

**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 A PLAN OF COMPROMISE OR
ARRANGEMENT OF 3113736 Canada LTD., 4362063 CANADA LTD., and
A-Z SPONGE & FOAM PRODUCTS LTD.**

(the "Applicants")

APPLICANTS' MOTION RECORD

(Plan Sanction Hearing,
returnable January 24, 2017)

January 13, 2017

BLANEY McMURTRY LLP

Barristers and Solicitors
1500 - 2 Queen Street East
Toronto, ON M5C 3G5

David Ullmann (LSUC #423571)

Tel: (416) 596-4289

Fax: (416) 594-2437

Alexandra Teodorescu (LSUC #63889D)

Tel: (416) 596-4279

Fax: (416) 593-5437

Lawyers for the Applicants

TO: THE SERVICE LIST ATTACHED

SERVICE LIST

1. **DELOITTE RESTRUCTURING INC.**

181 Bay Street, Suite 1400
Toronto ON M5J 2V1

Catherine Hristow

416-601-6415

christow@deloitte.ca

Paul Casey

paucasey@deloitte.ca

2. **THORNTON GROUT FINNIGAN LLP**

Canadian Pacific Tower, TD Centre
100 Wellington Street West, Suite 3200
Toronto ON M5K 1K7

Grant B. Moffat

416-304-0599

416-304-1313 fax

gmoffat@tgf.ca

Lawyers for the monitor, Deloitte Restructuring Inc.

3. **TANNER & GUINEY**

130 Adelaide Street West
Suite 3425
Toronto ON M5H 3P5

Robert G. Tanner

416-862-7745

416-862-7874 fax

rgtanner@tannerguiney.com

Lawyers for Tony Vallecoccia

4. **ATTORNEY GENERAL OF CANADA**

c/o Department of Justice
Ontario Regional Office
The Exchange Tower, Box 36
130 King Street West
Suite 3400
Toronto ON M5X 1K6

Jacqueline Dais-Visca

416-952-6010

416-973-0809 fax

jacqueline.dais-visca@justice.gc.ca

5. **KRONIS, ROTSZTAIN, MARGLES, CAPPEL LLP**

8 King Street East
Suite 100
Toronto ON M5C 1B5

Mervyn Abramowitz

mabramowitz@krmc-law.com

Stephen Wolpert

swolpert@krmc-law.com

416-225-8750

416-306-9874 fax

Lawyers for Bayer Inc.

6. **BRANCH MACMASTER LLP**

1410 – 777 Hornby Street
Vancouver BC V7G 3E2

Ward Branch

604-684-3429 fax
wbranch@branmac.com

Luciana P. Brasil

lbrasil@branmac.com

604-654-2999
604-684-3429 fax

Lawyers for “Hi! Neighbor” Floor Covering Co. Limited, Majestic Mattress Mfg. Ltd., Trillium Project Management Ltd., Option Consummateurs and Karine Robillard

7. **CANADA REVENUE AGENCY**

c/o Department of Justice
Ontario Regional Office
The Exchange Tower, Box 36
130 King Street West
Suite 3400
Toronto ON M5X 1K6

Diane Winters

416-973-3172
416-973-0810 fax
diane.winters@justice.gc.ca

8. **MINISTRY OF FINANCE (ONTARIO)
LEGAL SERVICES BRANCH**

33 King Street West
6th floor
Oshawa ON L1H 8H5

Kevin J. O'Hara
905-433-6934
905-436-4510 fax
kevin.ohara@fin.gov.on.ca

9. **KAMINSKY & COMPANY**

Associated Lawyers
7525 King George Boulevard
Suite 220
Surrey BC V3W 5A8

Hargo Mundi
604-591-7877 ext. 114
604-591-1978 fax
hsm@kaminskyco.com

Lawyers for 0932916 BC Ltd.

10. **CLYDE & CO LLP**

630 Rene-Levesque Boulevard West
Suite 1700
Montréal QC H3B 1S6

Catherine Tyndale
514-764-3626
514-843-6110 fax
catherine.tyndale@clydeco.ca

Lawyers for Chubb Insurance Company of Canada

11. **REVENU QUEBEC**

3800, rue de Marly
Secteur 5-1-8
Quebec G1X 4A5

Jacques Duperron

866-374-7286 fax
Jacques.duperron@revenuquebec.ca

12. **REVENU QUEBEC**

Complexe Desjardins
Secteur D231L0, C. P.3000
Montreal QC H5B 1A4

Yvon Julien

yvon.julien@revenuquebec.ca

13. **REVENU QUEBEC**

Complexe Desjardins, secteur D221LC
C. P.5000, succursale Desjardins
Montreal QC H5B 1A7

Normand Berube

514-287-6161
514-873-8992 fax
Normand.Berube@revenuquebec.ca

14. **SUTTS STROSBURG LLP**

600 Westcomt Place
215 Goyeau Street
Windsor ON N9A 6V4

Harvey T. Strosberg
harvey@strosbergco.com

Heather Rumble Peterson
hpeterson@strosbergco.com

519-561-6248
519-561-6203 fax

Lawyers for Ontario Class Plaintiffs

15. **CAMP FIORANTE MATTHEWS MOGERMAN**

#400-856 Homer Street
Vancouver BC V6B 2W5

J.J.Camp, Q.C.
jjcamp@cfmlawyers.ca

Reider Mogerman
rmogerman@cfmlawyers.ca

Julie R. Facchin
jfacchin@cfmlawyers.ca

Sharon L. Wong
swong@cfmlawyers.ca

604-689-7555
604-689-7554 fax

Lawyers for B.C. Class Plaintiffs

16. **BERKOW COHEN LLP**

141 Adelaide Street West
Suite 400
Toronto ON M5H 3L5

Jack Berkow

jberkow@berkowcohen.com

Scott Crocco

scrocco@berkowcohen.com

416-364-4900

416-364-3865 fax

Lawyers for Remaining Individual Settling Parties

17. **BLACK & ASSOCIATES**

2175 King Road
King City ON L7B 1G3

Laith Hahn

905-893-8050

905-893-8025 fax

lhahn@blackandassociates.ca

Lawyers for Quality & Company Inc.

18. **REVENU QUEBEC**

Complexe Desjardins, secteur D221LC
C.P. 5000, succursale Place-Desjardins
Montreal QC H5B 1A7

Jean Duval

514-287-8821

514-285-5348 fax

jean.duval@revenuquebec.ca

19. **DEPARTMENT OF JUSTICE CANADA**
130 King Street West
Suite 3400
Toronto ON M5X 1K6

Fozia Chaudary
416-952-7722
416-973-0810 fax
fozia.chaudary@justice.gc.ca

20. **MINISTRY OF JUSTICE**
Legal Services Branch
1675 Douglas Street
Suite 400
Victoria BC V8W 9J7

David J. Hatter
250-387-1274
250-387-0700 fax
David.Hatter@gov.bc.ca

Lawyers for BC Ministry of Finance

21. **CHUBB INSURANCE COMPANY OF CANADA**
1250, boul. René-Lévesque Ouest, bureau 2700
Montréal QC H3B 4W8

Catherine Rayle-Doiron
514-938-2300, 5325
514-938-2288 fax
crayledoiron@chubb.com

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(the "Applicants")

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Tab 1

Court File No. CV-12-9545-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
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ARRANGEMENT OF 3113736 CANADA LTD., 4362063 CANADA LTD., and
A-Z SPONGE & FOAM PRODUCTS LTD.

(the "**Applicants**")

NOTICE OF MOTION

THE MOVING PARTIES, 3113736 Canada Ltd., 4362063 Canada Ltd., and A-Z
Sponge & Foam Products Ltd. ("**A-Z Foam**") (collectively, the "**Applicants**") will make a
motion to a judge presiding over the Commercial List at 10:00 a.m. on January 24, 2017 at 330
University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING:

This motion is to be heard orally.

THE MOTION IS FOR:

1. Orders substantially in the form attached at Tab 3 and Tab 4 of the Motion Record, *inter alia*:
 - a) if necessary, abridging the time for service of this Notice of Motion and Motion Record and dispensing with service on any person other than those served;
 - b) declaring that the Creditors' Meeting held on October 19, 2016 was duly convened and held, in accordance with the Meeting Order (as defined below);

- c) sanctioning and approving the Plan of Compromise and Arrangement submitted by 4362063 Canada Ltd. (formerly Domfoam International Inc.) (“**Domfoam**”), dated August 23, 2016 (“**Plan**”);
 - d) authorizing and directing Domfoam and the Monitor to take all steps and actions necessary or appropriate to implement the Plan; and
 - e) extending the Stay Period for all of the Applicants until and including June 30, 2017.
2. Such further and other relief as this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

- 3. On January 12, 2012, the Applicants sought and were granted protection under the *Companies’ Creditors Arrangement Act*, RSC 1985, c C-36 (“**CCAA**”), as amended pursuant to the Order of the Honourable Mr. Justice Newbould (the “**Initial Order**”);
- 4. Deloitte & Touche Inc., now known as Deloitte Restructuring Inc., was appointed in the Initial Order to act as monitor in these CCAA proceedings (“**Monitor**”);
- 5. As a result of the sale of assets of the Applicants, Valle Foam changed its name to 3113736 Canada Ltd., and Domfoam changed its name to 4362063 Canada Ltd. The style of cause of these proceedings was changed by the Order of Justice Brown, dated June 15, 2012 to reflect the change of names;

6. The Order of the Honourable Justice Brown, dated June 15, 2012 established a process to identify pre- and post-filing claims against the Applicants and/or their officers and directors (“**Claims Process Order**”)
7. The Meeting Order was approved by the Honourable Mr. Justice Penny on September 6, 2016, accepting the Plan for filing with the Court and authorizing Domfoam to seek approval of the Plan at the meeting of the creditors (“**Creditors’ Meeting**”);
8. No plan of compromise or arrangement has yet been put forward for Valle Foam or A-Z Foam;
9. Minor amendments were made to the Plan to clarify treatment of the Competition Act Claim (as defined in the Plan) on October 18, 2016 and October 19, 2016, which did not negatively impact the other Creditors or alter the substance of the Plan;
10. The Creditors Meeting was held on October 19, 2016;
11. The Applicants have achieved the required statutory “double majority” needed to approve the Plan. Proven Creditors holding 92% in number and 99% in value voted to approve the Resolution in favour of the Plan;
12. The estimated dividend to be paid to Proven Creditors will be outlined in the Monitor’s Fifteenth Report, to be filed separately.
13. Sanction of the Plan is a crucial and necessary step toward the resolution of these CCAA proceedings;

14. If the Plan is sanctioned and the other conditions precedent to closing are satisfied, the Plan will:
- a) complete the controlled and orderly wind down of Domfoam without costly litigation and delay;
 - b) effect a compromise, settlement and payment of all Proven Claims in the near term;
 - c) direct and authorize the distributions contemplated under the Plan;
 - d) resolve the outstanding Revenu Quebec Action and the HST Pre and Post Filing Dispute, which had previously deadlocked the CCAA Proceedings; and
 - e) grant releases in favour of Domfoam and its directors and officers, among others;
15. It is just and convenient and in the interests of the Applicants and their stakeholders that the Sanction Order be granted;
16. There has been strict compliance with all statutory requirements;
17. Nothing has been done or purported to be done that is not authorized by the CCAA;
18. The Plan is fair and reasonable;
19. The Monitor views the Plan as fair and reasonable and supports this motion;

Extension of Stay Period

20. The Initial Order granted a Stay Period until February 10, 2012;

21. The Stay Period granted under the Initial Order was subsequently extended for all of the Applicants from time to time by orders of this Honourable Court;
22. Most recently, the Stay Period was extended to January 30, 2017, by the Order of the Honourable Justice Newbould, dated August 30, 2016;
23. The Applicants have been acting and continue to act in good faith and with due diligence in these CCAA proceedings;
24. It is just and convenient and in the interests of the Applicants and their stakeholders that the requested Order be granted and the Stay Period extended;
25. The proposed extension of the Stay Period is supported by the Monitor and there is no known opposition;
26. The provisions of the CCAA and the inherent and equitable jurisdiction of this Honourable Court;
27. Rule 1.04, 1.05, 2.03, 3.02, 16 and 37 of the Ontario *Rules of Civil Procedure*, RRO 1990, Reg 194, as amended, and section 106 of the Ontario *Courts of Justice Act*, RSO 1990, c C 43, as amended; and
28. Such further and other grounds as counsel may advise.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

29. The Affidavit of Tony Vallecoccia, sworn January 13, 2017;

30. The Fifteenth Report of the Monitor, to be filed; and
31. Such further and other material as counsel may advise and this Court may permit.

