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

**IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY
ACT, RSC 1985, c B-3, AS AMENDED***

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL OF MECHCAN INC. AND THOSE
APPLICANTS LISTED ON SCHEDULE "A" HERETO (EACH,
AN "APPLICANT", AND COLLECTIVELY, THE APPLICANTS")**

Applicants

**FACTUM OF J.D. SWALLOW HEATING CONTRACTORS INC. AND COMFORT ZONE
HEATING & AIR CONDITIONING INC.
(RE: STAY EXTENSION ORDER)**

June 11, 2026

RECONSTRUCT LLP
80 Richmond Street West, Suite 1700
Toronto, ON M5H 2A4

Brendan Bissell LSO No. 40354V
Email: bbissell@reconllp.com
Tel: 416.613.0066

Simran Joshi LSO No. 89775A
Email: sjoshi@reconllp.com
Tel: 416.304.6589

Fax: 416.613.8290

**Lawyers for J.D. Swallow Heating
Contractors Inc. and Comfort Zone
Heating & Air Conditioning Inc.**

TO: THE SERVICE LIST

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PART I – OVERVIEW

1. On April 1, 2026, J.D. Swallow Heating Contractors Inc. (“**JD Swallow**”) filed a Notice of Intention to Make a Proposal (“**NOI**”) under the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the “**BIA**”). On April 8, 2026, Comfort Zone Heating & Air Conditioning Inc. (“**Comfort Zone**” and together with JD Swallow, the “**Companies**”) filed a NOI (together, the “**NOI Proceedings**”). On April 10, 2026, B.R.’s Plumbing & Heating Inc. (“**BR**”) filed an NOI. BDO Canada Limited was appointed as proposal trustee of the Companies and BR (in such capacity, the “**Proposal Trustee**”).

2. The Companies are part of a group of companies that provide heating, ventilation, and air conditioning services (the “**MechCan Group**”). Certain entities within the MechCan Group filed an NOI. On April 30, 2026, this Honourable Court issued an order that, among other things, approved the procedural consolidation of the Ontario NOI proceedings, including the Companies’ and BR’s NOI proceedings.

3. The entities that filed an NOI within the MechCan Group obtained Court approval for the Proposal Trustee to conduct affiliated sale processes on substantially similar terms and timelines. The intention had been for the sale processes to be complete and for the Proposal Trustee to bring motions for sale approval within the first NOI extension period, but due to extensions of time of the sale processes (as contemplated by the relevant Orders) that is now no longer possible.

4. The Companies and the Proposal Trustee accordingly seek an extension of the stay of proceedings to, among other things, finalize the terms of the transaction(s) contemplated by the Successful Bid(s) from the sale processes and seek Court approval thereof.

5. This factum is therefore filed in support of a motion by the Companies seeking an order (the “**Stay Extension Order**”), substantially in the form appended at tab 3 of the Companies’ motion record that, among other things:

- (a) extends the stay of proceedings for JD Swallow for a period of 45 days up to and including July 30, 2026;
- (b) extends the stay of proceedings for BR for a period of 47 days up to and including August 10, 2026; and

(c) extends the stay of proceedings for Comfort Zone for a period of 45 days up to and including August 6, 2026.

6. Although BR is seeking similar relief on this motion, we act as legal counsel only to the Companies and we understand that BR's legal counsel will file materials in support of their relief.

7. The requested relief is supported by the Companies' first-ranking secured creditor, National Bank of Canada, and the Proposal Trustee.

PART II – FACTS

A. Background of the Companies and NOI Proceedings

8. The Companies are in the business of providing heating, ventilation and air conditioning services (the "**Business**").¹ The Company is one of 11 companies operating similarly and which were acquired as part of the broader MechCan Group.²

9. The MechCan Group began experiencing financial difficulties due to, among other things, increased costs arising from trade and tariff wars, the aftereffects of the pandemic, and a reduction in consumer spending.³

10. During the summer of 2025, management of the Company underwent an informal restructuring in an effort to reduce costs. However, the cost of the initiatives together with the changed economic environment stressed the MechCan Group's liquidity leading it to make the decision to file Notices of Intention to Make a Proposal ("**NOI**") for many of the companies within the group.⁴

11. The primary objective of the restructuring of the MechCan Group is to implement a financial restructuring of the Business, through the implementation of related sale processes, and address the MechCan Group's liquidity challenges for the benefit of its stakeholders.⁵

¹ Affidavit of Spencer Ross, sworn June 11, 2026, Tab 2, Applicants' Motion Record ("**Ross Affidavit**") at para 5.

