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

and

AVENUE INVESTMENTS, L.P.

and

FAIRFAX FINANCIAL HOLDINGS LIMITED

Respondents

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

TO THE HONOURABLE CLÉMENT GASCON, J.C.S. OR 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 Court issued an order (as subsequently amended and restated, the "**Initial Order**") pursuant to the *Companies' Creditors Arrangement Act* (the "**CCAA**" and the "**CCAA Proceedings**") in respect of (i) Abitibi-Consolidated Inc. ("**ACI**") and subsidiaries thereof (the "**Abitibi Petitioners**")[1]; (ii) Bowater Canadian Holdings Inc. and affiliates and subsidiaries thereof (the "**Bowater Petitioners**"[2], and (iii) certain partnerships (the "**Partnerships**")[3].

2. On April 16, 2009, AbitibiBowater Inc. ("**ABH**"), Bowater Inc. ("**BI**") 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. Court**") and on April 17, 2009, ABH and 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

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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. Abitibi-Consolidated (U.K.) Inc. was added to the Schedule of Abitibi Petitioner on November 10, 2009.

[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 (Note: for the purposes of the order to be granted on the present Motion as well as the Cross-Border Protocol, Abitibi-Consolidated Finance LP, a U.S. entity, is excluded from the definition of "Partnerships" and is treated as a U.S. Debtor).

[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.

Petitioners. The Recognition Order forms part of the Initial Order.

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 Initial Order was extended to the 18.6 Petitioners.

B. THE BI DIP CREDIT AGREEMENT

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, BI and Bowater Canadian Forest Products Inc. ("**BCFPI**"), as Borrowers (collectively, 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 (collectively, the "**BI DIP Lenders**") and FFH as initial Administrative Agent and Collateral Agent (the "**BI DIP Credit Agreement**"). An executed copy of the BI DIP Credit Agreement (Exhibit R-23 to the *Petition for the Issuance of an Initial Order* (the "**CCAA Petition**")) is communicated herewith as **Exhibit R-1**.

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 Initial Order issued by this Court on April 17, 2009 authorized *inter alia,* at paragraphs 54 and ff., the Bowater Petitioners to enter into, and borrow under credit facilities provided pursuant to the BI DIP Credit Agreement.

9. On April 17, 2009, the U.S. Court issued an Interim Order pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364 and 507(1) (the "**U.S. DIP Interim 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 to the Petitioners' *Motion for the Issuance of a Recognition Order (DIP Interim Order)* dated April 21, 2009.

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 in respect of all 18.6 Petitioners, including, for greater certainty, in respect of ABH, BI and Bowater Newsprint South LLC, the whole as appears from the Court record.

11. On June 4, 2009, the U.S. 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.

12. On June 19, 2009, this Court issued an order recognizing and giving full force and effect, in Canada, to the U.S. Final DIP Order in respect of all 18.6 Petitioners, including, for greater certainty, in respect of ABH, BI and Bowater Newsprint South LLC, and approved the first two amendments to the BI DIP Credit Agreement, the whole as appears from the Court record.

13. On April 14, 2010, the U.S. Court will be asked to issue an *Order Authorizing the Bowater Debtors to enter into the Sixth Amendment to the Bowater DIP Credit Agreement* pursuant to 28 U.S.C. §§ 157 and 1334 (the "**U.S. DIP Extension Order**") which said order, in respect of the BI DIP Facility and the BI DIP Credit Agreement, *inter alia*, will: (i) approve the "Amendment No. 6 to the Credit Agreement" substantially in the form communicated as **Exhibit R-2** (the "**Sixth Amendment**"); (ii) authorize the BI DIP Borrowers to enter into the Sixth Amendment; and (iii) declare that upon execution and delivery of the Sixth Amendment, the Sixth Amendment shall constitute valid and binding obligations of each of the BI DIP Borrowers, the whole as appears from a copy of the *Debtors' Emergency Motion for an Order Authorizing the Debtors to Enter into the Sixth Amendment to the Bowater Debtor-In-Possession Credit Agreement* and a draft U.S. DIP Extension Order communicated herewith, *en liasse*, as **Exhibit R-3**.