January 13, 2017

BLANEY McMURTRY LLP
Barristers and Solicitors
Suite 1500 - 2 Queen Street East
Toronto, ON M5C 3G5

David T. Ullmann LSUC #42357I
Tel: (416) 596-4289
Fax: (416) 594-2437
Alexandra Teodorescu LSUC #63899D
Tel: (416) 596-4279
Fax: (416) 593-5437

Lawyers for the Applicants

TO: SERVICE LIST

Tab 2

Court File No. CV-12-9545-00CL

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(the "**Applicants**")

AFFIDAVIT OF TONY VALLECOCCIA

(sworn January 13, 2017)

I, **TONY VALLECOCCIA**, of the Town of Milton, in the Regional Municipality of Halton, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am the President and CEO of 3113736 Canada Ltd., formerly known as Valle Foam Industries (1995) Inc. ("**Valle Foam**"), and of 4362063 Canada Ltd., formerly known as Domfoam International Inc. ("**Domfoam**"), and a director of each of the Applicants, and as such have knowledge of the matters to which I hereinafter depose, except where otherwise stated. Where my evidence is based on information and belief, I have stated the source of that information and believe it to be true.

2. I swear this affidavit in support of a motion by the Applicants seeking an Order sanctioning and approving the Plan of Compromise and Arrangement submitted by Domfoam, dated August 23, 2016 (the "**Plan**"), and authorizing Domfoam and Deloitte & Touche, now known as Deloitte Restructuring Inc., in its capacity as Court appointed monitor ("**Monitor**") to implement it. A copy of the Plan is attached hereto and marked as **Exhibit "A"**.

3. The Plan will complete the controlled and orderly wind down of Domfoam; effect a compromise, settlement and payment of all Proven Claims in accordance with its terms; and grant certain releases in favour of Domfoam's directors and officers. The Plan accomplishes these objectives, is fair and reasonable, and is the best available resolution in the circumstances. The Monitor also supports the Plan.

4. The meeting of the creditors ("**Creditors' Meeting**") was held on October 19, 2016. Domfoam has achieved substantially more than the required statutory "double majority" needed to approve the Plan.

5. If the Plan is sanctioned by this Court and the closing conditions are satisfied, the implementation of the Plan will resolve the proceedings as against Domfoam. The proceedings in respect of each of Valle Foam and A-Z Sponge and Foam Products Ltd. ("**A-Z Foam**") will continue as issues continue to be wound up in those estates.

Background

6. On January 12, 2012, the Applicants sought and were granted protection under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended, pursuant to the Order of the Honourable Mr. Justice Newbould (the "**Initial Order**").

7. As a result of the sale of assets of the Applicants, Valle Foam changed its name to 3113736 Canada Ltd., and Domfoam changed its name to 4362063 Canada Ltd. The style of cause of these proceedings was changed by the Order of Justice Brown dated June 15, 2012 to reflect the change of names. For the purpose of this affidavit, the said Applicants will still be referred to as Valle Foam, Domfoam and A-Z Foam.

8. The background to, and mechanics of, the Plan, are described in my Affidavit sworn on August 23, 2016 in support of the Applicants' motion for an Order accepting the Plan for filing, and authorizing Domfoam to call, hold and conduct a Creditors' Meeting to consider the Plan (the "**Meeting Order Affidavit**"). The Meeting Order Affidavit (without exhibits) is attached hereto and marked as **Exhibit "B"**. The balance of this affidavit reports on the Creditors' Meeting and the vote on the Plan, and also provides an update on those matters described in the Meeting Order Affidavit.

Meeting Order

9. On September 6, 2016, the Honourable Mr. Justice Penny approved the Applicants' order seeking acceptance of the Plan for filing with the Court and authorizing Domfoam to seek approval of the Plan at the Creditors' Meeting ("**Meeting Order**").

10. The Meeting Order established the requirements regarding the manner in which Creditors would receive notice of the Creditors' Meeting, and the protocol for the Creditors' Meeting. I am advised by the Monitor that the Creditors' Meeting was duly convened in accordance with the provisions of the Meeting Order, as explained in greater detail below.

Mailing of the Meeting Notice and Meeting Materials

11. To the best of my knowledge, Domfoam and the Monitor have complied with all of the requirements in the Meeting Order to disseminate materials concerning the Plan and the Creditors' Meeting to all Creditors (as defined in the Plan) and all other interested persons.

12. I am advised by the Monitor that it caused copies of the Creditors Information Package, the Meeting Order and the Monitor's Fourteenth Report to be posted on its website, and that it

also published the Notice of Meeting (attached as Schedule “A” to the Meeting Order) in the *Globe and Mail* (National Edition).

Amendments to the Plan

13. The Meeting Order authorized Domfoam to amend, modify and/or supplement the Plan in accordance with the terms of Section 11.1 of the Plan.

14. I am advised by David Ullmann, counsel for the Applicants, that, prior to the Creditors’ Meeting, he had discussions with counsel for the Crown (as defined in the Plan) regarding the treatment under the Plan of the fines owed by Domfoam and Valle Foam to the Crown as a result of offences committed under the *Competition Act* to which Domfoam and Valle Foam pled guilty prior to the commencement of the CCAA Proceedings. Details regarding these offences and fines were outlined in my affidavit, sworn on January 11, 2012 in support of the Applicants’ initial application for CCAA protection. The relevant excerpts from my January 11, 2012 affidavit are enclosed hereto and marked as **Exhibit “C”**.

15. Following discussions with the Crown, the Plan was amended prior to the Creditors’ Meeting to clarify treatment of the Crown’s claims under the Plan in a manner that was satisfactory to the Crown. In particular, I am advised by David Ullmann that the Crown was of the view that its claim could not be compromised without its consent and it did not wish to see its claim compromised. However, it also recognized that a bankruptcy of Domfoam would not produce a better result for the Crown or the creditors. As such, the Crown agreed to abstain from voting, provided the Plan was amended to highlight that the Crown’s claim was not compromised.

16. On or about October 18, 2016, the Plan was amended to include the following definition of “Competition Act Claim”:

...the proof of claim filed by Her Majesty the Queen in Right of Canada (the “**Crown**”) in respect of fines owed to the Crown by Domfoam International Inc. and Valle Foam Industries (1995) Inc. as a result of their participation in offences under ss. 45(1)(a) and 45(1)(c) of the *Competition Act*, RSC 1985, c C-34, and in accordance with the Plea Agreement between the Crown and Domfoam International Inc. and Valle Foam Industries (1995) Inc., executed on December 22, 2011.

17. Articles 4.1 (Treatment of Claims), 8.1 (Effect of Plan Generally), 9.1 (Plan Releases) and 9.2 (Injunction) were also amended to clarify that the Crown is entitled to participate in any distributions under the Plan with respect to its Competition Act Claim, but that the Competition Act Claim would not be compromised or released by the Plan. In addition, certain inconsequential administrative and typographical changes were made to the Plan. Attached hereto and marked as **Exhibit “D”** is a copy of the blacklined version of the Plan identifying the amendments described above.

18. A version of the Plan, which included the changes made on or about October 18, 2016, was circulated to the largest trade creditor, the Crown and counsel for the class action creditors (the largest creditors) in blackline prior to the Creditors’ Meeting.

The Creditors’ Meeting

19. The Creditors’ Meeting was held on October 19, 2016 at the offices of Blaney McMurtry LLP, counsel for the Applicants. In accordance with the Meeting Order, Ms. Anna Koroneos, a representative of the Monitor, acted as Chair.

20. All Creditors with Proven Claims and Unconfirmed Voting Claims were permitted to attend the Creditors' Meeting in person or appoint another person to attend as proxyholder. I am advised by the Monitor that the quorum requirement, being one Creditor with a Proven Claim present at the meeting in person or by proxy, was satisfied. The Chair declared that the meeting was properly constituted.

21. I am advised by my counsel, David Ullmann, that, on the evening of October 18, 2016, counsel for the Crown required a further minor change to be made to the definition of "Competition Act Claim" as follows:

...the proof of claim filed by Her Majesty the Queen in Right of Canada (the "**Crown**") in respect of fines owed to the Crown by Domfoam International Inc. and Valle Foam Industries (1995) Inc. as a result of their participation in offences under ss. 45(1)(a) and 45(1)(c) of the *Competition Act*, RSC 1985, c C-34, ~~and in accordance with the Plea Agreement between the Crown and Domfoam International Inc. and Valle Foam Industries (1995) Inc., executed on December 22, 2011, as approved by Court Order, dated [x].~~

22. This proposed change was made to the Plan and tabled at the Creditors' Meeting. I am advised by the Monitor that the Chair confirmed that there were no changes that would alter the substance of the Plan to the Creditors. The Plan that was put to the Creditors for a vote at the Creditors' Meeting was appended as Exhibit "A".

23. I am further advised by the Monitor that the required majority of Creditors voted in favour of the Resolution and therefore approved the Plan. According to the Monitor's tabulation, 92% of Creditors in number and 99% of Creditors in value voted in favour of the Plan.

24. A representative of the Crown did not attend the Creditors' Meeting, either in person or by proxy, and did not vote against the Plan, although the Crown had notice of the Creditors' Meeting.

25. Similarly, a representative of Revenu Quebec (whose claim is discussed below) did not attend the Creditors' Meeting and did not vote against the Plan.

26. I am advised by the Monitor that, before this motion is heard, the Monitor will deliver a report describing the conduct and outcome of the Creditors' Meeting.

Revenu Quebec Action

27. As described in the Meeting Order Affidavit, Domfoam commenced an action in the Tax Court of Canada to contest the position taken by Revenu Quebec regarding the amount of its claim in the CCAA proceedings and, in particular, the liability of Domfoam for the repayment of certain GST and QST amounts related to the hiring by Domfoam of certain temporary workers prior to the CCAA filing ("**Revenu Quebec Action**").

28. Settling the Revenu Quebec Action is one of the preconditions of Plan implementation.

29. The Applicants, with the approval of counsel to the directors and officers and the Monitor, have now settled the Revenu Quebec Action. The settlement will result in Domfoam withdrawing its claim against Revenu Quebec in the Tax Court of Canada, and bringing this matter to a conclusion. Attached hereto and marked as **Exhibit "E"** is a copy of correspondence between my counsel, David Ullmann, and counsel for Revenu Quebec, Jean Duval, dated October 17, 2016 and October 20, 2016.

30. The settlement is contingent on the Plan obtaining Court approval, which releases Domfoam's directors and officers from those claims that Revenu Quebec or Canada Revenue Agency might otherwise have possibly pursued against them.

31. There is also a similar action pending in the Superior Court of Quebec, which is similarly settled by the agreement reached herein, subject to the sanctioning of the Plan. Mr. Duval had settlement authority over both actions.

32. The parties were required by Court order to attend a settlement conference with respect to the Revenu Quebec Action on or before October 31, 2016. This settlement conference has now been adjourned to January 31, 2017, pending the sanction hearing. A copy of a letter from the Tax Court, dated December 9, 2016, approving the parties' adjournment request is attached hereto and marked as **Exhibit "F"**.

33. If this Plan is approved, Domfoam intends to withdraw the Revenu Quebec Action in both the Tax Court of Canada and the Superior Court of Quebec.

Conditions Precedent to Plan Implementation

34. The implementation of the Plan is conditional upon the fulfillment of the following conditions described in Article 7.1 of the Plan and outlined below.

35. First, the Plan must be approved by the Proven Creditors pursuant to the CCAA requirements. As mentioned above, the Plan received the approval of substantially more than the required "double majority" under the CCAA.

36. Second, the Plan must be approved by the Court pursuant to the Sanction Order.

37. Third, the appeal periods and any periods for leave to appeal with respect to the Sanction Order has expired without an appeal, or an appeal and/or leave to appeal application has been dismissed such that the sanctioning of the Plan is finally affirmed and recognized by the appellate court.

38. Fourth, Domfoam and the Directors and Officers will discontinue, settle or withdraw the Revenu Quebec Action on terms satisfactory to the Monitor and the Court upon the Plan Implementation Date. As mentioned above, the Revenu Quebec Action has been settled by the parties, in consultation with the Monitor. In addition, it is my understanding that the Monitor has issued a partial disallowance of the Revenu Quebec claim in accordance with the resolution reached in the settlement. I am advised by the Monitor that it issued a final disallowance to Revenu Quebec on January 9, 2017. Unless Revenu Quebec appeals this disallowance, which is not expected, this aspect of the matter will be fully resolved and the Plan can proceed.

39. Finally, Domfoam and the Directors and Officers will have settled or withdrawn from contesting the position of the Monitor with respect to the HST Pre and Post Filing Dispute. Domfoam is no longer contesting the position of the Monitor on this matter because the Plan releases the Directors and Officers from any potential liability. As long as the Plan is sanctioned by the Court, I will accept the position of the Monitor with respect to the HST Pre and Post Filing Dispute.

