CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No. : 500-11-036133-094

SUPERIOR COURT

Commercial Division
(Sitting as a court designated pursuant to the *Companies' Creditors Arrangement Act*, R.S.C., c. C-36, as amended)

IN THE MATTER OF THE PLAN OF COMPROMISE OR ARRANGEMENT OF:

ABITIBIBOWATER INC.,

And

ABITIBI-CONSOLIDATED INC.,

And

BOWATER CANADIAN HOLDINGS INC.,

And

the other Petitioners listed herein

Petitioners

And

ERNST & YOUNG INC.,

Monitor

MOTION FOR THE ISSUANCE OF AN ORDER APPROVING AMENDMENTS TO THE BOWATER GROUP DIP CREDIT AGREEMENT AND FOR THE ISSUANCE OF A RECOGNITION ORDER (FINAL U.S. DIP ORDER)
(Section 18.6 of the *Companies' Creditors Arrangement Act* ("CCAA")

TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT, SITTING IN COMMERCIAL DIVISION, IN AND FOR THE JUDICIAL DISTRICT OF MONTRÉAL, THE PETITIONERS RESPECTFULLY SUBMIT THE FOLLOWING:

A. PREAMBLE

1. On April 17, 2009, this Honourable Court issued an order (as amended and restated, the "**Initial Order**") pursuant to the *Companies' Creditors Arrangements Act* (the "**CCAA**") in respect of (i) Abitibi-Consolidated Inc. ("**ACI**") and subsidiaries thereof (collectively with ACI, the "**Abitibi Petitioners**")[1]; (ii) Bowater Canadian Holdings Inc. and subsidiaries thereof (collectively, the "**Bowater Petitioners**")[2] and (iii) certain partnerships.[3]

2. On April 16, 2009, AbitibiBowater Inc. ("**ABH**"), Bowater Inc. and certain of their U.S. and Canadian subsidiaries filed voluntary petitions for relief under Chapter 11 of the U.S. Bankruptcy Code (the "**Chapter 11 Proceedings**"), in the United States Bankruptcy Court for the District of Delaware (the "**U.S. Bankruptcy Court**") and on April 17, 2009, ABH and the certain Petitioners (collectively with ABH, the "**18.6 Petitioners**")[4] obtained orders under s. 18.6 of the CCAA in respect of the Chapter 11 Proceedings.

3. The Abitibi Petitioners, the Bowater Petitioners and the 18.6 Petitioners (collectively, the "**Petitioners**") are all direct or indirect subsidiaries of ABH (collectively, with its subsidiaries, the "**ABH Group**").

4. The Initial Order issued by this Court on April 17, 2009 contained a recognition order (the "**Recognition Order**") of the Chapter 11 Proceedings by ABH and the 18.6 Petitioners. The Recognition Order forms part of the Canadian Initial Order.

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[1] The Abitibi Petitioners are Abitibi-Consolidated Inc., Abitibi-Consolidated Company of Canada, 3224112 Nova Scotia Limited, Marketing Donohue Inc., Abitibi-Consolidated Canadian Office Products Holdings Inc., 3834328 Canada Inc., 6169678 Canada Incorporated., 4042140 Canada Inc., Donohue Recycling Inc., 1508756 Ontario Inc., 3217925 Nova Scotia Company, La Tuque Forest Products Inc., Abitibi-Consolidated Nova Scotia Incorporated, Saguenay Forest Products Inc., Terra Nova Explorations Ltd., The Jonquière Pulp Company, The International Bridge and Terminal Company, Scramble Mining Ltd. and 9150-3383 Québec Inc.

[2] The Bowater Petitioners are Bowater Canadian Holdings Incorporated., Bowater Canada Finance Corporation, Bowater Canadian Limited, 3231378 Nova Scotia Company, AbitibiBowater Canada Inc., Bowater Canada Treasury Corporation, Bowater Canadian Forest Products Inc., Bowater Shelburne Corporation, Bowater LaHave Corporation, St. Maurice River Drive Company Limited, Bowater Treated Wood Inc., Canexel Hardboard Inc., 9068-9050 Québec Inc., Alliance Forest Products (2001) Inc., Bowater Belledune Sawmill Inc., Bowater Maritimes Inc., Bowater Mitis Inc., Bowater Guérette Inc. and Bowater Couturier Inc.

[3] The partnerships are Bowater Canada Finance Limited Partnership, Bowater Pulp and Paper Canada Holdings Limited Partnership and Abitibi-Consolidated Finance LP.

