments of the United States-based Debtors' business. While the Debtors received offers in respect of the Canadian Business, they were unable to come to terms with any of the interested parties with respect to a stalking horse bid.¹²

12. The Debtors will seek approval of the Stalking Horse Bid transactions from the U.S. Bankruptcy Court at the October US Hearing. None of the transactions for which approval will be sought at the October 14, 2026 hearing involve the Canadian Debtor.¹³

13. While the Debtors did not receive any Qualified Bids for the Canadian Debtor's business or assets as of the Bid Deadline, multiple parties expressed interest in pursuing a potential transaction. The Debtors and their advisors are continuing to work with those interested parties in respect of a potential transaction and may seek approval of a transaction at a later date.¹⁴

14. The Debtors have also filed a motion for an order (the "**Bar Date Order**"), among other things: (i) establishing procedures for parties asserting claims against any of the Debtors to submit a Proof of Claim; (ii) setting Bar Dates for creditors to submit a Proof of Claim; and (iii) approving the form of the Bar Date Notice, including the publication version, and the manner of service thereof. The hearing for the Bar Date Order is currently scheduled before the U.S. Bankruptcy Court for October 27, 2026 at 10:00 a.m.¹⁵ No relief in respect of the Bar Date Order is sought on this motion.

¹¹ Fourth Zalev Affidavit at para. [23](#).

¹² Fourth Zalev Affidavit at para. [24](#).

¹³ Fourth Zalev Affidavit at para. [25](#).

¹⁴ Fourth Zalev Affidavit at para. [26](#).

¹⁵ Fourth Zalev Affidavit at para. [27](#).

C. Foreign Orders

The Second Interim DIP Order and the Final DIP Order

15. By way of the Interim DIP Order, the Debtors were authorized to obtain postpetition financing in accordance with the terms of the DIP Credit Agreement, and access cash collateral of the Prepetition ABL Secured Parties.¹⁶ Under the Interim DIP Order, the DIP Facility provided a total interim availability of \$22 million, approximately \$8 million of which is new money financing.¹⁷ The Interim DIP Order was recognized by this Court pursuant to the Supplemental Order.¹⁸

16. The U.S. Bankruptcy Court entered the Second Interim DIP Order, on consent, on September 28, 2026 following the adjournment of the Debtors' motion for the Final DIP Order, originally scheduled to be heard on September 29, 2026.¹⁹ The Second Interim DIP Order, among other things: (i) provides for the continuation, on an interim basis, of the relief provided for in the Interim DIP Order; (ii) increases the availability under the DIP Facility to \$55 million; and (iii) reflects minor comments received from various interested parties.²⁰

17. The Debtors are seeking the Final DIP Order on a motion before the U.S. Bankruptcy Court scheduled for October 14, 2026.²¹ The form of Final DIP Order was filed with the U.S. Bankruptcy Court and attached as Appendix "B" to the Information Officer's Second Report.²² If entered, the Final DIP Order will amend the relief previously granted in the Second Interim DIP Order to, among other things: (i) approve the rollup of the remaining amounts outstanding under the prepetition Revolving Credit Facility; (ii) reflect the relief being granted on a final basis rather

¹⁶ Fourth Zalev Affidavit at para. [28](#).

¹⁷ Fourth Zalev Affidavit at paras. [28-29](#).

¹⁸ Fourth Zalev Affidavit at paras. [14-15](#).

¹⁹ Fourth Zalev Affidavit at paras. [4-6](#).

²⁰ Fourth Zalev Affidavit at para. [32](#).

²¹ Fourth Zalev Affidavit at para. [7](#).

²² Second Report at [1.0.11](#) & [Appendix "B"](#).

than interim; and (iii) waive certain rights related to marshalling and surcharging of collateral that would otherwise be available under the Bankruptcy Code.²³

18. The Official Committee of Unsecured Creditors (the “**UCC**”) appointed in the Chapter 11 Cases has filed an objection to the Final DIP Order (the “**UCC Objection**”). The UCC Objection raises the concern, among others, that the protections afforded to the secured lenders are inappropriate and that the fees associated with the DIP Facility are out-of-market.

19. The Debtors filed a reply to the UCC Objection on October 9, 2026 (the “**Debtors’ Reply**”). The Debtors’ Reply, among other things, takes the position that the objections raised in the UCC Objection are either misplaced or otherwise arise from a misreading of the Final DIP Order.