40. The sanctioning of the Plan need not wait for these condition to be complete. The Plan provides that, when the conditions set out above are satisfied, the Monitor will file a certificate with the Court stating that the prerequisites for Plan implementation have been met, and that the Plan Implementation Date has occurred.

41. Following the sanction of the Plan, the Monitor has the ongoing responsibility to collect funds from the Polyols Settlement (discussed below), and to distribute those funds to creditors with Proven Claims under the Plan.

Plan Sanction

42. Domfoam is of the view that the Plan presents significant benefits to its stakeholders and is the most reasonable and fair resolution in the circumstances for the following reasons:

- a) it allows for the efficient *pro-rata* distribution of the funds already realized by Domfoam from the liquidation, and also future funds collected from the polyols settlement without further order of the Court, as and when those funds are received;
- b) it avoids the expenses related to distributions made within a bankruptcy, thereby maximizing distribution to Domfoam's creditors;
- c) it completes the controlled and orderly wind down of Domfoam in a timely manner without costly litigation and delay;
- d) it releases Domfoam's Directors and Officers from any pre-filing claims against them;
- e) it requires Domfoam to discontinue the Revenu Quebec Action and to resolve the HST Pre and Post Filing Dispute;
- f) it received the required majority of support from the Creditors;

- g) it resolves the treatment of the Competition Act Claim without requiring a bankruptcy of Domfoam; and
- h) the Monitor supports the sanction of the Plan.

43. The anticipated dividend to be paid to the Proven Creditors will be outlined in the Monitor's Fifteenth Report, to be filed separately.

44. In addition, to the best of my knowledge, neither the Crown nor Revenu Quebec are opposing the sanctioning of the Plan. We have provided a copy of the Sanction Order to the Crown who has confirmed that they are satisfied with the provisions therein which relate to the Competition Act Claim. Revenu Quebec's response has only been to confirm that the actions in the Tax Court of Canada and the Superior Court of Quebec will be withdrawn following Plan implementation.

45. Throughout the course of the CCAA Proceedings, Domfoam has acted in good faith and with due diligence. The Plan complies with the requirements under the CCAA and the Orders of this Court. For these reasons, and the reasons outlined at paragraphs 42 and 43, above, Domfoam believes that the sanction of the Plan is fair and reasonable.

Extension of the Stay Period

46. The Initial Order granted a stay of proceedings ("**Stay Period**") until February 10, 2012.

47. The Stay Period granted under the Initial Order was subsequently extended from time to time by orders of the Court, the most recent being the Order of the Honourable Mr. Justice Newbould, dated August 30, 2016, which extended the Stay Period to January 30, 2017.

48. The Applicants are seeking to extend the Stay Period up to and including June 30, 2017.

49. No cash flow is being provided with this affidavit as the Applicants have limited expenses and no employees. I am confident that the Applicants each have sufficient funds on hand to meet their obligations on a go forward basis for the period of the proposed extension.

50. I believe that the Applicants have acted, and continue to act, in good faith and with due diligence in pursuing the orderly wind down of Domfoam and collecting outstanding amounts owed to Valle Foam (as explained in further detail below). I am informed by the Monitor that it supports the request to extend the Stay Period to June 30, 2017.

51. An extension of the Stay Period is required so that Domfoam and the Monitor can take all the steps and actions necessary or appropriate to implement the Plan (as outlined above), and to allow the Applicants to continue collecting outstanding accounts as well as funds due under the Polyols Settlement (as defined below).

A-Z Foam

52. Although the business of A-Z Foam has been ceased for several years at this point in time, it is an affiliated entity of the Applicants, and the continuation of the stay is convenient as there remain amounts to collect from the Polyols Settlement and inter-company accounting to be resolved.

53. No one has at any time during the CCAA Proceedings objected to the continuation of the stay with respect to A-Z Foam, and I am not aware of any objections at this time.

Collection of the Polyols Settlement

54. The Applicants are each claimants in a U.S. class action proceeding that relates to price fixing for a product known as “Polyether Polyol” (“**Polyol**”).

55. There has been a trial in respect of one of the defendants in the Polyol matter, The Dow Chemical Company (“**Dow**”), in which a judgment has been rendered against Dow in the amount of \$1.06 billion.

56. Refund Recovery Services LLC (“**RRS**”) has been retained as the Applicants’ exclusive agent to assist in filing the necessary documents to secure their share of the Polyol settlement funds.

57. In March 2016, Dow withdrew its appeal of the Judgment to the United States Supreme Court and accepted a settlement under which it is to pay \$834,000,000 USD, for distribution to the class members, including the Applicants (the “**Polyols Settlement**”).

58. The amount which will be payable to the Applicants under the Polyols Settlement has not yet been determined. The parties are applying a different method for the allocation of the settlement than had been used in the previous settlements in this matter.

59. The funds are to be distributed, net of fees, in proportion to the dollar amount of each customer’s specific damages as determined by a Court designated expert. The expert will calculate each member’s damages using customer-specific estimates, bounded by the Interquartile Range for each modeled product overcharge applicable to that customer.

60. At a hearing in July 2016, the US Judge with carriage of this class action approved the above referenced method for processing and payment of claimants. The Appeal period for the

approval of the settlement has expired and no appeal has been made. As such, the US claims process is expected to commence by the end of the month, or in early February.

61. I am advised by RRS that the claims administrator is currently working on finalizing the claim forms, and expects to have them ready by the end of January.

62. Funds are not anticipated to be paid to the Applicants until sometime in the Spring of 2017. It may also be that the funds will be paid in stages, as was the case with other settlements in this matter.

63. An extension of the Stay Period is required to allow for distributions to be made to the Applicants pursuant to the Polyols Settlement. As described above, the funds paid to Domfoam under the Polyols Settlement will be distributed to Proven Creditors *pro-rata* under the Plan.

Valle Foam Collection Efforts

64. Since the Meeting Order Affidavit, Valle Foam has continued to pursue collection efforts of its outstanding receivables.

65. In the Meeting Order Affidavit, I advised that there are six actions outstanding in respect of an aggregate amount of \$793,000.00. In addition, there are two outstanding actions worth approximately \$212,000.00. Judgment has been obtained in these two actions and enforcement steps are currently being taken. One action has been settled and a dismissal order was obtained on October 12, 2016. The Monitor has been advised of the status of each of these actions.

66. Valle Foam continues to vigorously pursue the remaining actions, including by continuing with the documentary discovery phase of the litigation and proceeding with

summary judgment in several cases where warranted. Extending the Stay Period will provide Valle Foam with the breathing room required to continue its collection efforts.

67. This affidavit is sworn in support of the Applicants' motion for an Order sanctioning and approving the Plan, and extending the Stay Period up to and including June 30, 2017, and for no improper purpose.

SWORN before me at the)
Pinellas County, in the State of)
Florida, this 13 day of January, 2017)
)
)
)
)
Courtney Ann Hardy)
Signature of Notary)

Tony Vallecoccia
TONY VALLECOCCIA

Personally Known _____ OR Produced Identification X
Type of Identification Produced Ontario Driver's License

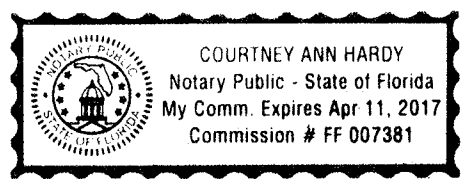


Exhibit A

This is Exhibit "A" referred to in the

AFFIDAVIT OF

TONY VALLECOCCIA

T. Vallecoccia

STATE OF FLORIDA

COUNTY OF Pinellas

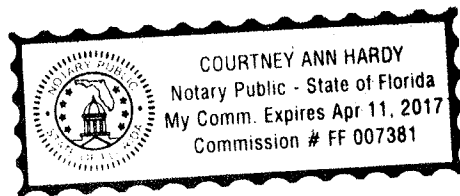
SWORN before me this 13 day of January, 2017
By TONY VALLECOCCIA.

Courtney Ann Hardy

A Commissioner, Notary Public, etc.

Personally Known _____ OR Produced Identification Y

Type of Identification Produced Antonia Driver's License



PLAN OF COMPROMISE AND ARRANGEMENT

PURSUANT TO THE *COMPANIES' CREDITORS ARRANGEMENT ACT* (CANADA)

ARTICLE 1 - INTERPRETATION 1.1

1.2 Definitions

In this Plan:

"**Applicant**" means 4362063 Canada Ltd. (formerly Domfoam International Inc.);

"**Approval Meeting**" means a meeting of Creditors, held pursuant to the Meeting Order, to vote on the Plan, and includes any meeting or meetings resulting from the adjournment thereof;

"**A-Z Foam**" means the applicant A-Z Sponge & Foam Products Ltd, in these proceedings;

"**Business**" means the business and operations carried on by or formerly carried on by the Applicant;

"**Business Day**" means a day other than a Saturday or Sunday on which banks are generally open for business in Toronto, Ontario, and Montreal, Quebec;

"**CCAA**" means the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended;

"**CCAA Proceedings**" means the proceedings under the CCAA commenced by the Applicant on January 12, 2012 at Toronto under Court File No. CV-12-9545-00CL;

"**Claim**" means any right or claim of any Person, or class of Persons or representative Person, against the Applicant whether or not asserted, in connection with any indebtedness, liability or obligation of any kind whatsoever of the Applicant in existence on the Filing Date, or which has arisen since the Filing Date, any accrued interest thereon and costs payable in respect thereof to and including the Filing Date, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, and includes any other claims that would have been claims provable in bankruptcy had the Applicant become bankrupt on the Filing Date;

"**Claims Bar Date**" means the 5:00 PM August 31, 2012 bar date referred to at paragraphs 5(b) and (f) of the Claims Process Order;

"**Claims Process Order**" means the Order of Justice Brown in the CCAA Proceedings dated June 15, 2012;

"**Court**" means the Ontario Superior Court of Justice;

"**Competition Act Claim**" means the proof of claim filed by Her Majesty the Queen in Right of Canada (the "**Crown**") in respect of fines owed to the Crown by Domfoam International Inc. and

Valle Foam Industries (1995) Inc. as a result of their participation in offences under ss. 45(1)(a) and 45(1)(c) of the *Competition Act*, RSC 1985, c C-34, as approved by Court Order, dated [x].

"Creditor" means any Person with a Claim or a D&O Claim regardless of whether such Person has filed a Proof of Claim in the CCAA Proceedings;

"D&O Claim" means any right of any Person against one or more of the Directors and Officers (as defined below) which arose as a result of their position, supervision, management or involvement as Director and Officer, where such right arose on, before or after June 15, 2012, and whether enforceable in any civil, administrative or criminal proceedings, including, without limitation, any person (including the crown) who filed a claim against the Directors and Officers pursuant to the Claims Process Order, including, without limitation any possible D&O Claim related to or derived from the facts alleged against the Applicant in the Revenu Quebec Action;

"DIP Loan" means any loans made between or among the Applicant, Valle Foam and A-Z Foam on or after January 12, 2012 which were expressly authorized to be considered a DIP loan by an Order of the Court;

"Directors and Officers" means (i) the current and former directors of the Applicant; and (ii) the current and former officers of the Applicant;

"Effective Time" means the first moment in time on the Plan Implementation Date;

"Equity Claim" means an equity claim as defined by the *Bankruptcy Insolvency Act*, R.S.C. 1985, c. B-3;

"Excepted Claim" has the meaning given to that term in Section 9.5 hereof;

"Filing Date" means January 12, 2012;

"Holdback Amount" means that amount from the cash on hand from the Applicant which the Monitor, in consultation with the Applicant, elects to hold back from the distribution of the Liquidation Proceeds, for future administration costs of these CCAA Proceedings;

"HST Pre and Post Filing Dispute" means the outstanding dispute between the Applicant and the Monitor as to the treatment of certain outstanding claims for payment of HST by Revenu Quebec as either a pre or post Filing Date obligation of the Applicant as further described in the Affidavit of Tony Vallecoccia sworn August 23, 2016;

"Initial CCAA Order" means the initial order of the Ontario Court dated January 12, 2012, pursuant to which, among other things, the Ontario Court granted a stay of proceedings with respect to the Applicant, as same may be further amended from time to time;

"Intercompany Claims" means any Claims, including the DIP Loan, owing among or between the Applicant and A-Z Foam or Valle Foam or any of them;

"Liquidation Proceeds" means the proceeds realized from the Business or collected by the Applicant or the Monitor on behalf of the Business since the Filing Date;

"Meeting" means an Information Meeting or an Approval Meeting;

