Court File No. CV-26-00001999-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 C. C.43, AS AMENDED

B E T W E E N:

RAPIDSCREEN HOLDINGS INC.

Applicant

- and -

ECOLUTION.AG INC.

Respondent

FACTUM OF THE APPLICANT

(*application returnable on October 29, 2026 at 10 a.m.*)

October 22, 2026

DICKINSON WRIGHT LLP
Barristers & Solicitors
199 Bay Street
Suite 2200, Box 447
Commerce Court Postal Station
Toronto, ON M5L 1G4

DAVID Z. SEIFER (77474F)
Email: dseifer@dwlaw.com
Tel: (416) 646-6867

TALYA R. BERTLER (90315H)
Email: tbertler@dwlaw.com
Tel: (416) 777-2394

Lawyers for the Applicant

TO: **SERVICE LIST**

PART I – OVERVIEW

1. The Applicant, RapidScreen Holdings Inc. ("**RapidScreen Holdings**"), applies for the appointment of Goldhar & Associates Ltd. ("**Goldhar**"), as receiver and manager, without security, of all of the assets, undertakings and property of the Respondent, Ecolution.AG Inc. (the "**Debtor**").

2. The Debtor is indebted to RapidScreen Holdings in connection with a secured loan, which is in financial default.

3. On August 10, 2026, RapidScreen Holdings, through its counsel, made demand for payment on the Debtor and issued a notice of intention to enforce security pursuant to section 244(1) of the *Bankruptcy and Insolvency Acts,* RSC 1985, C.B-3, as amended (the "***BIA***").

4. Notwithstanding the demand and the expiry of the statutory ten-day notice period under the *BIA*, the Debtor has failed to repay the indebtedness owing to RapidScreen Holdings.

5. As at July 29, 2026, $1,397,270.31 is owing under the Promissory Note (hereinafter defined), and interest is accruing thereon.

PART II – SUMMARY OF FACTS

A. Background

6. The Debtor is a federal corporation incorporated pursuant to the laws of Canada, with its head office located in Kitchener, Ontario.[1]

7. The Debtor is an agricultural technology company that develops products to improve crop growth.[2]

8. The Debtor's assets primarily consist of existing inventory of the product it manufactures, GrowMas, and the intellectual property for GrowMas.[3]

9. The Debtor currently has inventory of GrowMas situated in Panama.[4]

10. RapidScreen Holdings is the Debtor's first-ranking secured creditor in connection with the Loan (as defined below).[5]

B. Loan and Security

11. Pursuant to a Secured Convertible Promissory Note dated October 7, 2021 (the "**Original Promissory Note**"), RapidScreen Services Inc. ("**RapidScreen Services**") advanced the principal sum of $1,000,000 to the Debtor (the "**Loan**").[6]

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[1] Corporate Profile Report of Ecolution.AG Inc., Exhibit 1, Affidavit of Steve Livshin sworn October 5, 2026 ("**Livshin Affidavit**"), Application Record of RapidScreen Holdings Inc. ("**AR**"), Tab 2, p. 19.
[2] Livshin Affidavit at para 9, AR, Tab 2, p. 14.
[3] Livshin Affidavit at para 10, AR, Tab 2, p. 14.
[4] Livshin Affidavit at para 11, AR, Tab 2, p. 14.
[5] PPSA Enquiry, Exhibit 6, Livshin Affidavit, AR, Tab 2, p. 92.
[6] Original Promissory Note, Exhibit 2, Livshin Affidavit, AR, Tab 2, p. 25.

12. Under the Original Promissory Note, the Debtor acknowledged being indebted to RapidScreen Services and agreed to repay the Loan together with interest in accordance with the terms of the Original Promissory Note.[7]

13. As security for its obligations under the Original Promissory Note, the Debtor executed a General Security Agreement dated October 7, 2021 (the "**GSA**") in favour of RapidScreen Services.[8]

14. The GSA contains a contractual right on the part of RapidScreen Services to appoint a receiver upon default.[9]

15. Pursuant to an Assignment of Convertible Secured Debenture and Warrant dated September 12, 2022 (the "**Assignment Agreement**"), RapidScreen Services assigned all of its right, title, benefit and interest in, to and under the Original Promissory Note and the GSA to RapidScreen Holdings.[10]

16. Following the assignment, the Debtor executed a Secured Convertible Promissory Note dated September 12, 2022 (the "**New Promissory Note**") in favour of RapidScreen Holdings, evidencing the indebtedness owing to RapidScreen Holdings on substantially the same terms as the Original Promissory Note.[11]

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[7] Original Promissory Note, Exhibit 2, Livshin Affidavit, AR, Tab 2, p. 25.
[8] General Security Agreement, Exhibit 3, Livshin Affidavit, AR, Tab 2, p. 48.
[9] General Security Agreement, Exhibit 3, Livshin Affidavit, AR, Tab 2, p. 48.
[10] Assignment of Convertible Secured Debenture and Warrant, Exhibit 4, Livshin Affidavit, AR, Tab 2, p. 65.
[11] New Promissory Note, Exhibit 5, Livshin Affidavit, AR, Tab 2, p. 70.