Third Interim Cash Management Order

20. The Final Cash Management Order was intended to be included in the September 14 Foreign Orders. However, the motion for the Final Cash Management Order was adjourned to September 29, 2026, and subsequently to October 14, 2026, to provide additional time for the Debtors to engage with their stakeholders, including the U.S. Trustee, on the terms of the Final Cash Management Order. Those discussions are ongoing and the Debtors’ motion to approve the Final Cash Management Order has been further adjourned.

21. In the interim, a further interim version of the Second Interim Cash Management Order (the “**Third Interim Cash Management Order**”) was entered by the U.S. Bankruptcy Court on October 12, 2026 without a hearing.²⁴ The Third Interim Cash Management Order contains no substantive changes to the Second Interim Cash Management Order and authorizes the Debtors’ continued use of their existing cash management system, bank accounts and business forms,

²³ Fourth Zalev Affidavit at para. [33](#).

²⁴ Second Report at [1.0.12](#).

pending a further hearing at a later date.²⁵ The Foreign Representative is seeking recognition of the Third Interim Cash Management Order and will return at a later date to seek recognition from this Court of the Final Cash Management Order, if ultimately granted.

PART III – THE ISSUES

22. The issue to be determined on this motion is whether this Court should grant the Third Recognition Order, recognizing and giving full force and effect in Canada to the Foreign Orders pursuant to section 49 of the CCAA.

PART IV – THE LAW

A. This Court Has Jurisdiction to Recognize the Foreign Orders

23. Part IV of the CCAA is intended to provide mechanisms for dealing with cross-border insolvencies and to promote, among other things: (i) cooperation between Canadian courts and courts in foreign jurisdictions; (ii) the fair and efficient administration of cross-border insolvencies in a manner that protects the interests of creditors, interested persons and debtor companies; and (iii) the protection and maximization of the value of a debtor company's property.²⁶

24. Pursuant to the Initial Recognition Order, this Court recognized the Canadian Debtor's Chapter 11 Case as a "foreign main proceeding" under sections 47 and 48 of the CCAA. This Court also granted the Supplemental Order, which, among other things, recognized certain First Day Orders entered by the U.S. Bankruptcy Court in the Chapter 11 Cases and granted related relief in Canada.

25. Where a foreign proceeding has been recognized under Part IV of the CCAA, section 49(1) provides this Court with broad jurisdiction to grant "any order that it considers appropriate" on the application of the foreign representative, provided that the Court is satisfied that the order

²⁵ Second Report at [4.2](#).

²⁶ *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, s. [44](#) [CCAA]; *Zochem Inc. (Re)*, [2016 ONSC 958](#) at para. [15](#).

is necessary for the protection of the debtor company's property or the interests of a creditor or creditors.²⁷

26. Section 52(1) of the CCAA further provides that, where an order recognizing a foreign proceeding has been made, this Court shall cooperate, "to the maximum extent possible, with the foreign representative and the foreign court involved in the foreign proceeding". An order under Part IV may be made on any terms and conditions that the Court considers appropriate in the circumstances.²⁸

27. Comity is the central principle governing Part IV of the CCAA and requires that Canadian courts recognize and enforce orders granted by a foreign jurisdiction, provided that the foreign court has "assumed jurisdiction on a basis consistent with order, predictability and fairness."²⁹ Canadian courts have consistently encouraged comity and cooperation among courts in different jurisdictions in cross-border insolvency proceedings, and in particular courts in Canada and the United States have made efforts to complement, coordinate and accommodate each other's proceedings. Such cooperation avoids multiplicity of proceedings, inconsistent decisions and uncertainty regarding the effect of restructuring proceedings on creditors and other stakeholders in different jurisdictions.³⁰

28. This Court has already recognized the Canadian Debtor's Chapter 11 Case as a foreign main proceeding, determined that recognition of the First Day Orders and the related relief granted under the Supplemental Order was appropriate and recognized certain of the First Day Orders on a final basis.³¹ The same jurisdictional basis applies to the Foreign Orders now before

²⁷ CCAA, s. [49\(1\)](#).

²⁸ CCAA, ss. [50](#) & [52\(1\)](#).

²⁹ *Hollander Sleep Products, LLC (Re)*, [2019 ONSC 3238](#) at para. [41](#). [*Hollander Sleep Products*].

³⁰ *Hollander Sleep Products* at paras. [41-42](#); *Babcock & Wilcox Canada Ltd. (Re)*, [2000 CanLII 22482](#) (ONSC) at paras. [9-10](#) [*Babcock & Wilcox Canada*].