"Meeting Order" means the Order of the Ontario Court dated September 6, 2016, regarding, *inter alia*, the calling and holding of the Meeting;

"Monitor" means Deloitte Restructuring Inc. (previously known as Deloitte & Touche Inc.), in its capacity as monitor of the Applicant, appointed pursuant to the Initial CCAA Order;

"Ontario Court" means the Superior Court of Justice (Ontario);

"Order" means an order of the Ontario Court in the CCAA Proceedings;

"Person" means any individual, partnership, limited partnership, limited liability company, joint venture, trust, trustee, corporation, unincorporated organization, government, agency, regulatory body or instrumentality thereof, legal personal representative or litigation guardian, or any other entity howsoever designated or constituted;

"Plan" means this plan of compromise or arrangement and all schedules hereto, as same may be amended hereafter in accordance with Section 11.1 herein;

"Plan Completion Date" means the Business Day on which the Monitor has completed and filed a certificate in accordance with Section 10.1 of this Plan;

"Plan Implementation Date" means the Business Day on which the conditions precedent to implementation of this Plan as set out in Section 7.1 hereof have been satisfied or fulfilled, and the Monitor has completed and filed its certificate in accordance with Section 7.2 of this Plan;

"Polyols Settlement" means the settlement as described in the affidavit of Tony Vallecoccia, sworn August 23, 2016, between the Applicant, as a member of a class of plaintiffs, and Dow Chemical Inc. in the United States;

"Proof of Claim" means the form attached as Schedule B to the Claims Process Order;

"Proven Claim" means a Creditor Claim that was properly filed with the Monitor, to the extent that it was allowed in whole or in part by (a) the Monitor, or (b) the Ontario Court, following an appeal from the determination of the Monitor;

"Proven Creditor" means a Creditor having a Proven Claim;

"Revenu Quebec Action" means the outstanding action by the Applicant against each of Revenu Quebec and Canada Revenue Agency with respect to certain amounts assessed as due and owing by Revenu Quebec and Canada Revenue Agency against the Applicant, before each of the Superior Court of Quebec and the Tax Court of Canada;

"Sanction Order" means an order of the Ontario Court approving this Plan;

"Unaffected Claim" has the meaning given to that term in Section 3.3 hereof;

"Unaffected Creditor" means any Person holding Unaffected Claims, to the extent of those

Unaffected Claims;

"Unconfirmed Vote" means a vote cast at the Approval Meeting and marked by the Monitor as relating not to a Proven Claim, but to a Claim which the Monitor revised or disallowed in whole or in part and which remains in dispute;

"Unconfirmed Voting Claim" means a Creditor Claim in respect of which the Creditor's vote is an Unconfirmed Vote;

"Valle Foam" means Valle Foam Industries (1995) Inc. one of the applicants in the CCAA Proceedings; and

"Website" means the website established by the Monitor for purposes of the Plan and having the following address: www.deloitte.com/ca/vallefoam.

1.2 Certain Rules of Interpretation

In this Plan and all schedules hereto:

- (a) the division of this Plan into articles, sections, subsections and clauses and the insertion of headings and a table of contents are for convenience of reference only and shall not affect the construction or interpretation of this Plan. The terms "this Plan", "hereof", "hereunder", "herein" and similar expressions refer to this Plan and not to any particular article, section, subsection or clause and include any plan supplemental hereto. Unless otherwise indicated, any reference in this Plan to an article, section, subsection, clause or schedule refers to the specified article, section, subsection, clause or schedule of or to this Plan;
- (b) the use of words in the singular or plural, or with a particular gender, shall not limit the scope or exclude the application of any provision of this Plan or a schedule hereto to such Person (or Persons) or circumstances as the context otherwise permits;
- (c) the words "includes" and "including" and similar terms of inclusion shall not, unless expressly modified by the words "only" or "solely", be construed as terms of limitation, but rather shall mean "includes without limitation" and "including without limitation", so that references to included matters shall be regarded as illustrative without being either characterizing or exhaustive;
- (d) unless otherwise specified, all references to time herein and in any document issued pursuant hereto mean local time in Toronto, Ontario and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day. Unless otherwise specified, the time period within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next succeeding Business Day if the last day of the period is not a Business Day; and
- (e) unless otherwise provided, any reference to a statute, or other enactment of parliament or a legislature includes all regulations made thereunder, all enactments to or re-enactments of such statute or regulations in force from time to time, and, if applicable, any statute or

regulation that supplements or supersedes such statute or regulation.

ARTICLE 2 - PURPOSE AND EFFECT OF THE PLAN

2.1 Purpose

The purpose of this Plan is to enable the Applicant to efficiently distribute the Liquidation Proceeds and the proceeds of the Polyols Settlement to its Proven Creditors on a pro-rated basis, and to provide for releases for the Directors and Officers.

2.2 Affected Persons

This Plan will be implemented pursuant to the CCAA. On the Plan Implementation Date, subject to Section 3.3 hereof and subject to the satisfaction of the conditions contained in Section 7.1 herein, this Plan will be binding upon all Creditors and all other Persons in accordance with its terms.

ARTICLE 3 - CLASSIFICATION OF CREDITORS

3.1 Class of Creditors

The sole class for the purpose of considering and voting on this Plan shall be a single class consisting of Creditors.

3.2 Creditor Identification Procedure

Creditor Claims which have been delivered by Proof of Claim by the Claims Bar Date shall be as if they had been filed in respect of the Plan, and Creditors need not deliver to the Monitor a further Proof of Creditor Claim in respect thereof.

3.3 Unaffected Claims

This Plan does not compromise, release or otherwise affect any rights or claims:

- (a) for fees and expenses authorized pursuant to paragraph 6 of the Initial CCAA Order, incurred in the provision of goods and services relating to the CCAA Proceedings;
- (b) of the Applicant, the Monitor and of its counsel;
- (c) that fall within Section 6(3), 6(5) or 6(6) of the CCAA;
- (d) that arise from the DIP Loan; or
- (e) any outstanding Intercompany Claims.

Each of the foregoing rights and claims set out in this Section 3.3 is referred to herein as an "Unaffected Claim".

3.4 Equity Claims

All Persons holding Equity Claims shall not be entitled to vote at or attend the Approval Meeting,

and shall not receive any distributions under the Plan or otherwise receive any other compensation in respect of their Equity Claims.

ARTICLE 4 - TREATMENT OF CREDITORS

4.1 Treatment of Claims

On the Plan Implementation Date, the Claims will be compromised, released and otherwise affected in accordance with the terms of this Plan.

Notwithstanding the foregoing and anything else in the Plan, the Competition Act Claim shall not be compromised or released by the Plan. For greater certainty, the Crown is entitled to participate in any distributions under the Plan with respect to the Competition Act Claim, and any funds distributed on account of the Competition Act Claim will reduce the amount outstanding thereunder.

4.2 Voting Rights of Creditors

Subject to this Plan and the Meeting Order, each Proven Creditor shall be entitled to one vote in an amount equal to such Proven Claim. Furthermore, votes in respect of Unconfirmed Voting Claims will be recorded by the Monitor, subject to further determination in accordance with the Meeting Order. The procedure for determining the validity and quantum of the Claims for voting purposes shall be governed by the Meeting Order.

4.3 Unaffected Creditors

Notwithstanding anything to the contrary herein, each Person who has an Unaffected Claim shall not be entitled to vote or to receive any distribution under this Plan in respect of such Unaffected Claim. All Unaffected Claims shall be unaffected by the CCAA Proceedings and principal and interest shall continue to accrue notwithstanding the CCAA Proceedings.

ARTICLE 5 - DISTRIBUTIONS

5.1 Employees (Section 6(5) CCAA)

To the best of the Company's knowledge, there are no amounts owing to employees of the Applicant generally, or which would be captured by section 6(5) of the CCAA. However, in the event any such claims exist, immediately after the rendering of the Sanction Order and the expiry of all appeal periods relating thereto or the affirmation of the Sanction Order in such appeals, employees and former employees of the Applicant shall receive payment of:

- (a) amounts at least equal to the amounts that they would have been qualified to receive under paragraph 136(1)(d) of the *Bankruptcy and Insolvency Act* if the Applicant had become bankrupt on the day on which proceedings commenced under the CCAA; and
- (b) wages, salaries, commissions or compensation for services rendered after the Initial CCAA Order and before the Sanction Order, together with, in the case of travelling salespersons, disbursements properly incurred by them in and about the Applicant's business during the same period.

The inclusion of this Section 5.1 herein does not constitute any admission or acknowledgment by the Applicant as to the existence of any employees or former employees claims.

5.2 Crown claims (Section 6(3) CCAA)

Within six (6) months after the date of the Sanction Order and the expiry of all appeal periods relating thereto or the affirmation of the Sanction Order in such appeals, all amounts that were outstanding at the time of the Applicant's application for an order under Section 11 or 11.02 of the CCAA and that are of a kind that could be subject to a demand under:

- (a) subsection 224(1.2) of the *Income Tax Act*;
- (b) any provision of the *Canada Pension Plan* or of the *Employment Insurance Act* that refers to subsection 224(1.2) of the *Income Tax Act* and provides for the collection of a contribution, as defined in the *Canada Pension Plan*, an employee's premium, or employer's premium, as defined in the *Employment Insurance Act*, or a premium under Part VII.1 of that Act, and of any related interest, penalties or other amounts; or
- (c) any provision of provincial legislation that has a purpose similar to subsection 224(1.2) of the *Income Tax Act*, or that refers to that subsection, to the extent that it provides for the collection of a sum, and of any related interest, penalties or other amounts, and the sum:
 - (i) has been withheld or deducted by a person from a payment to another person and is in respect of a tax similar in nature to the income tax imposed on individuals under the *Income Tax Act*, or
 - (ii) is of the same nature as a contribution under the *Canada Pension Plan* if the province is a "province providing a comprehensive pension plan" as defined in subsection 3(1) of the *Canada Pension Plan* and the provincial legislation establishes a "provincial pension plan" as defined in that subsection;

shall be paid in full to Her Majesty in right of Canada or a Province, as applicable, but expressly not including any claims as may be due under the Excise Tax Act or any analogous statute in any province.

The inclusion of this Section 5.2 herein does not constitute any admission or acknowledgment by the Applicant as to the existence of any such outstanding amounts.

5.3 Payment of Professional and Administrative Expenses

On the Plan Implementation Date, all outstanding fees and disbursements payable under any Order shall be fully paid, or a reserve for such amount fully funded, as determined by the Monitor. Parties entitled to be paid hereunder shall have sixty (60) days from the Plan Implementation Date, or such later date as may be agreed with the Monitor, to submit final invoices to the Monitor for payment. Any reserve shall be administered by the Monitor.

5.4 Initial Distribution

Within thirty (30) days of the Plan Implementation Date, the Monitor shall distribute to the Proven Creditors the Liquidation Proceeds, less any amounts required to be paid pursuant to this Article 5 as determined by the Monitor in its sole discretion, and less the Holdback Amount.

5.5 Subsequent Distribution(s)

From time to time, the Monitor shall distribute to the Proven Creditors any other amounts in the possession or coming into the possession of the Monitor which will be available from other sources, including amounts paid to the Applicant pursuant to the Polyols Settlement, less the Holdback amount, if any, as determined by the Monitor in its sole discretion.

5.6 Distributions *Pro Rata* and *Pari Passu*

All distributions made to Proven Creditors pursuant hereto shall be made on a *pro rata, pari passu basis* among such Proven Creditors, considering the amounts of their respective Proven Claims.

All distributions made by the Monitor are made as agent for and on behalf of the Applicant, and not in its personal capacity.

ARTICLE 6 - SANCTION ORDER

6.1 Application for Sanction Order

The application for the Sanction Order shall be brought by the Applicant as soon as reasonably practicable following the approval of this Plan by the requisite majorities of Creditors voting at the Approval Meeting.