[4] The 18.6 Petitioners are AbitibiBowater Inc., AbitibiBowater US Holding 1 Corp., Bowater Ventures Inc., Bowater Incorporated, Bowater Nuway Inc., Bowater Nuway Mid-States Inc., Catawba Property Holdings LLC, Bowater Finance Company Inc., Bowater South American Holdings Incorporated, Bowater America Inc., Lake Superior Forest Products Inc., Bowater Newsprint South LLC, Bowater Newsprint South Operations LLC, Bowater Finance II, LLC, Bowater Alabama LLC and Coosa Pines Golf Club Holdings LLC.

5. Pursuant to the Recognition Order, the U.S. Proceedings were declared to be foreign proceedings for the purposes of Section 18.6 CCAA and the stay of proceedings issued pursuant to the Canadian Initial Order was extended to the 18.6 Petitioners.

6. In anticipation of the U.S. Proceedings and of these CCAA proceedings, a *Senior Secured Superpriority Debtor-in-Possession Credit Agreement* was negotiated amongst ABH, Bowater Inc. and Bowater Canadian Forest Products Inc., as Borrowers (the "**BI DIP Borrowers**"), Avenue Investments L.P. and Fairfax Financial Holdings Limited. ("**FFH**") as Initial Lenders, such lenders as may be party to such Agreement from time to time (the "**BI DIP Lenders**") and FFH as initial Administrative Agent and Collateral Agent (the "**BI DIP Credit Agreement**"). A copy of the BI DIP Credit Agreement was already communicated as Exhibit R-23 to the *Petition for the Issuance of an Initial Order* (the "**CCAA Petition**").

7. The BI DIP Credit Agreement was negotiated in order to, *inter alia*, finance the post-filing working capital requirements and general corporate purposes of the BI Group (as the term is defined in the CCAA Petition) (the "**BI DIP Facility**"). The most significant features of the BI DIP Facility are outlined at paragraphs 300 and following of the CCAA Petition.

8. The US$ 40 million Canadian Term Advance was made under the BI DIP Credit Agreement shortly after its execution on April 21, 2009.

9. On April 17, 2009, the U.S. Bankruptcy Court issued an Interim Order pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364 and 507(1) (the "**U.S. Interim DIP Order**"), which said order, in respect of the BI DIP Facility and the BI DIP Credit Agreement, *inter alia* : (i) approved postpetition financing, (ii) authorized the use of cash collateral, (iii) granted liens and provided superpriority administrative expenses status, (iv) granted adequate protection, (v) modified the automatic stay, and (vi) scheduled a final hearing, the whole as appears from a copy of the U.S. Interim DIP Order already communicated as Exhibit R-1 with the Motion filed by the Petitioners on April 21, 2009, entitled *Motion for the Issuance of a Recognition Order (DIP Interim Order)*.

10. On April 22, 2009, this Court issued an order recognizing and giving full force and effect, in Canada, to the U.S. Interim DIP Order the whole as appears from the record of the Court.

B. <u>FINAL U.S. DIP ORDER</u>

11. On June 4, 2009, the U.S. Bankruptcy Court issued a Final Order pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364 and 507(1) (the "**U.S. Final DIP Order**"), which said order, in respect of the BI DIP Facility and the BI DIP Credit Agreement, *inter alia* : (i) approved postpetition financing, (ii) authorized the use of cash collateral, (iii) granted liens and provided superpriority administrative expenses status, (iv) granted adequate protection, and (v) modified the automatic stay of proceedings, the whole as appears from a copy of the U.S. Final DIP Order, copy of which is communicated herewith as **Exhibit R-1.**

12. Under the BI DIP Credit Agreement, as amended, the Borrowers must obtain, a recognition order pursuant to Section 18.6 of the CCAA giving full force and effect to the U.S. Final DIP Order. The failure to comply with this requirement constitutes an event of default under Section 7.01(w) of the BI DIP Credit Agreement.

C. AMENDMENTS TO THE BI DIP CREDIT AGREEMENT

13. On June 5, 2009, the BI DIP Borrowers and the BI DIP Lenders executed an agreement amending the BI DIP Credit Agreement (the "**BI DIP Amendment No.1**"), the whole as appears from the BI DIP Amendment No.1, copy of which is communicated herewith as **Exhibit R-2**, and from a conformed copy of the amended pages of the BI DIP Credit Agreement, with the amendments black lined, which is communicated herewith as **Exhibit R-3**.