² Ross Affidavit at para 6.

³ Ross Affidavit at para 8.

⁴ Ross Affidavit at para 9.

⁵ Ross Affidavit at para 10.

B. Sale Process

12. After the commencement of the NOI Proceedings, the Companies, in consultation with the Proposal Trustee, developed a sale process for each of the entities which was intended to widely expose the Companies' Business to the market and provide a structured process for interested parties to perform due diligence and submit an offer for a potential transaction that is superior to the Stalking Horse Bids (as defined herein).⁶

13. The sale process for each entity within the MechCan Group that filed an NOI was conducted on substantially similar terms and timelines to enable interested parties to submit bids for the assets or businesses of the Companies, as well as any of their affiliates and were subject to a similar sale process.

14. On April 30, 2026, the Ontario Superior Court of Justice (Commercial List) granted an initial proposal order for JD Swallow that, among other things:

- (a) approved a debtor-in-possession facility in the maximum amount of \$150,000 (the "**JD DIP Facility**") from 17891750 Canada Inc. to finance the Company's working capital requirements;
- (b) approved a sale process for the marketing and sale of JD Swallow's business and assets (the "**JD Sale Process**");
- (c) approved a stalking horse asset purchase agreement between JD Swallow, as vendor, and 17891750 Canada Inc., as purchaser, solely for the purpose of constituting the "**JD Stalking Horse Bid**" under the JD Sale Process; and
- (d) granted the Proposal Trustee with enhanced powers to implement the JD Sale Process and bring a motion before this Court to seek a vesting order.⁷

15. On May 5, 2026, Comfort Zone sought and obtained an initial proposal order that, among other things, (i) approved a debtor-in-possession facility in the maximum amount of \$60,000 (the "**CZ DIP Facility**") from National Bank of Canada to finance Comfort Zone's working capital

⁶ Ross Affidavit at [para 12](#).

⁷ Ross Affidavit at [para 13](#).

requirements; and (ii) granted the Proposal Trustee with enhanced powers to administer the CZ Sale Process (as defined herein) and monitor Comfort Zone’s business.

16. On May 14, 2026, Comfort Zone returned before the Court and was granted an order that, among other things:

- (a) approved a sale process for the marketing and sale of Comfort Zone’s business and assets (the “**CZ Sale Process**” and together with the JD Sale Process, the “**Sale Process**”); and
- (b) approved a stalking horse asset purchase agreement between Comfort Zone, as vendor, and Kevin Dentremont, on behalf of and in trust for a corporation to be incorporated, as purchaser (the “**CZ Stalking Horse Bidder**”), solely for the purpose of constituting the “**CZ Stalking Horse Bid**” (together with the JD Stalking Horse Bid, the “**Stalking Horse Bids**”) under the CZ Sale Process.

Conduct of the Sale Process

17. The JD Sale Process contemplated a 32-day single phase process and the CZ Sale Process contemplated an 18-day single phase process that would be implemented and supervised by the Proposal Trustee as an officer of this Court. The Proposal Trustee, with the assistance of BDO Canada Transaction Advisory, in its capacity as sales agent, commenced the JD Sale Process on April 30, 2026 and commenced the CZ Sale Process on May 14, 2026. The key milestones in the Sale Process, as modified by the Proposal Trustee were as follows:⁸

Milestone	Deadline
Commencement of the Sale Process	April 30, 2026
“ Bid Deadline ” – interested parties to submit a binding offer that meets at least the requirements set forth in the Sale Process (“ Qualified Bid ” and the bidder of such bid, the “ Qualified Bidder ”)	June 1, 2026
Holding of the auction, if necessary, or the selection of the highest or otherwise best	June 10, 2026 (the “ Auction Date ”)

⁸ Ross Affidavit at [para 14](#).

bid (" Successful Bid ")	
Seek Court approval of the Successful Bid	No later than June 15, 2026
Outside date for closing of the Successful Bid	10 days after Sale Approval Motion