6.2 Effect of Sanction Order

In addition to sanctioning this Plan, and subject to the discretion of the Ontario Court, the Sanction Order shall, among other things and without limitation:

- (a) direct and authorize the distributions contemplated under this Plan;
- (b) order and declare that any distributions under the Plan shall not constitute a "distribution" and the Monitor shall not constitute a "legal representative" or "representative" of the Applicants for the purposes of section 159 of the Income Tax Act (Canada), section 270 of the Excise Tax Act (Canada), section 14 of the Tax Administration Act (Quebec), section 107 of the Corporations Tax Act (Ontario), section 22 of the Retail Sales Tax Act (Ontario), section 117 of the Taxation Act, 2007 (Ontario), section 23 of the Canada Pension Plan, section 86 of the Employment Insurance Act or any other similar federal, provincial or territorial tax legislation (collectively the "Tax Statutes"), nor a "receiver" within the meaning of An Act Respecting the Quebec Sales Tax, given that the Monitor is only a disbursing agent under the CCAA Plan, and the Monitor in making such payments is not "distributing", nor shall be considered to "distribute" nor to have "distributed", such funds for the purpose of the Tax Statutes, and the Monitor shall not incur any liability under the Tax Statutes in respect of it making any payments ordered or permitted hereunder, and is hereby forever released, remised and discharged from any claims against it under or pursuant to the Tax Statutes or otherwise at law, arising in respect of payments made under the Plan and this Order and any claims of this nature are hereby forever barred.
- (c) declare that the compromises and releases effected hereby are approved, binding and

effective as of the Plan Implementation Date upon all Creditors, the Monitor and all other Persons affected by this Plan;

- (d) provide that no Person who is a party to any obligation or agreement with the Applicant shall, following the Plan Implementation Date, accelerate, terminate, rescind, refuse to perform or repudiate its obligations thereunder, or enforce or exercise any right (including any right of set-off, dilution or other remedy) or make any demand under or in respect of any such obligation or agreement, by reason:
 - (i) of any event(s) that occurred on or prior to the Plan Implementation Date that would have entitled any other Person thereto to enforce those rights or remedies (including defaults or events of default arising as a result of the insolvency of the Applicant);
 - (ii) of the fact that relief under the CCAA has been sought or obtained in respect of the Applicant or that the CCAA Proceedings have been commenced or completed; or
 - (iii) of any compromises or arrangements effected pursuant to this Plan;
- (d) confirm the effect of the Meeting Order;
- (e) provide that the Monitor shall be discharged and released from its role as Monitor on the Plan Completion Date, save and except with respect to any remaining duties or powers required to implement and give effect to the terms of this Plan.

ARTICLE 7 - CONDITIONS PRECEDENT

7.1 Conditions Precedent to Implementation of Plan

The implementation of this Plan shall be conditional upon the fulfillment of the following conditions on or before the Plan Implementation Date:

- (a) **Approval by Creditors:** The Plan shall have been approved pursuant to the CCAA by the Proven Creditors;
- (b) **Granting of Sanction Order:** The Sanction Order shall have been granted by the Ontario Court in a form acceptable to the Applicant and the Monitor;
- (c) **Expiry of Appeal Periods:** The appeal periods and any periods for leave to appeal with respect to the Sanction Order shall have expired without an appeal or application for leave to appeal of such Order having been commenced or, in the event of an appeal or application for leave to appeal, a final determination denying leave to appeal or dismissing such appeal and affirming and recognizing the sanctioning of this Plan, as the case may be, shall have been made by the applicable appellate court, with no further right of appeal;
- (d) **Revenu Quebec Action:** The Applicant and the Directors and Officers shall have provided a binding undertaking to discontinue, settle or withdraw the Revenu Quebec Action on terms satisfactory to the Monitor and the Court, upon the Plan Implementation Date;
- (e) **HST Pre and Post Filing Dispute:** The Applicant and the Directors and Officers shall have provided a binding undertaking to settle or withdraw from further contesting the position of the Monitor with

respect to this issue upon the Plan Implementation Date;

- (f) **Completion of Necessary Documentation:** The execution and delivery by all relevant Persons of all agreements, settlements, resolutions, indentures, releases, documents and other instruments that are necessary to be executed and delivered to implement and give effect to all material terms and provisions of this Plan;

7.2 Monitor's Certificate

Upon the satisfaction of the conditions set out in Section 7.1 hereof, the Monitor shall file with the Ontario Court in the CCAA Proceedings a certificate that states that all conditions precedent set out in Section 7.1 of this Plan have been satisfied and that the Plan Implementation Date has occurred.

7.3 Termination of Plan for Failure to Become Effective

If the Plan Implementation Date shall not have occurred on or before one hundred and twenty (120) days following the date of the Sanction Order, or such later date as the Applicant may stipulate, then, subject to further Order of the Ontario Court, this Plan shall automatically terminate and be of no further force or effect; provided that this Plan shall not automatically terminate pursuant to this section if the sole basis for the nonoccurrence of the Plan Implementation Date is the pendency of any appeal or application for leave to appeal with respect to the Sanction Order.

ARTICLE 8 - EFFECT OF PLAN

8.1 Effect of Plan Generally

The Plan (including, without limitation, the releases and injunctions contained in the Plan), upon being sanctioned and approved by the Ontario Court pursuant to the Sanction Order, shall be binding on the Plan Implementation Date on the Creditors and all other Persons (and each of their respective heirs, executors, administrators, guardians, legal personal representatives, successors and assigns) irrespective of the jurisdiction in which such Creditors and other Persons reside, or in which the Claims arose.

On the Plan Implementation Date, the Directors and Officers shall and shall be deemed to resign without the requirement of further action on the part of such Directors and Officers. The Directors and Officers shall also consent to the discharge of the Directors and Officer's Charge, as created by and defined in the Initial Order.

Notwithstanding the foregoing and anything else in the Plan, the Competition Act Claim shall not be compromised or released by the Plan. For greater certainty, the Crown is entitled to participate in any distributions under the Plan with respect to the Competition Act Claim, and any funds distributed on account of the Competition Act Claim will reduce the amount outstanding thereunder.

8.2 Consents and Agreements

On the Plan Implementation Date, each Creditor shall be deemed to have consented and agreed

to all of the provisions of this Plan in its entirety. In particular, each Creditor shall be deemed:

- (a) to have executed and delivered to the Monitor all consents, releases or agreements required to implement and carry out this Plan in its entirety; and
- (b) to have agreed that, if there is any conflict between the provisions, express or implied, of any agreement or other arrangement, written or oral, existing between such Creditor and the Applicant at the Plan Implementation Date (other than those entered into by the Applicant in writing on or after the date hereof) and the provisions of this Plan, the provisions of this Plan take precedence and priority and the provisions of such agreement or other arrangement shall be deemed to be amended accordingly.

8.3 Exculpation

The Monitor (including its affiliates, directors, officers, employees, associated individuals, agents and representatives) and all of its professional advisors and legal counsel shall have no liability or obligation to any Person for their role, or any act or omission, in connection with their appointments as Monitor or advisors or counsel thereto, the CCAA Proceedings, activities undertaken in preparation for or in anticipation of the CCAA Proceedings, the Plan, the pursuit of sanctioning of the Plan, the consummation and implementation of the Plan, the administration of the Plan or the property to be distributed under the Plan, from the date of their appointments to the earlier of the date of their discharges from those appointments, or the Plan Completion Date.

ARTICLE 9 - RELEASES AND INJUNCTIONS

9.1 Plan Releases

- (a) On the Plan Implementation Date, the Applicant, the Directors, Officers, current and former employees, advisors, legal counsel and agents, (being referred to individually as a "**Domfoam Released Party**") shall be released and discharged from the D&O Claims, the Claims and any and all demands, claims, actions, applications, causes of action, counterclaims, suits, debts, sums of money, accounts, covenants, damages, judgments, orders, including for injunctive relief or specific performance and compliance orders, expenses, executions, encumbrances and other recoveries on account of any liability, obligation, demand or cause of action of whatever nature which any Creditor, Unaffected Creditor, Her Majesty the Crown or other Person may be entitled to assert, including any and all Claims in respect of the payment and receipt of proceeds, statutory liabilities of the Directors and Officers and employees of the Applicant and any alleged fiduciary or other duty (whether such employees are acting as a Director and Officer or employee), whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any omission, transaction, duty, responsibility, indebtedness, liability, obligation, dealing or other occurrence existing or taking place on or prior to the later of the Plan Implementation Date and the date on which actions are taken to implement the Plan that are in any way relating to, arising out of or in connection with the Claims, the Business whenever or however conducted, the Plan, the CCAA Proceedings, or any Claim that has been barred or extinguished by the Claims Process Order and all claims arising out of such actions or

omissions shall be forever waived and released (other than the right to enforce the Applicant's obligations under the Plan or any related document), all to the full extent permitted by applicable law, provided that nothing herein shall release or discharge (i) any Domfoam Released Party if such Domfoam Released Party is judged by the expressed terms of a judgment rendered on a final determination on the merits to have committed criminal, fraudulent or other wilful misconduct or (ii) the Directors with respect to matters set out in section 5.1(2) of the CCAA. For clarity, a D&O Claim with respect to the Revenu Quebec Action is not a claim to which section 5.1(2) applies and is to be released hereunder.

- (b) The Sanction and Vesting Order will enjoin on the Plan Implementation Date the prosecution, whether directly, derivatively or otherwise, of any Claim, obligation, suit, judgment, damage, demand, debt, right, cause of action, liability or interest released, discharged, compromised or terminated pursuant to the Plan.
- (c) Nothing in the Plan shall be interpreted as restricting the application of Section 21 of the CCAA.
- (d) Notwithstanding the foregoing and anything else in the Plan, the Competition Act Claim shall not be compromised or released by the Plan. For greater certainty, the Crown is entitled to participate in any distributions under the Plan with respect to the Competition Act Claim, and any funds distributed on account of the Competition Act Claim will reduce the amount outstanding thereunder.

9.2 Injunction

- (a) On the Plan Implementation Date, all Persons (regardless of whether or not such Persons are Creditors, but expressly excluding the Crown with respect to the enforcement of the Competition Act Claim), together with their respective affiliates, present and former officers, directors, employees, associated individuals, auditors, financial advisors, legal counsel, other professionals, sureties, insurers, indemnitees, agents, dependents, heirs, representatives and assigns, as applicable, are permanently and forever barred, estopped, stayed and enjoined, with respect to all Claims against the Monitor and the Domfoam Released Parties, from (i) commencing, conducting, or continuing in any manner, directly or indirectly, any action, suits, demands or other proceedings of any nature of kind whatsoever against the Monitor and the Domfoam Released Parties; (ii) levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, decree or order against the Monitor and the Domfoam Released Parties; (iii) commencing, conducting or continuing in any manner, directly or indirectly, any action, suits, or damages, including without limitation, by way of contribution or indemnity or other relief, in common law, or in equity, or under the provisions of any statute or regulation, or other proceedings of any nature or kind whatsoever (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against any Person who makes such a claim or might

reasonably be expected to make such a claim in any manner or forum, against one or more of the Domfoam Released Parties or the Monitor; (iv) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any lien or encumbrance of any kind; or (v) taking any actions to interfere with the implementation or consummation of this Plan

- (b) Notwithstanding its exclusion from section 9.2(a) hereof, the enforcement of the Competition Act Claim by the Crown against the Applicant shall continue to be stayed until such time as the stay of proceedings created by the Initial Order in the CCAA Proceedings expires.

ARTICLE 10 - COMPLETION OF PLAN

10.1 Monitor's Certificate

Upon the Monitor being satisfied that there is no likelihood of additional funds becoming available for distribution to Creditors under the Polyols Settlement or otherwise, the Monitor shall file with the Ontario Court a certificate confirming that there are no further distributions to be made to Creditors, and that the Plan is completed to the satisfaction of the Monitor.

10.2 Discharge and release of the Monitor

On the Plan Completion Date, and subject to the Sanction Order and any other Orders, the Monitor shall be discharged and released and shall have no further obligations or responsibilities. For clarity, nothing in this Plan shall discharge the Monitor from its duties related to Valle Foam or A-Z Foam.

ARTICLE 11 - GENERAL PROVISIONS

11.1 Plan Amendment

The Applicant reserves the exclusive right to amend this Plan, in a written document filed with the Ontario Court, at any time prior to the Plan Implementation Date, provided that:

- (a) if the amendment is made before or during the Meetings, prior to the vote being taken to approve the Plan, the Applicant shall, subject to the Meeting Order:
- (i) give notice to all Proven Creditors of the details of any amendment that renders the Plan less favourable to such Proven Creditors; and
 - (ii) may, in its entire discretion, give notice to Proven Creditors absent from a Meeting, of the details of any amendment that does not render the Plan less favourable to them.
- (b) if the Monitor, acting reasonably and in good faith, determines that the amendment is of a technical or administrative nature that would not be materially prejudicial to the interests of any of the Proven Creditors under the Plan, subject to the Meeting Order, and is necessary in order to give effect to the substance of the Plan or the Sanction Order, the Applicant need not give notice to Proven Creditors or obtain a further Order in connection therewith, regardless of whether the amendment is made prior to or subsequent to the vote on the Plan, or prior to or subsequent to the Sanction Order, if granted;

- (c) after the Approval Meeting, any other amendment may only be made if approved by the Ontario Court; and
- (d) any supplementary plan or plans of compromise or arrangement filed by the Applicant with the Ontario Court and, if required by this Section 11.1, approved by the Ontario Court, shall, for all purposes be a part of and incorporated into this Plan.