14. It is currently expected that prior to the hearing before this Court on the present Motion, the U.S. Court will have issued the U.S. DIP Extension Order and that the BI DIP Borrowers will have been authorized by the U.S. Court to enter into the Sixth Amendment.

C. ORDERS SOUGHT

15. The Petitioners hereby seek the issuance of the following orders in connection with the U.S. DIP Extension Order and the Sixth Amendment:

    (a) an order approving the Sixth Amendment, and ratifying, authorizing and approving the execution by ABH, BI and BCFPI of the Sixth Amendment;

    (b) an order recognizing and giving full force and effect in all provinces and territories of Canada in respect of all 18.6 Petitioners to the U.S. DIP Extension Order.

D. GROUNDS FOR THIS MOTION

16. The BI DIP Credit Agreement has an initial maturity date of April 21, 2010 (the "**Initial Maturity Date**"), which may be extended by two three-month extensions without the need to obtain consent from the BI DIP Lenders or from other parties, subject to the Petitioners satisfying certain conditions. Specifically, to obtain the first extension to July 21, 2010, the Petitioners must file a plan of reorganization or compromise or arrangement in form and substance reasonably acceptable to a

majority of the BI DIP Lenders on or before the Initial Maturity Date. To obtain the second extension to October 21, 2010, the Petitioners must use their best efforts to confirm such a plan.

17. The Petitioners have made substantial progress in formulating and negotiating viable plans of reorganization and arrangement in the U.S. and CCAA Proceedings, respectively. The Petitioners are presently engaged in ongoing and productive negotiations with their key creditor constituencies that they expect will soon result in a consensual framework for the Petitioners' cross-border restructurings. The size and scope of the Petitioners' cross-border operations, along with their intricate corporate structure, add significant complexity to the plan formulation process.

18. Despite this substantial progress, however, plan negotiations may not be completed before the Initial Maturity Date. Therefore, the Petitioners believe that their estates and creditors would be best served by extending the Initial Maturity Date for a two-week period to permit negotiations to continue without disruption with the goal of forging consensus and filing reorganization plans that enjoy the support of the Petitioners' key creditor constituencies.

19. The BI DIP Borrowers, the BI DIP Lenders and their respective advisors have engaged in good faith, arms-length negotiations regarding the terms of the Sixth Amendment. The resulting Sixth Amendment amends the definition of Maturity Date in the BI DIP Credit Agreement to provide the BI DIP Borrowers with an incremental two-week period past the Initial Maturity Date, until May 5, 2010, to continue plan negotiations. Importantly, the Sixth Amendment also preserves the BI DIP Borrowers' ability to obtain two additional extensions of the Maturity Date, subject to the them satisfying certain conditions, as set forth on the Sixth Amendment.

20. The Sixth Amendment has been negotiated at arms-length and in good faith. The relief provided by the Sixth Amendment will enable the Petitioners to continue to focus on plan negotiations and formulation without disruption or distraction. The Petitioners believe this continued focus is in the best interests of all Petitioners' creditors and stakeholders. In light of this benefit and the potential harm to the reorganization process posed by any alternative scenario, the BI DIP Borrowers have determined, in the exercise of their business judgment, to enter into the Sixth Amendment.

21. Several business reasons exist for this Court to approve the execution of the Sixth Amendment. First and foremost, the Sixth Amendment ensures that the Petitioners will continue to enjoy the benefit of their postpetition financing while they formulate and negotiate a plan of reorganization. Extending the Initial Maturity Date pursuant to the terms of the Sixth Amendment provides the Petitioners with additional time to finalize negotiations concerning a consensual plan. Moreover, by extending the Initial Maturity Date, the Petitioners have ensured that plan negotiations can continue without disruptions or complications.