17. The Original Promissory Note and the New Promissory Note evidence the same indebtedness and are hereinafter referred to collectively as the "**Promissory Note**".

18. Notice of RapidScreen Holdings' security in the Debtor's personal property is registered under the *Personal Property Security Act* (Ontario) (the "***PPSA***").[12]

19. As appears from the *PPSA* enquiry, apart from RapidScreen Holdings, there are no other *PPSA* registrations against the Debtor.[13]

C. Default, Demand and Notice of Intention to Enforce Security

20. The Promissory Note provides that, if it is not earlier converted, then the outstanding principal amount plus all unpaid interest, fees and other amounts due and owing under the note will be immediately due and payable on October 13, 2023.[14]

21. The Promissory Note was not converted, and so the Loan became due and payable on October 13, 2023.[15]

22. The Debtor failed to repay the Loan.[16]

23. On August 10, 2026, RapidScreen Holdings, through counsel, made demand for payment on the Debtor and issued a notice of intention to enforce security pursuant to section 244(1) of the *BIA*.[17]

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[12] PPSA Enquiry, Exhibit 6, Livshin Affidavit, AR, Tab 2, p. 92.
[13] PPSA Enquiry, Exhibit 6, Livshin Affidavit, AR, Tab 2, p. 92.
[14] Original Promissory Note, Exhibit 2, Livshin Affidavit, AR, Tab 2, p. 25; New Promissory Note, Exhibit 5, Livshin Affidavit, AR, Tab 2, p. 70.
[15] Livshin Affidavit at para 23, AR, Tab 2, p. 16.
[16] Livshin Affidavit at para 24, AR, Tab 2, p. 16.
[17] Demand Letter and Notice of Intention to Enforce Security, Exhibit 7, Livshin Affidavit, AR, Tab 2, p. 97.

24. Notwithstanding the demand for payment and the expiry of the ten day statutory notice period under the *BIA*, the Debtor has failed to repay the Loan.[18]

25. As at July 29, 2026, $1,397,270.31 was owing under the Promissory Note, and interest continues to accrue. The loan statement accurately reflects the advances made to the Debtor and the outstanding balance owing under the Promissory Note.[19]

26. In addition to the indebtedness to RapidScreen Holdings, the Debtor is indebted to unsecured creditors, the precise amount of which is not currently known. Additionally, the Debtor's assets include patents over which a Receiver will be best positioned to exercise control and cause a transfer in connection with a sale of the Debtor's assets.[20]

PART III – THE ISSUE

27. The sole issue raised on this application is whether it is just or convenient for the Court to appoint Goldhar as receiver and manager of the Debtor.

[18] Livshin Affidavit at para 26, AR, Tab 2, p. 16.
[19] Livshin Affidavit at para 27, AR, Tab 2, p. 16.
[20] Livshin Affidavit at para 28, AR, Tab 2, p. 16.

PART IV – LAW AND ARGUMENT

A. Goldhar Should be Appointed as Receiver and Manager

i. Test to Appoint a Receiver

28. Pursuant to section 243(1) of the *BIA* and section 101 of the *Courts of Justice* Act, R.S.O. 1990, c. C43, as amended, the Court may appoint a receiver and manager where it is "just or convenient" to do so.

29. In determining whether it is just and convenient to appoint a receiver, the Court must have regard to "all of the circumstances, but in particular the nature of the property and the rights and interest of all parties in relation thereto".[21]

30. In making this determination, courts have been informed by the following factors, among others:

(a) the need to preserve and maximize the return on the subject property;

(b) the relationship between the debtor and its creditors;

(c) the risk of the lender's security deteriorating; and

(d) loss of confidence in the debtor's management.[22]

31. The applicant need not establish that it will suffer irreparable harm if the proposed receiver is not appointed.[23] Where, as here, a debtor has expressly agreed to the

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[21] *Bank of Nova Scotia v. Freure Village of Clair Creek*, 1996 CanLII 8258 (ON SC) at para 10.
[22] *BCIMC Construction Fund Corporation et al v. The Clover on Yonge Inc.,* 2020 ONSC 1953 at para 45.
[23] *Bank of Montreal v. Carnival National Leasing Limited*, 2011 ONSC 1007 at paras 24 and 28.

appointment of a receiver in the event of default, the court should not ordinarily interfere with the contract between the parties.[24]

32. It is well established that the extraordinary nature of a receiver "is significantly reduced when dealing with a secured creditor who has the right to a receivership under its security arrangements."[25]