11.2 Severability

In the event that any provision in this Plan is held by the Ontario Court to be invalid, void or unenforceable, this Plan shall be null and void in all respects, with effect in accordance with Section 11.3 hereof.

11.3 Termination

At any time prior to the Plan Implementation Date, the Applicant may, subject to further order of the Ontario Court, determine not to proceed with this Plan notwithstanding any prior approvals given at the Meeting or the obtaining of the Sanction Order.

If the conditions precedent to implementation of this Plan are not satisfied, if the Applicant determines not to proceed with this Plan, if the Ontario Court holds any provision of this Plan to be invalid, void or unenforceable or if the Sanction Order is not issued by the Ontario Court:

- (a) this Plan shall be null and void in all respects;
- (b) any document or agreement executed pursuant to this Plan shall be deemed null and void; and
- (c) nothing contained in this Plan, and no act taken in preparation for the consummation of this Plan, shall:
 - (i) constitute or be deemed to constitute a waiver or release of any Creditor Claims or any defenses thereto by or against the Applicant or any other Person;
 - (ii) prejudice in any manner the rights of any of the Creditors, or any other Person in any further proceedings involving the Applicant or the Domfoam Released Parties; or
 - (iii) constitute an admission of any sort by any of the Creditors, the Applicant, the Monitor, or any other Person.

11.4 Paramountcy

From and after the Plan Implementation Date, any conflict between: (a) this Plan; and (b) any information statement or summary in respect of this Plan, or the covenants, warranties, representations, terms, conditions, provisions or obligations, express or implied, of any contract, mortgage, security agreement, indenture, loan agreement, commitment letter, document or agreement, written or oral, and any and all amendments and supplements thereto existing between the Applicant and any Creditor or other Person as at the Plan Implementation Date will be deemed to be governed by the terms, conditions and provisions of this Plan and the Sanction Order, which shall take precedence and priority.

11.5 Responsibilities of the Monitor

The Monitor is acting in its capacity as Monitor in the CCAA Proceedings, and it will not be responsible or liable for any obligations of the Applicant hereunder. The Monitor will have only those powers granted to it by this Plan, by the CCAA and by any Order of the Ontario Court in the CCAA Proceedings, including the Initial CCAA Order.

11.6 Deeming Provisions

In this Plan, the deeming provisions are not rebuttable and are conclusive and irrevocable.

11.7 Notices

Any notice or communication to be delivered hereunder shall be in writing and shall reference this Plan and may, subject as hereinafter provided, be made or given by personal delivery or by fax addressed to the respective parties as follows:

(a) if to the Applicant or to the Monitor:

(b) if to a Creditor:

to the address specified in the Proof of Claim, or Proof of Creditor Claim filed by that Creditor or, if none has been specified, to such other address at which the notifying party may reasonably believe that the Creditor may be contacted;

or to such other address as any party may from time to time notify the others in accordance with this Section 11.7. All such notices and communications that are personally delivered shall be deemed to have been received on the date of delivery. Any such notices and communications that are faxed shall be deemed to be received on the date faxed if sent before 5:00 p.m. Eastern Time on a Business Day and otherwise shall be deemed to be received on the Business Day next following the day upon which such fax was sent. Any notice or other communication sent by mail shall be deemed to have been received on the fifth Business Day after the date of mailing. The unintentional failure to give a notice contemplated hereunder shall not invalidate any action taken by any Person pursuant to this Plan.

11.8 Successors and Assigns

The rights, benefits and obligations of any Person named or referred to in this Plan shall be binding on, and shall inure to the benefit of, any heir, executor, trustee, administrator, successor or assign of such Person.

11.9 Further Assurances

Notwithstanding that the transactions and events set out in this Plan shall be deemed to occur without any additional act or formality other than as set out herein, each of the Persons affected hereby shall make, do and execute or cause to be made, done or executed all such further acts, deeds, agreements, transfers, assurances, instruments, documents or discharges as may be reasonably required by the Monitor in order to implement and give effect to this Plan.

11.10 Governing Law

This Plan shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to any conflict of law provision that would require the application of the law of any other jurisdiction. In the event of any dispute or issue in connection with, or related to, the interpretation, application or effect of this Plan, such dispute or issue shall be subject to the exclusive jurisdiction of the Ontario Court.

Dated at Toronto, Ontario, as of this 23rd day of August, 2016.

Exhibit B

This is Exhibit "B" referred to in the

AFFIDAVIT OF

TONY VALLECOCCIA

T. Vallecoccia

STATE OF FLORIDA

COUNTY OF Pinellas

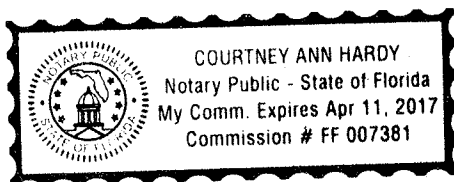
SWORN before me this 13 day of January, 2017
By TONY VALLECOCCIA.

Courtney Ann Hardy

A Commissioner, Notary Public, etc.

Personally Known _____ OR Produced Identification x

Type of Identification Produced Ontario Driver's License



Court File No. CV-12-9545-00CL

**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 A PLAN OF COMPROMISE OR
ARRANGEMENT OF 3113736 CANADA LTD., 4362063 CANADA LTD., and
A-Z SPONGE & FOAM PRODUCTS LTD.

(the "Applicants")

**AFFIDAVIT OF TONY VALLECOCCIA
(sworn August 23, 2016)**

I, TONY VALLECOCCIA, of the Town of Milton, in the Regional Municipality of Halton, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am the President and CEO of 3113736 Canada Ltd. formerly known as Valle Foam Industries (1995) Inc. and of 4362063 Canada Ltd. formerly known as Domfoam International Inc. and a director of each of the Applicants, and as such have knowledge of the matters to which I hereinafter depose, except where otherwise stated. Where my evidence is based on information and belief, I have stated the source of that information and believe it to be true.
2. This affidavit is sworn in support of a motion by the Applicants for an Order:
 - a) authorizing the Applicant Domfoam to file a plan of arrangement in these *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") proceedings (the "**Plan**");

- b) Calling a meeting of creditors to consider the Plan; and
- c) extending the stay granted pursuant to the Initial Order of Justice Newbould in these CCAA proceedings dated January 12, 2012, from August 30, 2016 to and including January 30, 2017.

3. As a result of the sale of assets of the Applicants, Valle Foam changed its name to 3113736 Canada Ltd. and Domfoam changed its name to 4362063 Canada Ltd. The style of cause of these proceedings was changed by the Order of Justice Brown dated June 15, 2012 to reflect the change of names. For the purpose of this affidavit, the said Applicants will still be referred to as Valle Foam, Domfoam and A-Z.

4. Attached hereto as Exhibit "A" is my affidavit of February 19, 2016 without Exhibits, (the "February Affidavit"), which sets out the material events which the Applicants were dealing with leading up to the last extension requested by the Applicants. The balance of this affidavit, other than the section related to the Plan, provides an update on those matters described in the February Affidavit.

VALLE FOAM COLLECTION EFFORTS

- 5. Valle Foam continues to pursue collection efforts of its outstanding receivables.
- 6. There are six actions outstanding in respect of an aggregate amount of \$793,000.00. The Monitor has been advised on the status of each of these actions.

7. Valle Foam continues to vigorously pursue the remaining actions. I have recently instructed counsel to commence summary judgment proceedings in several cases where warranted.

CLASS ACTIONS

8. Prior to the commencement of these CCAA proceedings, class counsel in the U.S. and Canada initiated a number of proposed class proceedings against the Applicants on behalf of purchasers of polyurethane foam and products containing polyurethane foam products (the "Class Actions").

9. There are no further developments with respect to the Class Actions since the February Affidavit other than with respect to the Urethane Antitrust Litigation.

URETHANE ANTITRUST LITIGATION

10. The Applicants are each claimants in a U.S. class action proceeding that relates to price fixing for a product known as "Polyether Polyol" ("Polyol").

11. There has been a trial in respect of one of the defendants in the Polyol matter, The Dow Chemical Company ("Dow"), in which a judgment has been rendered against Dow in the amount of \$1.06 billion. The judgment was upheld on appeal.

12. Refund Recovery Services LLC ("RRS"), the Applicants' exclusive agent is retained to assist in filing the necessary documents to secure their share of the Polyol settlement funds.

13. In March 2016, Dow withdrew its appeal of the Judgment to the United States Supreme Court and accepted a settlement under which it is to pay \$834,000,000 USD, for distribution to the class members, including the Applicants.

14. The amount which will be payable to the Applicants under this settlement has not yet been determined. The parties are applying a different method for the allocation of the settlement than had been used in the previous settlements in this matter.

15. The funds are to be distributed, net of fees, in proportion to the dollar amount of each customer's specific damages as determined by a Court designated expert. The expert will calculate each member's damages using customer-specific estimates, bounded by the Interquartile Range for each modeled product overcharge applicable to that customer.

16. At a hearing in July 2016, the US Judge with carriage of this class action approved the above referenced method for processing and payment of claimants set out above. The Appeal period for the approval of the settlement will expire at the end of his month. If there is no appeal (and none is anticipated at this time), the US claims process is expected to commence within one or two months thereafter.

17. As I have stated in previous affidavits in these proceedings, the recovery to the Applicants, before attorney fees, payable in respect of the Applicants' claim in the Polyol proceedings, is expected to be several million dollars.

18. Based upon previous filings and payments received to date in this case, and without any unanticipated circumstances, payment to the applicants could be as much as follows: AZ Foam -

\$690,000; Valle Foam - \$6,000,000; and Domfoam \$4,900,000. These amounts are gross of fees payable to RSS.

19. I am cautioned by our counsel that there are many factors which could reduce the amounts actually received by the Applicants, including additional late filed claims, appeal costs, higher attorney fees approved by the Court, and other unforeseen events or holdbacks.

20. Funds are not anticipated to be paid to the Applicants until sometime in early 2017. It may also be that the funds will be paid in stages, as was the case with other settlements in this matter.

CLAIMS PROCESS and DISTRIBUTIONS

21. The Order in these proceedings of Justice Brown dated June 15, 2012 (the "Claims Process Order"), established a process to identify pre and post-filing claims against the Applicants and/or their officers and directors.

22. I am advised that the Monitor has a comprehensive registry of claims, including contact information, so as to enable payments to be made to those creditors.

UNRESOLVED CLAIMS

23. As set out in my February Affidavit, the sole remaining disputed claim in the Claims Solicitation Procedure is proceeding before both the Tax Court of Canada and in the Quebec Superior Court. The dispute involves a claim by Revneu Quebec with respect to an amount of approximately \$400,000.00 (before interest and penalties) in relations to GST paid to seven

different Temporary Employment Agencies (the "Temp Agencies") hired by Domfoam to provide additional labour to Domfoam's operations prior to the CCAA filing.

24. Counsel for Domfoam, the Monitor, and Monitor's counsel attended a settlement conference at the Tax Court of Canada on March 3, 2016 in Ottawa. As no resolution was reached, the Court adjourned the settlement conference to April 28th, at which point it was reconvened by phone. However, no settlement was reached at that reconvened conference in April.

25. There is a parallel proceeding outstanding before the Quebec courts. It continues to be anticipated that the Tax Court proceeding will complete itself substantially in advance of the Quebec Court matter and that the Quebec Court matter will likely settle in accordance with the findings of the Tax Court

26. Revenue Quebec was unwilling to settle, in part, because it was uncertain as to what recovery it would receive from Domfoam under any plan of arrangement which may be put forward. Domfoam was unwilling to settle in the absence of a settlement that released the officers and directors from any possible claim by Revenu Quebec. As set out below, the Plan addresses these concerns.

27. The Tax Court adjourned the settlement conference *sine die* and directed that the parties report back to the Court on or before October 31, 2016.

Pre-Filing Credits

28. There also remains an issue with respect to approximately \$525,000.00 (before penalties and interest) in respect of GST credits which Revenu Quebec requires be refunded. This

amount arises in respect of GST credits which Domfoam may have applied for in respect of goods or services it ordered and took delivery of prior to the CCAA filing, and in respect of which, due to the prohibition in the Court order to pay those pre-filing debts after the CCAA proceeding commenced, the GST was likely ultimately never paid to Revenu Quebec.

29. There remains an unresolved issue among the Applicants, the officers and directors of the Applicants and the Monitor as to the proper treatment of these amounts as a pre or post-filing obligation.

30. Counsel for the directors and officers and counsel for the Monitor continue to discuss the treatment of these claim. The Plan addresses this issue.