18. The Proposal Trustee received multiple Qualified Bids by the Bid Deadline. As a result of this, the Proposal Trustee held an auction to determine which bidder can provide the highest or otherwise best bid that maximizes value for the benefit of the MechCan Group's stakeholders. The Proposal Trustee will provide a high-level overview of the steps taken to administer the Sale Process in its Fourth Report, to be filed (the "**Fourth Report**") and a more detailed overview in its report supporting Court approval of the transaction contemplated by the Successful Bid.⁹

C. Comfort Zone

19. At the time the NOI was filed for Comfort Zone, the company had only one remaining senior employee, who served as both the General Manager of Comfort Zone and the CZ Stalking Horse Bidder. The prior directors of CZ had resigned. As part of the Order granted on May 5 for CZ, the Proposal Trustee was granted enhanced powers to attend to the management of CZ in the absence of any directors.

20. Shortly after the Bid Deadline, and upon learning that the CZ Stalking Horse Bid had been outbid, this individual declined to participate in the auction process. Accordingly, evidence regarding the status of Comfort Zone's operations will come from the Proposal Trustee's Fourth Report and in reliance on its enhanced powers.

PART III – ISSUES

21. The issue to be determined on this motion is whether to extend the time for the Companies to file a proposal for 45 days pursuant to Section 50.4(9) of the BIA.

⁹ Ross Affidavit at paras 15-16.

PART IV – LAW & ARGUMENT

A. The Court Should Approve the Stay Extension for the Companies

22. An NOI may be extended in increments of 45 days on sufficient cause.¹⁰

23. The current stay of proceedings is set to expire following June 22, 2026 for Comfort Zone and June 15, 2026 for JD Swallow. Despite diligent efforts, the Companies are not yet in a position to deliver a proposal to their creditors. Accordingly, the Companies seek a 45-day extension of the time to file a proposal up to and including August 6, 2026 for Comfort Zone and July 30, 2026 for JD Swallow (together, the “**Extended Stay Period**”) to enable it to continue its restructuring efforts and avoid a deemed bankruptcy.

24. Pursuant to subsection 50.4(9) of the BIA, the Court has the authority to extend the period for filing a proposal and the stay of proceedings for a period of 45 days where it is satisfied that:

- (a) the insolvent person has acted, and is acting in good faith, and with due diligence;
- (b) the insolvent person would likely be able to make a viable proposal if the extension being applied for were granted; and
- (c) no creditor would be materially prejudiced if the extension being applied for were granted.¹¹

25. The Companies submit that each of the factors are met in this case.

i. The Companies have acted in good faith and with due diligence

26. In *Re H&H Fisheries Limited*, the court noted that “the converse of good faith is bad faith, and bad faith requires some motivation or conduct which is unacceptable”.¹² In this case, there is no evidence that the Companies have acted with bad faith or conducted itself in an unacceptable manner.

27. In contrast, the Companies and the Proposal Trustee have submitted evidence confirming that the Companies have acted in good faith and with due diligence since the last time it appeared

¹⁰ *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (“**BIA**”), s. 50.4(9).

¹¹ *Ibid*, s. 50.4(9). See for example, *Colossus Minerals Inc. (Re)*, 2014 ONSC 514 (“**Colossus**”), at paras 37-43; *Mustang GP Ltd. (Re)*, 2015 ONSC 6562 at para 41; *Chester Basin Seafood Group Inc (re)*, 2023 NSSC 388 (“**Chester Basin**”), at paras 14 and 20-21.

¹² *Re H&H Fisheries Limited*, 2005 NSSC 346 (“**H&H Fisheries**”), at para 17.

before this Court. Specifically, the Companies have taken steps to implement a restructuring that will result in their Business emerging as a going concern including, among others:

- (a) continued to operate the Business in the normal course;
- (b) assisted the Proposal Trustee in the implementation of the Sale Process by providing documents for the virtual data room and responding to bidders' due diligence inquiries; and
- (c) engaged with stakeholders to build consensus on the next steps contemplated in these NOI Proceedings.