14. The BI DIP Amendment No.1 provides, *inter alia*, for the following amendments:

    (a) extension of the deadline to provide certain deliverables and for entry of the U.S. Final DIP Order to June 5,2009;

    (b) amendment to the "Avoidance Action" definition to reflect the business agreement and provisions of the U.S.Interim DIP Order providing that proceeds of avoidance actions would not be pledged;

    (c) amend the "Base Rate" definition to match the LIBOR definition. The parties agreed this change reflected the intention of the parties and resulted in a "market" rate;

    (d) amend the "Consolidated EBITDA" and "Consolidated Fixed Charge Coverage Ratio" definitions to adjust the relevant calculations to resolve issues raised by the BI Borrowers; and

    (e) an additional basket of US$10 million for advances to the Calhoun Newsprint Company joint venture (the "**JV Basket**").

15. As shown in BI DIP Amendment No. 1, Law Denture Trust Company of New York has replaced FFH as Administrative Agent and Collateral Agent and the four subsidiaries of FFH listed on the signing pages are the actual BI DIP Lenders in respect of the FFH advances.

16. As appears from the U.S. Final DIP Order, the BI DIP Amendment No.1 was approved by the U.S. Bankruptcy Court.

17. Section 2(b) of the BI DIP Amendment No.1 provides that, other than with respect to the non-material amendments listed in s. 2(a) thereof, to become effective the BI DIP Amendment No. 1 also requires approval by this Court.

18. The BI DIP Borrowers and the BI DIP Lenders have also agreed to further amend the BI DIP Credit Agreement. The proposed amendments were brought to the attention of the U.S. Bankruptcy Court and were memorialized in U.S. Final DIP Order. A

draft of the proposed amendment (the "**BI DIP Amendment No.2**") is communicated herewith as Exhibit **R-4**.

19. The BI DIP Amendment No.2 provides, *inter alia*, for the following amendments:

    (a) Removal of Bowater Canada Finance Corporation ("**BCFC**") as guarantor of the BI DIP Facility as a result of negotiations with holders of bonds issued by BCFC, and related changes to the Representations and Warranties.

    (b) Further technical clarifications to the JV Basket.

20. The approval of the BI DIP Amendment No.2 by the U.S. Bankruptcy Court was not required as the material terms thereof are memorialized in the U.S. Final DIP Order.

21. Section 3 of the BI DIP Amendment No.2, however, provides that to become effective the BI DIP Amendment No. 2 requires approval by this Court.

22. The terms and conditions of the BI DIP Amendment No.1 and the BI DIP Amendment No.2 were disclosed to the U.S. Unsecured Creditors' Committee and to other stakeholders of the Bowater Group.

23. The authorizations and orders issued pursuant to the BI Final DIP Order extend to the group defined therein as the "Bowater Petitioners" which said group includes, *inter alia*, ABH and the other 18.6 Petitioners.

24. The Petitioners hereby seek i) the recognition of the BI Final DIP Order (Exhibit R-1) pursuant to Section 18.6 of the CCAA, (ii) the issuance of an order declaring that the execution and delivery of the BI DIP Amendment No.1 (Exhibits R-2 and R-3) is ratified and approved, and (iii) the issuance of an order approving the terms of the BI DIP Amendment No.2.

25. The Petitioners respectfully submit that this Motion should be granted in accordance with its conclusions.

26. The present Motion is well founded in fact and in law.

WHEREFORE, MAY THIS COURT:

1. **GRANT** this Motion (the "**Motion**").

2. **EXEMPT** the 18.6 Petitioners from having to serve this Motion and any notice of presentation.

3. **ORDER AND DECLARE** that the Final Order issued on June 4, 2009 by the United States Bankruptcy Court for the District of Delaware pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364 and 507(1), filed as Exhibit R-1 to this Motion, which said order, in respect of the BI DIP facility and the BI DIP Credit

Agreement (as such term is defined in the Initial Order issued by this Court on April 17, 2009 in the present matter), *inter alia*: (i) approved postpetition financing, (ii) authorized the use of cash collateral, (iii) granted liens and provided superpriority administrative expenses status, (iv) granted adequate protection, and (v) modified the automatic stay of proceedings, is recognized and given full force and effect in all provinces and territories of Canada in respect of all 18.6 Petitioners including, for greater certainty, in respect of Abitibibowater Inc., Bowater Inc. and Bowater Newsprint South LLC.