31. The Applicants' directors' and officers' insurer is on notice as to these claims and the status of this dispute.

32. The insurance in respect of this issue is set to expire shortly, making it more urgent that this matter be resolved before further insurance costs need be considered.

PROPOSED PLAN

33. Attached here and marked as **Exhibit "B"** is the Plan. The key features of the Plan are as follows:

- a) It deals only with the applicant Domfoam;
- b) It proposes a pro rata distribution of the funds already realised by the Company from the liquidation of the business to a single class of unsecured creditors;

- c) It utilizes the existing claims, as filed pursuant to the Claims Process Order, as the basis for making a distribution. Claims and D&O Claims as defined in the Plan use the definitions from the Claims Process Order;
- d) It meets the statutory requirements in terms of those provisions of a Plan which must be included in any Plan;
- e) It releases the officers and directors from any pre-filing claims against them, including expressly releasing them from the claims of Revenu Quebec and CRA discussed above;
- f) It allows for the distribution of future funds realized from the polyols settlement without further order of the court, as and when such funds are received; and
- g) It requires Domfoam to discontinue their action to contest the Revenue Quebec claim in Tax Court and to resolve the issue with respect to the pre and post filing HST dispute.

34. There are no known secured or preferred creditors of Domfoam. There is one recent outstanding claim for payment of source deductions from Revenu Quebec, which I am advised the Monitor is investigating. To the extent that amount is found to be owing, it will be paid in priority as required.

35. I have provided the counsel to the class action claimants, who are the largest creditor in this proceeding, with an outline of this Plan.

36. I have provided counsel to the Bayer, the single largest trade creditor with an outline of this Plan.

37. I have provided counsel to the current officers and directors with an outline of this Plan. They are supportive.

38. I am not aware of any creditor who objects to the proposed Plan.

39. Having discussed it with my counsel, Blaney McMurtry LLP, I am of the view that a distribution under a Plan is the most efficient manner to distribute the funds from Domfoam. I am told it avoids the Superintendent's levy being deducted from the amount as would be the case in a bankruptcy, which would reduce creditor recovery. It also avoids the necessity of seeking additional claims from the creditors or other administrative steps required in a bankruptcy. It also provided a simple mechanism for the distribution of the Polyols funds, as they arrive. It will also, once approved by the Court, allow for a conclusion to the Domfoam proceedings.

40. I am also advised by my counsel that an interim distribution, of the type done in respect of Valle Foam and AZ Foam is not possible because the Monitor has been unable to secure a clearance certificate from Revenu Quebec.

41. I understand Revenu Quebec was asked by the Monitor for a clearance certificate or comfort letter several times, including at the March 3rd, 2016 and April 26th, 2016 appearances before the Tax Court and Revenu Quebec would not provide it.

42. The Plan contains express language which makes it a requirement that the Court provide an order declaring that the distributions to be made under the Plan are distributions from the Applicant Domfoam and do not constitute distributions from the Monitor, in order to protect the Monitor from liability for disbursing these funds in the absence of a clearance certificate.

43. There were no claims filed against the directors and officers of Domfoam pursuant to the Claims Process Order, other than the claims of Revenu Quebec. I am not aware of there being any further or other claims. No claims have been commenced against or are pending against the officers and directors outside of the claims process.

44. I have consulted with the Monitor on the design of the Plan

45. Subsequent amount realized from the Polyols settlement will be distributed from time to time thereafter. As noted above, the anticipated distribution under the Polyols settlement to Domfoam is significant.

PROPOSED MEETING

46. In order to consider the Plan, it is proposed that the Monitor call for a meeting of creditors at which a vote will be held on the Plan.

47. Attached to this motion is the proposed form of Meeting Order.

48. The meeting is to be held on September 19, 2016 at the offices of Blaney McMurtry LLP. The meeting is to be chaired by the Monitor.

49. The Meeting Order addresses how votes are to be counted and the treatment of disputed claims, including the claim of Revenu Quebec. In the absence of a resolution prior to the meeting, that claim, and any other disputed claim, will be treated as an Unconfirmed Voting Claim.

50. Voting shall be conducted in person or by proxy. Quorum for the Meeting shall be one creditor with an affected claim present at such meeting in person or by Proxy.

51. The Meeting Order provides for Notice to be sent to the creditors. The Meeting Order allows for amendments to be made to the Plan by Domfoam up to or on the date of the Meeting.

52. In the event the requisite majority, as required by the CCAA is attained (following the tallying of the votes by the Monitor), the results will be binding on all affected claimants, whether or not any such affected claimant is present at the Meeting.

53. In the event the Plan is approved, Domfoam intends to return to this Court for approval shortly thereafter.

PROPOSED EXTENSION

54. The Applicants propose that the stay of the proceeding be extended from August 30, 2016 to and including January 30, 2017.

55. The extension sought herein will provide the Applicants and the Monitor further opportunity to attend the Meeting and proceed with the Plan, and to collect outstanding amounts owed to Valle Foam. As noted above, it is anticipated that the Applicants will return to Court before January 2017 to seek the approval of the Plan.

56. I am not aware of any creditor, or any other party, who is objecting to the proposed continuation of the CCAA process.

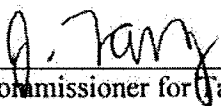
57. No cash flow is being provided with this affidavit as the Applicants have limited expenses and no employees. I am confident that the Applicants each have sufficient funds on hand to meet its obligations on a go forward basis for the period of the proposed extension.

58. I have been advised that the Monitor will support the proposed extension of the stay.

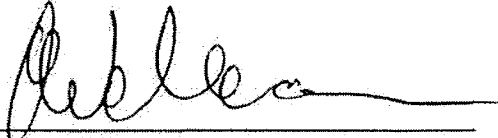
59. The Applicants are operating with good faith and with due diligence.

60. This affidavit is sworn in support of the Applicants' motion and for no other improper purpose.

SWORN BEFORE ME at)
the City of Milton,)
in the Province of Ontario,)
this 23rd day of August, 2016)



A Commissioner for Taking Affidavits)
)
)
)



TONY VALLECOCCIA

Jaclyn Haley Tanz, a Commissioner, etc.,
Province of Ontario, while a Student-at-Law.
Expires March 18, 2018.

Exhibit C

This is Exhibit "C" referred to in the

AFFIDAVIT OF

TONY VALLECOCCIA

T. Vallecoccia

STATE OF FLORIDA

COUNTY OF Pinellas

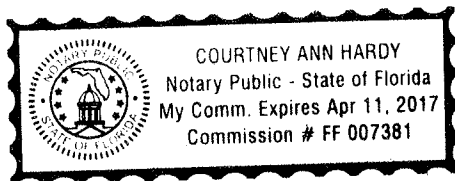
SWORN before me this 13 day of January, 2017
By TONY VALLECOCCIA.

Courtney Ann Hardy

A Commissioner, Notary Public, etc.

Personally Known _____ OR Produced Identification α

Type of Identification Produced Ontario Drivers License



Court File No. CV-12-9545-00CL

**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 A PLAN OF COMPROMISE OR
ARRANGEMENT OF VALLE FOAM INDUSTRIES (1995) INC.,
DOMFOAM INTERNATIONAL INC. and A-Z SPONGE & FOAM
PRODUCTS LTD.

(the "Applicants")

**AFFIDAVIT OF TONY VALLECOCCIA
(sworn January 11, 2012)**

I, **TONY VALLECOCCIA**, of the City of Brampton, Province of Ontario,

MAKE OATH AND SAY:

1. I am the President and CEO of Valle Foam Industries (1995) Inc. and of Domfoam International Inc. and a director of each of the Applicants, and as such have knowledge of the matters to which I hereinafter depose, except where otherwise stated. Where my evidence is based on information and belief, I have stated the source of that information and believe it to be true.

I. INTRODUCTION

an internal Statement of Income for the six month period ending October 31, 2011 for Domfoam.

A-Z

46. For similar reasons to those suffered by the other Applicants, A-Z is also declining. Since fiscal 2009, A-Z's income from operations has dropped from \$471,000.00 to a loss of \$21,000.00 in 2010 to a loss of \$85,000.00 in 2011. Over that same period the gross profit margin of their products have declined from 20.5% to 16.5% to 14.4%.

47. Attached hereto and marked as **Exhibit "F"** is a copy of an internal Statement of Income for the six month period ending October 31, 2011 for A-Z.

Competition Bureau Fines

48. Both Domfoam and Valle Foam were recently charged with, and on January 5, 2012, pled guilty to certain offences under the *Competition Act*, R.S.C. 1985, c C-34 (the "*Competition Act*"). Although not charged, A-Z also participated, to a lesser extent in the underlying events. Through agreement with the Director of Public Prosecutions, the resolution of the charges under the *Competition Act* included A-Z.

49. From January 1, 1999 to March 11, 2010, Domfoam and Valle Foam committed an indictable offence contrary to s. 45(1)(c) of the *Competition Act* by conspiring, combining, agreeing or arranging to prevent or lessen, unduly, competition in the sale or supply of slab foam and carpet cushion (underlay) foam products within Canada. From March 12, 2010 to July 27, 2010, Domfoam and Valle Foam also engaged in conduct contrary to ss. 45(1) (a) of the *Competition Act*, R.S.C. 2009, Chap C-2. s. 410 by conspiring, agreeing or arranging to fix, maintain, increase or control the price for the supply of slab foam and carpet cushion (underlay) foam products within Canada, thereby committing an indictable offence contrary to s.45(2) of the *Competition Act*, R.S.C. Chap C-2, s.410.

50. This conduct by Domfoam and Valle Foam, in collusion with other major manufacturers in their industry, enabled the manufacturers to coordinate and implement price increases to their respective customers (i.e. customers received price increase letters on or near the same day, with similar or identical percentage increases and effective implementation dates).

51. In July, 2010, search warrants were executed by the Competition Bureau at the business premises of Domfoam and Valle Foam. Consequently, Domfoam and Valle Foam learned that the Competition Bureau was in possession of wiretap and

documentary evidence detailing the alleged conspiracy. Additionally, it became known that the Competition Bureau had secured the cooperation of one of the alleged co-conspirators, in building its case against the others, including Domfoam and Valle Foam.

52. Domfoam and Valle Foam engaged counsel to review the matter. As a consequence of that review, Domfoam and Valle Foam undertook to participate in the Competition Bureau's Leniency Programme. In doing so, Domfoam and Valle Foam agreed to cooperate fully in the investigation; plead guilty; and, continue to provide cooperation on a going forward basis. In return, no current or future directors, officers, agents, independent contractors or employees would be charged; the fines to be imposed on the companies would be 50% of what they would otherwise have been; and, all matters under the *Competition Act* involving the conduct of Domfoam and Valle Foam, as well as A-Z and other affiliates, subsidiaries and predecessors, would be deemed to have been resolved. Domfoam and Valle Foam provided the expected pre-charge cooperation and then negotiated the details of their guilty pleas. This entire process took over 17 months to complete. I strongly believe that this plea was reasonable and am satisfied that Domfoam and Valle Foam were culpable of the alleged violations under the *Competition Act*.

53. As such, on the advice of counsel and as authorized by a specific resolution of the Board of Directors of each of Domfoam and Valle Foam, on January 5, 2012, the companies entered pleas of guilty before the Ontario Superior Court to the above-noted offences under s.45(1) (c) of the *Competition Act* for the period of January 1999 to March 2010, and ss.45(1) (a) and 45(2) of the amended *Competition Act* (as enacted by S.C. 2009, Chap. C- 2, s. 410), for the period of March 2010 to July 2010. Attached hereto and marked as **Exhibit "G"** is a copy of the Statement of Admissions and Indictment.

54. As noted previously, A-Z was released from all possible liability in conjunction with this matter as a result of the plea arrangement.

55. Domfoam was fined a total of \$6 million and Valle Foam was fined a total of \$6.5 million. No fine was assessed against A-Z as no charges were laid against A-Z. In accordance with the terms of the sentence imposed, on the day of the guilty pleas, Valle Foam paid \$500,000.00 in partial payment of the fines imposed against it.

56. As a result of the foregoing, Valle Foam has an outstanding liability of \$6 million in outstanding fines, and Domfoam has an outstanding liability of \$6

million. Attached hereto and marked as **Exhibit "H"** is a copy of the Competition Bureau Press Release dated January 6, 2012.

57. These liabilities are to be paid in accordance with the terms of the sentences imposed. Specifically, Domfoam and Valle Foam are to each pay \$1 million on the 1st of January of each year, commencing 2013 and ending in 2018.

58. Full disclosure of the Applicants' financial difficulties was made to the Crown prior to finalizing the Statement of Admissions and entry of the pleas. The Crown was specifically advised of the Applicants' precarious financial condition, and were advised of the Applicants' intention to file for protection under the provisions of a Canadian insolvency regime.