³¹ *In the matter of De Cloet Greenhouse Mfg. Ltd.* (August 28, 2026), ONSC (Commercial List), Court File No. CL-26-00000372-0000 ([Initial Recognition Order](#)); *In the matter of De Cloet Greenhouse Mfg. Ltd.* (August 28, 2026), ONSC (Commercial List), Court File No. CL-26-00000372-0000 ([Supplemental Order](#)).

this Court. Accordingly, this Court has jurisdiction under sections 49, 50 and 52 of the CCAA to grant the Third Recognition Order and recognize and give full force and effect in Canada to the Foreign Orders.

B. The Foreign Orders Should be Recognized and Enforced in Canada

29. When deciding whether to recognize a foreign order, Canadian courts have considered, among other factors: (i) the promotion of comity and cooperation between the courts; (ii) respect for the “overall thrust of foreign bankruptcy and insolvency legislation in any analysis,” unless it diverges radically from the process in Canada; (iii) the equitable and, to the extent reasonably possible, equal treatment of common or like stakeholders regardless of their location; (iv) permitting the enterprise to reorganize as a global entity, including allowing one jurisdiction to take charge of the principal administration of the enterprise’s reorganization; and (v) the notice given to stakeholders.³² As set out below, considering these factors and the principles of Part IV outlined above, the Third Recognition Order should be granted.

30. These factors strongly support the recognition of the Foreign Orders. Each of the Foreign Orders treats the Debtors’ stakeholders in Canada and the United States equally. Recognition of the Foreign Orders will further the principles of comity and cooperation, facilitate the coordinated administration of the Chapter 11 Cases and this Canadian Recognition Proceeding, and protect and preserve the value of the Canadian Debtor’s business.³³ This Court has previously recognized that the Canadian and United States operations of the Debtors are highly integrated, that coordination of the two proceedings will ensure fair treatment of both United States and Canadian stakeholders, and that the U.S. Bankruptcy Court appropriately took jurisdiction over

[*De Cloet Supplemental Order*]; *In the matter of De Cloet Greenhouse Mfg. Ltd.* (September 18, 2026), ONSC (Commercial List), Court File No. CL-26-00000372-0000 (Second Recognition Order).

³² *Babcock & Wilcox Canada* at para. 21. See also *Xerium Technologies Inc. (Re)*, [2010 ONSC 3974](#) at paras. 26–27; *Paladin Labs Canadian Holding Inc.*, [2024 ONSC 539](#) at para. 22.

³³ Fourth Zalev Affidavit at para. 8.

the Chapter 11 Cases.³⁴ The Foreign Orders should be recognized and given full force and effect in Canada.

(i) The Foreign Orders

31. The relief provided for in the Foreign Orders is necessary to permit the Debtors to continue operating their businesses during the Chapter 11 Cases and preserve the value of their businesses while they continue to explore potential transactions with a view to maximizing value for their stakeholders.³⁵

32. The Second Interim DIP Order is a further interim version of the Interim DIP Order, entered by the U.S. Bankruptcy Court and recognized by this Court pursuant to the Supplemental Order.³⁶ The Second Interim DIP Order reflects comments received from various interested parties and was entered by the U.S. Bankruptcy Court on consent.³⁷ The Final DIP Order is a proposed final version of the Second Interim DIP Order and approves the rollup of the remaining amounts outstanding under the prepetition Revolving Credit Facility.³⁸

33. This Court has, in numerous cases, granted approval of debtor-in-possession facilities containing rollup provisions in the context of foreign recognition proceedings.³⁹ In doing so, this Court has emphasized the importance of comity.⁴⁰ In *Xinergy*, Justice Newbould held that in recognizing a rollup approved in a foreign proceeding, the Court should consider “whether there

³⁴ *In the matter of De Cloet Greenhouse Mfg. Ltd.* (August 28, 2026), ONSC (Commercial List), Court File No. CL-26-00000372-0000 ([Endorsement of Dunphy, J.](#)) [*De Cloet Aug 28 Endorsement*].

³⁵ Fourth Zalev Affidavit at paras. [8](#) & [26](#).

³⁶ Fourth Zalev Affidavit at paras. [14-15](#).

³⁷ Fourth Zalev Affidavit at paras. [6](#) & [32](#).

³⁸ Fourth Zalev Affidavit at para. [33](#).