33. A court appointment of a receiver does not require a finding that the legal remedies available to the applicant are defective or that the appointment is necessary to preserve the property from some danger which threatens it. Rather, the relevant consideration is whether a court-appointed receiver would be able to carry out its duties and obligations more effectively and efficiently than a privately appointed receiver. A court-appointed receiver may be better positioned to provide stakeholders with an opportunity to participate in the process and deal with assets in other jurisdictions.[26]

34. A court-appointed receiver ensures that the interests of all stakeholders are considered and provides the best forum for determining their rights.[27]

ii. It is Just and Convenient to Appoint Goldhar as Receiver and Manager

35. Having regard to the foregoing considerations, in the case at bar, it is just and convenient to appoint Goldhar as receiver and manager given that:

(a) the Loan is in financial default;

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[24] *United Savings Credit Union v. F & R Brokers Inc.*, 2003 BCSC 640 at para 16.
[25] *BCIMC Construction Fund Corporation et al v. The Clover on Yonge Inc.,* 2020 ONSC 1953 at para 43.
[26] *Bank of Nova Scotia v. D.G. Jewelry Inc.*, 2002 CanLII 12477 (ON SC) at para 3.
[27] *Hands-On Capital Investments Inc. v DMCC Holdings Inc.*, 2023 ONSC 2417 at para 66.

(b) notwithstanding the demand for payment and the issuance of the notice of intention to enforce security, the Loan has not been repaid;

(c) the statutory ten-day notice period under the *BIA* has expired;

(d) under the GSA provided in connection with the Promissory Note, RapidScreen Holdings is contractually entitled to appoint a receiver upon default;

(e) a Court-appointed receiver will be in the strongest position to assess how best to achieve maximum realization in a fair and transparent process, considering the interests of all stakeholders involved and create a forum for stakeholders to determine their rights; and

(f) a Court-appointed receiver will also be best positioned to achieve recovery of the Debtor's property in foreign jurisdictions.

PART V – ORDER REQUESTED

36. For the reasons set out above, RapidScreen Holdings respectfully requests an order appointing Goldhar as receiver and manager of the Debtor, in the form substantially attached at Tab 4 of its Application Record.

ALL OF WHICH IS RESPECTFULLY SUBMITTED, this 22nd day of October, 2026.



David Z. Seifer / Talya R. Bertler

Dickinson Wright LLP
Lawyers for the Applicant

SCHEDULE "A"
LIST OF AUTHORITIES

I, Talya Bertler, counsel for the Applicant, am satisfied as to the authenticity of every authority listed in the Factum of the Applicant as required by Rule 4.06.1.



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Talya Bertler

1. *Bank of Nova Scotia v. Freure Village of Clair Creek*, 1996 CanLII 8258 (ON SC)
2. *BCIMC Construction Fund Corporation et al v. The Clover on Yonge Inc.*, 2020 ONSC 1953
3. *Bank of Montreal v. Carnival National Leasing Limited*, 2011 ONSC 1007
4. *United Savings Credit Union v. F & R Brokers Inc.*, 2003 BCSC 640
5. *Bank of Nova Scotia v. D.G. Jewelry Inc.*, 2002 CanLII 12477 (ON SC)
6. *Hands-On Capital Investments Inc. v DMCC Holdings Inc.*, 2023 ONSC 2417

SCHEDULE "B"
TEXT OF STATUTES, REGULATIONS & BY-LAWS

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

Court may appoint receiver
243 (1) Subject to subsection (1.1), on application by a secured creditor, a court may appoint a receiver to do any or all of the following if it considers it to be just or convenient to do so:

(a) take possession of all or substantially all of the inventory, accounts receivable or other property of an insolvent person or bankrupt that was acquired for or used in relation to a business carried on by the insolvent person or bankrupt;
(b) exercise any control that the court considers advisable over that property and over the insolvent person's or bankrupt's business; or
(c) take any other action that the court considers advisable.

***Courts of Justice Act*, R.S.O. 1990, c. C.43**

Injunctions and receivers
101 (1) In the Superior Court of Justice, an interlocutory injunction or mandatory order may be granted or a receiver or receiver and manager may be appointed by an interlocutory order, where it appears to a judge of the court to be just or convenient to do so. R.S.O. 1990, c. C.43, s. 101 (1); 1994, c. 12, s. 40; 1996, c. 25, s. 9 (17).

Terms
(2) An order under subsection (1) may include such terms as are considered just. R.S.O. 1990, c. C.43, s. 101 (2)

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PROCEEDING COMMENCED AT
KITCHENER

FACTUM OF THE APPLICANT

DICKINSON WRIGHT LLP
Barristers & Solicitors
199 Bay Street
Suite 2200, Box 447
Commerce Court Postal Station
Toronto, ON M5L 1G4

DAVID Z. SEIFER (77474F)
Email: dseifer@dwlaw.com
Tel: (416) 646-6867

TALYA R. BERTLER (90315H)
Email: tbertler@dwlaw.com
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