4. **REQUEST** the aid and recognition of any Court or administrative body in any Province of Canada and any Canadian Federal Court or administrative body and other nations and states to give effect to this Order and to assist the 18.6 Petitioners, Ernst & Young Inc. (the "**Monitor**") and their respective agents in carrying out the terms of this Order and any other Order in these proceedings. All Courts or administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the 18.6 Petitioners and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to Abitibi-Consolidated Inc. and/or the Monitor in any foreign proceedings and to assist the 18.6 Petitioners and the Monitor and their respective agents in carrying out the terms of this Order and any other Order in these proceedings.

5. **ORDER** that the "Amendment No. 1 to the Credit Agreement" (Exhibit R-2) and the "Amendment No. 2 to the Credit Agreement" (Exhibit R-4) and the provisions thereof are hereby approved and that reference in the Initial Order of this Court, as amended, to the BI DIP Credit Agreement shall be deemed to be reference to the BI DIP Credit Agreement has amended by "Amendment No. 1 to the Credit Agreement" and the "Amendment No. 2 to the Credit Agreement".

6. **ORDER** that the execution and delivery by AbitibiBowater Inc., Bowater Inc. and Bowater Canadian Forest Products Inc. of "Amendment No. 1 to the Credit Agreement" (Exhibit R-2), as well as all related documents and instruments executed or to be executed and delivered in connection therewith, are hereby ratified, authorized and approved.

7. **ORDER** that AbitibiBowater Inc., Bowater Inc. and Bowater Canadian Forest Products Inc. are hereby authorized and empowered to enter into "Amendment No. 2 to the Credit Agreement" (Exhibit R-4) substantially in the form communicated as Exhibit R-4, subject to such non-material amendments and modifications as the parties may agree upon.

8. **ORDER** the provisional execution of this Order notwithstanding any appeal and without the necessity of furnishing any security.

THE WHOLE WITHOUT COSTS, save and except in case of contestation.

Montréal, June 17, 2009

Stikeman Elliott LLP

Stikeman Elliott LLP
Attorneys for the Petitioners

AFFIDAVIT

I, the undersigned, Allen Dea, having my principal place of business at Suite 800, 1155 Metcalfe Street, Montréal, Quebec, H3B 5H2 solemnly declare the following:

1. I am the Vice President, Secretary of Abitibi-Consolidated Inc. and the Vice President, Treasurer of AbitibiBowater Inc.

2. All the facts alleged in the *Motion for the Issuance of an Order Approving Amendments to the Bowater Group DIP Credit Agreement and for the Issuance of a Recognition Order (Final U.S. DIP Order) (Section 18.6 of the Companies' Creditors Arrangement ("CCAA")* are true.

AND I HAVE SIGNED

ALLEN DEA

Solemnly declared before me at Montréal, on the 17th day of June, 2009

Commissioner for oaths
180486-3

NOTICE OF PRESENTATION

TO : SERVICE LIST

TAKE NOTICE that the *Motion for the Issuance of an Order Approving Amendments to the Bowater Group DIP Credit Agreement and for the Issuance of a Recognition Order (Final U.S. DIP Order) (Section 18.6 of the Companies' Creditors Arrangement Act* ("CCAA") will be presented for adjudication before the Honourable Judge Clément Gascon of the Superior Court, sitting in practice in and for the District of Montreal, in Room **15.10** of the **Montreal Court House, 1 Notre-Dame St. East**, on **June 19, 2009**, at **9:00 a.m.** in the forenoon, or so soon thereafter as counsel may be heard.

DO GOVERN YOURSELVES ACCORDINGLY.

Montreal, June 17, 2009

Stikeman Elliott LLP

STIKEMAN ELLIOTT LLP
Attorneys for Petitioners

SUPERIOR COURT
Commercial Division
(Sitting as a court designated pursuant to the *Companies' Creditors Arrangement Act*)

N°. 500-11-036133-094

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL

In the matter of Plan of Compromise or Arrangement of:

ABITIBIBOWATER INC. *et al*

Petitioners

- and -

ERNST & YOUNG INC.

Monitor

BS0350 n/dos.: 041053-1170

MOTION FOR THE ISSUANCE OF AN ORDERS APPROVING AMENDMENTS TO THE BOWATER GROUP DIP CREDIT AGREEMENT AND FOR THE ISSUANCE OF A RECOGNITION ORDER (FINAL U.S. DIP ORDER), AFFIDAVIT AND NOTICE OF PRESENTATION

ORIGINAL

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