³⁹ *Sungard Availability Services (Canada) Ltd./ Sungard, Services de Continuite des Affaires (Canada) Ltee* (May 16, 2022), ONSC (Commercial List), Court File No. CV-22-00679628-00CL ([Order \(Recognition of Foreign Orders\)](#)) at para. 3(a) (see also related [Endorsement](#)); *GNC Holdings, Inc. et al.* (June 29, 2020), ONSC (Commercial List), Court File No. CV-20-00642970-00CL ([Endorsement](#)) at paras. 20-22 [*GNC Holdings*]; *Hartford Computer Hardware, Inc. (Re)*, [2012 ONSC 964](#) at paras. [10-14](#) and [18-19](#) [*Hartford*].

⁴⁰ *Hollander Sleep Products* at paras [46-47](#); *Hartford* at paras. [10-14](#) and [18-19](#); *GNC Holdings* at paras 20-22.

would be any material adverse interest to any Canadian interests in recognizing the "rollup" features of the DIP facility."⁴¹ Considering the security granted in favour of the secured lenders and the limited assets available in Canada in that case, Justice Newbould found that there was no material prejudice to Canadian creditors.⁴²

34. This Court previously recognized the Interim DIP Order, including the rollup provisions therein in furtherance of comity between the Restructuring Proceedings.⁴³ As acknowledged by this Court at that time, the recognition of the DIP Facility does not cause any material prejudice to uniquely Canadian creditors and does not prime any known secured party's interest to property of the Canadian Debtor other than the Prepetition ABL Liens (as defined in the Interim DIP Order).

35. The Third Interim Cash Management Order is a further interim version of the Second Interim Cash Management Order, previously entered by the U.S. Bankruptcy Court and recognized by this Court pursuant to the Second Recognition Order.⁴⁴ The Third Interim Cash Management Order allows the Debtors' continued use of their existing cash management system pending a hearing at a later date for the Final Cash Management Order.⁴⁵

36. Recognition of the Foreign Orders is consistent with the relief previously granted in this Canadian Recognition Proceeding and ought to be granted on the same basis and in furtherance of comity.⁴⁶

37. The Foreign Orders provide relief required for the Debtors to maintain the continued operation of their historical cash management system and procure necessary financing to fund the Restructuring Proceedings. Recognition of the Second Interim DIP Order, the Final DIP Order

⁴¹ *Xinergy Ltd. (Re)*, [2015 ONSC 2692](#) at paras. 21-22 [*Xinergy*].

⁴² *Xinergy* at para. 22.

⁴³ [De Cloet Supplemental Order](#) at para. 4(b); [De Cloet Aug 28 Endorsement](#) at para. 11.

⁴⁴ Fourth Zalev Affidavit at paras. [16-17](#).

⁴⁵ Second Report at [4.2](#).

⁴⁶ [De Cloet Aug 28 Endorsement](#) at paras. 6-7; *In the matter of De Cloet Greenhouse Mfg. Ltd.* (September 18, 2026), ONSC (Commercial List), Court File No. CL-26-00000372-0000 ([Endorsement of Dunphy, J.](#)) at para. 2.

and the Third Interim Cash Management Order will facilitate the continued operation and preservation of the Canadian Debtor's business while the Debtors continue to pursue their restructuring and explore potential value maximizing transactions.⁴⁷

38. The Information Officer has indicated that it supports the recognition of the Foreign Orders.⁴⁸

PART V – RELIEF REQUESTED

39. For the foregoing reasons, the Applicant requests that this Honourable Court grant the Third Recognition Order, substantially in the proposed form.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 13th day of October, 2026.

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⁴⁷ Fourth Zalev Affidavit at paras. [8](#) & [26](#).

⁴⁸ Second Report at [4.1](#), [4.2](#) & [6.0](#).