22. One of the condition precedents set forth at Section 2 of the Sixth Amendment is that

"each Bankruptcy Court shall have entered an order approving" the latter. Thus, without the issuance of the proposed orders by this Court, the execution of the Sixth Amendment will not take place.

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

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

WHEREFORE, MAY THIS COURT:

1. **GRANT** this *Motion for the Issuance of an Order Approving an Amendment to the BI DIP Credit Agreement and for the Issuance of a Recognition Order (U.S. DIP Extension Order)* (the "**Motion**").

2. **EXEMPT**, if applicable, the Petitioners from having to serve this Motion and from any notice or delay of presentation.

3. **ORDER** that the "Amendment No. 6 to the Credit Agreement" (Exhibit R-2 to the Motion) (the "**Sixth Amendment**") and the provisions thereof are hereby approved and that any reference in the Initial Order of this Court, as amended, to the BI DIP Credit Agreement shall be deemed to be a reference to the BI DIP Credit Agreement as amended by the Sixth Amendment.

4. **ORDER** that the execution and delivery by AbitibiBowater Inc., Bowater Inc. and Bowater Canadian Forest Products Inc. (collectively, the "**BI DIP Borrowers**") of the Sixth Amendment, as well as all related documents and instruments executed or to be executed and delivered in connection therewith, are hereby ratified, authorized and approved.

5. **ORDER AND DECLARE** that the *Order Authorizing the Bowater Debtors to Enter into the Sixth Amendment to the Bowater DIP Credit Agreement* issued on April 14, 2010 by the U.S. Court (Exhibit A of Exhibit R-3 to the Motion), which said order, in respect of the BI DIP Facility and the BI DIP Credit Agreement, *inter alia*: (i) approved the Sixth Amendment; (ii) authorized the BI DIP Borrowers to enter into the Sixth Amendment; and (iii) declared that upon execution and delivery of the Sixth Amendment, the Sixth Amendment shall constitute valid and binding obligations of each of the BI DIP Borrowers, is recognized and given full force and effect in all provinces and territories of Canada in respect of all 18.6 Petitioners.

6. **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 the Bowater Petitioners 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.

7. **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, April 9, 2010

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 an Amendment to the BI DIP Credit Agreement and for the Issuance of a Recognition Order (U.S. DIP Extension Order)* are true.

AND I HAVE SIGNED

ALLEN DEA

Solemnly declared before me at Montreal,
on the 9th day of April, 2010

Sophie Pascal, avocate 257915?
Commissioner for oaths

#10541942 v2

NOTICE OF PRESENTATION

TO : SERVICE LIST

TAKE NOTICE that the *Motion for the Issuance of an Order Approving an Amendment to the BI DIP Credit Agreement and for the Issuance of a Recognition Order (U.S. DIP Extension Order)* will be presented for adjudication before the Honourable Judge Clément Gascon of the Superior Court, sitting in practice in and for the District of Montréal, in the **Montréal Court House, 1 Notre-Dame Street East**, at a date and time to be announced to the Service List.

DO GOVERN YOURSELVES ACCORDINGLY.

Montréal, April 9, 2010

Stikeman Elliott LLP

STIKEMAN ELLIOTT LLP
Attorneys for Petitioners

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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. *& al*

Petitioners

- and -
ERNST & YOUNG INC.

Monitor

- and -
AVENUE INVESTMENTS, L.P. *& al*

Respondents

BS0350 **n/dos.:** 041053-1170

MOTION FOR THE ISSUANCE OF AN ORDER APPROVING AN AMENDMENT TO THE BI DIP CREDIT AGREEMENT AND FOR THE ISSUANCE OF A RECOGNITION ORDER (U.S. DIP EXTESION ORDER)
(Section 18.6 of the Companies' Creditors Arrangement Act ("CCAA"))

ORIGINAL

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