28. The Companies will continue to operate over the Extended Stay Period with continued access to the JD DIP Facility and CZ DIP Facility.

ii. There are grounds to believe that the Companies may be able to make a viable proposal

29. The test for whether an insolvent person would likely be able to make a viable proposal if granted an extension is whether the insolvent person might (not certainly will) be able to present a proposal that seems reasonable on its face to a reasonable creditor.¹³

30. The Companies submit that the evidence before the Court satisfies this requirement. The Companies and Proposal Trustee has advised that it will use the extension of the time to complete the auction, finalize the terms of the transaction contemplated by the Successful Bid, seek Court approval of same, and close the transaction for the purpose of maximizing the realization of the Business for the benefit of its stakeholders while developing a proposal for the benefit of its general body of creditors.

iii. No creditor is materially prejudiced

31. In considering this factor, courts consider whether there is a significant concern that would be unreasonable for a creditor to accept.¹⁴

¹³ *H&H Fisheries*, *supra* note 39, at para 22; *Nautican v. Dumont*, 2020 PESC 15 ("**Nautican**"), at paras 16-17; *Andover Mining Corp. (Re)*, 2013 BCSC 1833 at para 35.

¹⁴ *H&H Fisheries*, *supra* note 39, at para 37.

32. The Companies submit that there is no evidence of any material prejudice to any creditor if the requested extension is granted.¹⁵ The extension of the stay of proceedings will assist in the likelihood of a greater net recovery to creditors by allowing JD Swallow to continue its Business as a going concern while closing the transaction contemplated by the Successful Bid.

33. Conversely, if the extension is not granted, the Companies will be deemed to have made an assignment in bankruptcy and their efforts to successfully restructure their Business will be terminated. In such circumstances, it is not clear that the Proposal Trustee would be able to seek Court approval of the Successful Bid, seeing as it relies on a going concern sale, which would likely result in the liquidation of the Companies' assets and a corresponding diminution in value available to creditors.

PART V – RELIEF REQUESTED

34. Based on the foregoing, the Companies respectfully request that this Court grant the Stay Extension Order substantially in the form appended at tab 3 of the Companies' motion record.

PURSUANT TO RULE 4.06.1(2.1), THE UNDERSIGNED certifies that they are satisfied as to the authenticity of every authority cited in this factum.

Simran Joshi

Simran Joshi (LSO No. 89775A)

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 11TH DAY OF JULY, 2026.

/s/ Reconstruct

RECONSTRUCT LLP

¹⁵ Ross Affidavit at para 21.

SCHEDULE "A"
Applicants

- J.D. Swallow Heating Contractors Inc.
- Comfort Zone Heating & Air Conditioning Inc.
- Hy-Mark Mechanical Inc.
- B.R.'s Plumbing & Heating Inc.

SCHEDULE "B"
List of Authorities

1. *Colossus Minerals Inc. (Re)*, 2014 ONSC 514.
2. *Mustang GP Ltd. (Re)*, 2015 ONSC 6562.
3. *Chester Basin Seafood Group Inc (re)*, 2023 NSSC 388.
4. *Re H&H Fisheries Limited*, 2005 NSSC 346.
5. *Nautican v. Dumont*, 2020 PESC 15.
6. *Andover Mining Corp. (Re)*, 2013 BCSC 1833.

SCHEDULE "C"
Statutory Authorities

Bankruptcy and Insolvency Act, RSC 1985, c B-3

Extension of time for filing proposal

50.4 (9) The insolvent person may, before the expiry of the 30-day period referred to in subsection (8) or of any extension granted under this subsection, apply to the court for an extension, or further extension, as the case may be, of that period, and the court, on notice to any interested persons that the court may direct, may grant the extensions, not exceeding 45 days for any individual extension and not exceeding in the aggregate five months after the expiry of the 30-day period referred to in subsection (8), if satisfied on each application that

- (a) the insolvent person has acted, and is acting, in good faith and with due diligence;
- (b) the insolvent person would likely be able to make a viable proposal if the extension being applied for were granted; and
- (c) no creditor would be materially prejudiced if the extension being applied for were granted.

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RECONSTRUCT LLP

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Toronto, ON M5H 2A4

Brendan Bissell LSO No. 40354V

Email: bbissell@reconllp.com

Tel: 416.613.0066

Simran Joshi LSO No. 89775A

Email: sjoshi@reconllp.com

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Fax: 416.613.8290

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