**SCHEDULE A
LIST OF AUTHORITIES**

1. *Babcock & Wilcox Canada Ltd. (Re)*, [2000 CanLII 22482](#) (ONSC)
2. *GNC Holdings, Inc. et al.* (June 29, 2020), ONSC (Commercial List), Court File No. CV-20-00642970-00CL ([Endorsement](#))
3. *Hartford Computer Hardware, Inc. (Re)*, [2012 ONSC 964](#)
4. *Hollander Sleep Products, LLC (Re)*, [2019 ONSC 3238](#)
5. *In the matter of De Cloet Greenhouse Mfg. Ltd.* (August 28, 2026), ONSC (Commercial List), Court File No. CL-26-00000372-0000 ([Endorsement of Dunphy, J.](#))
6. *In the matter of De Cloet Greenhouse Mfg. Ltd.* (August 28, 2026), ONSC (Commercial List), Court File No. CL-26-00000372-0000 ([Initial Recognition Order](#))
7. *In the matter of De Cloet Greenhouse Mfg. Ltd.* (September 18, 2026), ONSC (Commercial List), Court File No. CL-26-00000372-0000 ([Second Recognition Order](#))
8. *In the matter of De Cloet Greenhouse Mfg. Ltd.* (September 18, 2026), ONSC (Commercial List), Court File No. CL-26-00000372-0000 ([Endorsement of Dunphy, J.](#))
9. *In the matter of De Cloet Greenhouse Mfg. Ltd.* (August 28, 2026), ONSC (Commercial List), Court File No. CL-26-00000372-0000 ([Supplemental Order](#))
10. *In the matter of Eddie Bauer LLC et al.* (March 20, 2026), ONSC (Commercial List), Court File No. CL-26-00000050-0000 ([Recognition Order](#))
11. *In the matter of GNC Holdings, Inc.* (July 27, 2020), ONSC (Commercial List), Court File No. CV-20-00642970-00CL ([Recognition of Second Day Orders](#))
12. *Paladin Labs Canadian Holding Inc.*, [2024 ONSC 539](#)
13. *Sungard Availability Services (Canada) Ltd./ Sungard, Services de Continuite des Affaires (Canada) Ltee* (May 16, 2022), ONSC (Commercial List), Court File No. CV-22-00679628-00CL ([Order \(Recognition of Foreign Orders\)](#))
14. *Xerium Technologies Inc. (Re)*, [2010 ONSC 3974](#)
15. *Xinergy Ltd. (Re)*, [2015 ONSC 2692](#)
16. *Zochem Inc. (Re)*, [2016 ONSC 958](#)

I certify that I am satisfied as to the authenticity of every authority and that every quotation cited herein accurately reproduces the text of such authority.

Date October 13, 2026



Signature

SCHEDULE B
TEXT OF STATUTES, REGULATIONS & BY-LAWS

Companies' Creditors Arrangement Act, [R.S.C. 1985, c. C-36](#)

PART IV – CROSS-BORDER INSOLVENCIES

PURPOSE

Purpose

44 The purpose of this Part is to provide mechanisms for dealing with cases of cross-border insolvencies and to promote

- (a) cooperation between the courts and other competent authorities in Canada with those of foreign jurisdictions in cases of cross-border insolvencies;
- (b) greater legal certainty for trade and investment;
- (c) the fair and efficient administration of cross-border insolvencies that protects the interests of creditors and other interested persons, and those of debtor companies;
- (d) the protection and the maximization of the value of debtor company's property; and
- (e) the rescue of financially troubled businesses to protect investment and preserve employment.

Other Orders

49 (1) If an order recognizing a foreign proceeding is made, the court may, on application by the foreign representative who applied for the order, if the court is satisfied that it is necessary for the protection of the debtor company's property or the interests of a creditor or creditors, make any order that it considers appropriate, including an order

- (a) if the foreign proceeding is a foreign non-main proceeding, referred to in subsection 48(1);
- (b) respecting the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor company's property, business and financial affairs, debts, liabilities and obligations; and
- (c) authorizing the foreign representative to monitor the debtor company's business and financial affairs in Canada for the purpose of reorganization.

Restriction

(2) If any proceedings under this Act have been commenced in respect of the debtor company at the time an order recognizing the foreign proceeding is made, an order made under subsection (1) must be consistent with any order that may be made in any proceedings under this Act.

[...]

Terms and Conditions of Orders

50 An order under this Part may be made on any terms and conditions that the court considers appropriate in the circumstances.

OBLIGATIONS

Cooperation — Court

52 (1) If an order recognizing a foreign proceeding is made, the court shall cooperate, to the maximum extent possible, with the foreign representative and the foreign court involved in the foreign proceeding.

Cooperation — Other Authorities in Canada

(2) If any proceedings under this Act have been commenced in respect of a debtor company and an order recognizing a foreign proceeding is made in respect of the debtor company, every person who exercises powers or performs duties and functions under the proceedings under this Act shall cooperate, to the maximum extent possible, with the foreign representative and the foreign court involved in the foreign proceeding.

Forms of Cooperation

(3) For the purpose of this section, cooperation may be provided by any appropriate means, including

- (a) the appointment of a person to act at the direction of the court;
- (b) the communication of information by any means considered appropriate by the court;
- (c) the coordination of the administration and supervision of the debtor company's assets and affairs;
- (d) the approval or implementation by courts of agreements concerning the coordination of proceedings; and
- (e) the coordination of concurrent proceedings regarding the same debtor company.

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PROCEEDING COMMENCED AT TORONTO

**FACTUM OF THE APPLICANT
(Third Recognition Order)**

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