59. The Applicants cannot make the fine payments from their cash flow and remain solvent given the forecasted losses and pressures on their industry. They will also be unable to secure new or additional financing in the circumstances.

Class Actions

60. The existence of the search warrants came to the attention of various classes of customers of the Applicants in 2010. In addition, certain of the wiretap evidence became available to the proposed class action counsel. As a result of

Exhibit D

This is Exhibit "D" referred to in the

AFFIDAVIT OF

TONY VALLECOCCIA

T. Vallecoccia

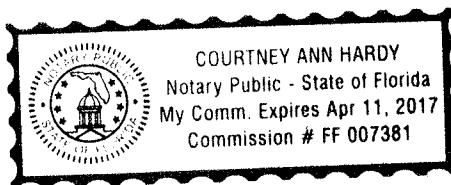
STATE OF FLORIDA

COUNTY OF Pinellas

SWORN before me this 13 day of January, 2017
By TONY VALLECOCCIA.

Courtney Ann Hardy

A Commissioner, Notary Public, etc.
Personally Known OR Produced Identification
Type of Identification Produced Ontario Drivers License



PLAN OF COMPROMISE AND ARRANGEMENT

PURSUANT TO THE *COMPANIES' CREDITORS ARRANGEMENT ACT* (CANADA)

ARTICLE 1 - INTERPRETATION 1.1

1.2 Definitions

In this Plan:

"**Applicant**" means 4362063 Canada Ltd. (formerly Domfoam International Inc.);

"**Approval Meeting**" means a meeting of Creditors, held pursuant to the Meeting Order, to vote on the Plan, and includes any meeting or meetings resulting from the adjournment thereof;

"**A-Z Foam**" means the applicant A-Z Sponge & Foam Products Ltd, in these proceedings;

"**Business**" means the business and operations carried on by or formerly carried on by the Applicant;

"**Business Day**" means a day other than a Saturday or Sunday on which banks are generally open for business in Toronto, Ontario, and Montreal, Quebec;

"**CCAA**" means the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended;

"**CCAA Proceedings**" means the proceedings under the CCAA commenced by the Applicant on January 12, 2012 at Toronto under Court File No. CV-12-9545-00CL;

"**Claim**" means any right or claim of any Person, or class of Persons or representative Person, against the Applicant whether or not asserted, in connection with any indebtedness, liability or obligation of any kind whatsoever of the Applicant in existence on the Filing Date, or which has arisen since the Filing Date, any accrued interest thereon and costs payable in respect thereof to and including the Filing Date, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, and includes any other claims that would have been claims provable in bankruptcy had the Applicant become bankrupt on the Filing Date;

"**Claims Bar Date**" means the 5:00 PM August 31, 2012 bar date referred to at paragraphs 5(b) and (f) of the Claims Process Order;

"**Claims Process Order**" means the Order of Justice Brown in the CCAA Proceedings dated June 15, 2012;

"**Court**" means the Ontario Superior Court of Justice;

"**Competition Act Claim**" means the proof of claim filed by Her Majesty the Queen in Right of Canada (the "**Crown**") in respect of fines owed to the Crown by Domfoam International Inc. and

Valle Foam Industries (1995) Inc. as a result of their participation in offences under ss. 45(1)(a) and 45(1)(c) of the *Competition Act*, RSC 1985, c C-34, and in accordance with the Plea Agreement between the Crown and Domfoam International Inc. and Valle Foam Industries (1995) Inc., executed on December 22, 2011.

"Creditor" means any Person with a Claim or a D&O Claim regardless of whether such Person has filed a Proof of Claim in the CCAA Proceedings;

"D&O Claim" means any right of any Person against one or more of the Directors and Officers (as defined below) which arose as a result of their position, supervision, management or involvement as Director and Officer, where such right arose on, before or after June 15, 2012, and whether enforceable in any civil, administrative or criminal proceedings, including, without limitation, any person (including the crown) who filed a claim against the Directors and Officers pursuant to the Claims Process Order, including, without limitation any possible D&O Claim related to or derived from the facts alleged against the Applicant in the Revenu Quebec Action;

"DIP Loan" means any loans made between or among the Applicant, Valle Foam and A-Z Foam on or after January 12, 2012 which were expressly authorized to be considered a DIP loan by an Order of the Court;

"Directors and Officers" means (i) the current and former directors of the Applicant; and (ii) the current and former officers of the Applicant;

"Effective Time" means the first moment in time on the Plan Implementation Date;

"Equity Claim" means an equity claim as defined by the *Bankruptcy Insolvency Act*, R.S.C. 1985, c. B-3;

"Excepted Claim" has the meaning given to that term in Section 9.5 hereof;

"Filing Date" means January 12, 2012;

"Holdback Amount" means that amount from the cash on hand from the Applicant which the Monitor, in consultation with the Applicant, elects to hold back from the distribution of the Liquidation Proceeds, for future administration costs of these CCAA Proceedings;

"HST Pre and Post Filing Dispute" means the outstanding dispute between the Applicant and the Monitor as to the treatment of certain outstanding claims for payment of HST by Revenu Quebec as either a pre or post Filing Date obligation of the Applicant as further described in the Affidavit of Tony Vallecoccia sworn August 23, 2016;

"Initial CCAA Order" means the initial order of the Ontario Court dated January 12, 2012, pursuant to which, among other things, the Ontario Court granted a stay of proceedings with respect to the Applicant, as same may be further amended from time to time;

"Intercompany Claims" means any Claims, including the DIP Loan, owing among or between the Applicant and A-Z Foam or Valle Foam or any of them;

"Liquidation Proceeds" means the proceeds realized from the Business or collected by the

Applicant or the Monitor on behalf of the Business since the Filing Date;

"Meeting" means an Information Meeting or an Approval Meeting;

"Meeting Order" means the Order of the Ontario Court dated ~~August 29~~, September 6, 2016, regarding, *inter alia*, the calling and holding of the ~~Meetings~~Meeting;

"Monitor" means Deloitte Restructuring Inc. (previously known as Deloitte & Touche Inc.), in its capacity as monitor of the Applicant, appointed pursuant to the Initial CCAA Order;

"Ontario Court" means the Superior Court of Justice (Ontario);

"Order" means an order of the Ontario Court in the CCAA Proceedings;

"Person" means any individual, partnership, limited partnership, limited liability company, joint venture, trust, trustee, corporation, unincorporated organization, government, agency, regulatory body or instrumentality thereof, legal personal representative or litigation guardian, or any other entity howsoever designated or constituted;

"Plan" means this plan of compromise or arrangement and all schedules hereto, as same may be amended hereafter in accordance with Section 11.1 herein;

"Plan Completion Date" means the Business Day on which the Monitor has completed and filed a certificate in accordance with Section 10.1 of this Plan;

"Plan Implementation Date" means the Business Day on which the conditions precedent to implementation of this Plan as set out in Section 7.1 hereof have been satisfied or fulfilled, and the Monitor has completed and filed its certificate in accordance with Section 7.2 of this Plan;

"Polyols Settlement" means the settlement as described in the affidavit of Tony Vallecoccia, sworn August 23, 2016, between the Applicant, as a member of a class of plaintiffs, and Dow Chemical Inc. in the United States;

"Proof of Claim" means the form attached as Schedule B to the Claims Process Order;

"Proven Claim" means a Creditor Claim that was properly filed with the Monitor, to the extent that it was allowed in whole or in part by (a) the Monitor, or (b) the Ontario Court, following an appeal from the determination of the Monitor;

"Proven Creditor" means a Creditor having a Proven Claim;

"Revenu Quebec Action" means the outstanding action by the Applicant against each of Revenu Quebec and Canada Revenue Agency with respect to certain amounts assessed as due and owing by Revenu Quebec and Canada Revenue Agency against the Applicant, before each of the Superior Court of Quebec and the Tax Court of Canada;

"Sanction Order" means an order of the Ontario Court approving this Plan;

"Unaffected Claim" has the meaning given to that term in Section 3.3 hereof;

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"Unaffected Creditor" means any Person holding Unaffected Claims, to the extent of those Unaffected Claims;

"Unconfirmed Vote" means a vote cast at the Approval Meeting and marked by the Monitor as relating not to a Proven Claim, but to a Claim which the Monitor revised or disallowed in whole or in part and which remains in dispute;

"Unconfirmed Voting Claim" means a Creditor Claim in respect of which the Creditor's vote is an Unconfirmed Vote;

"Valle Foam" means Valle Foam Industries (1995) Inc. one of the applicants in the CCAA Proceedings; and

"Website" means the website established by the Monitor for purposes of the Plan and having the following address: [http://www.insolvencies.deloitte.ca/en-ca/pages/Valle%20Foam%20Industries%20\(1995\)%20Inc.%20and%20Other%20Petitioners.aspx](http://www.insolvencies.deloitte.ca/en-ca/pages/Valle%20Foam%20Industries%20(1995)%20Inc.%20and%20Other%20Petitioners.aspx) ~~px~~ www.deloitte.com/ca/vallefoam.

1.2 Certain Rules of Interpretation

In this Plan and all schedules hereto:

- (a) the division of this Plan into articles, sections, subsections and clauses and the insertion of headings and a table of contents are for convenience of reference only and shall not affect the construction or interpretation of this Plan. The terms "this Plan", "hereof", "hereunder", "herein" and similar expressions refer to this Plan and not to any particular article, section, subsection or clause and include any plan supplemental hereto. Unless otherwise indicated, any reference in this Plan to an article, section, subsection, clause or schedule refers to the specified article, section, subsection, clause or schedule of or to this Plan;
- (b) the use of words in the singular or plural, or with a particular gender, shall not limit the scope or exclude the application of any provision of this Plan or a schedule hereto to such Person (or Persons) or circumstances as the context otherwise permits;
- (c) the words "includes" and "including" and similar terms of inclusion shall not, unless expressly modified by the words "only" or "solely", be construed as terms of limitation, but rather shall mean "includes without limitation" and "including without limitation", so that references to included matters shall be regarded as illustrative without being either characterizing or exhaustive;
- (d) unless otherwise specified, all references to time herein and in any document issued pursuant hereto mean local time in Toronto, Ontario and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day. Unless otherwise specified, the time period within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next succeeding Business Day if the last day of the period is not a Business Day; and unless otherwise provided, any reference to a statute, or other enactment of parliament or a legislature includes all regulations made thereunder, all enactments to or re-enactments of such

statute or regulations in force from time to time, and, if applicable, any statute or regulation that supplements or supersedes such statute or regulation.

ARTICLE 2 - PURPOSE AND EFFECT OF THE PLAN

2.1 Purpose

The purpose of this Plan is to enable the Applicant to efficiently distribute the Liquidation Proceeds and the proceeds of the Polyols Settlement to its Proven Creditors on a pro-rated basis, and to provide for releases for the Directors and Officers.

2.2 Affected Persons

This Plan will be implemented pursuant to the CCAA. On the Plan Implementation Date, subject to Section 3.3 hereof and subject to the satisfaction of the conditions contained in Section 7.1 herein, this Plan will be binding upon all Creditors and all other Persons in accordance with its terms.

ARTICLE 3 - CLASSIFICATION OF CREDITORS

3.1 Class of Creditors

The sole class for the purpose of considering and voting on this Plan shall be a single class consisting of Creditors.

3.2 Creditor Identification Procedure

Creditor Claims which have been delivered by Proof of Claim by the Claims Bar Date shall be as if they had been filed in respect of the Plan, and Creditors need not deliver to the Monitor a further Proof of Creditor Claim in respect thereof.

3.3 Unaffected Claims

This Plan does not compromise, release or otherwise affect any rights or claims:

- (a) for fees and expenses authorized pursuant to paragraph ~~[INSERT]~~6 of the Initial CCAA Order, incurred in the provision of goods and services relating to the CCAA Proceedings;
- (b) of the Applicant, the Monitor and of its counsel;
- (c) that fall within Section 6(3), 6(5) or 6(6) of the CCAA;
- (d) that arise from the DIP Loan; or
- (e) any outstanding Intercompany Claims.

Each of the foregoing rights and claims set out in this Section 3.3 is referred to herein as an "Unaffected Claim".

3.4 Equity Claims

All Persons holding Equity Claims shall not be entitled to vote at or attend the Approval Meeting, and shall not receive any distributions under the Plan or otherwise receive any other compensation in respect of their Equity Claims.

ARTICLE 4 - TREATMENT OF CREDITORS

4.1 Treatment of Claims

On the Plan Implementation Date, the Claims will be compromised, released and otherwise affected in accordance with the terms of this Plan.

Notwithstanding the foregoing and anything else in the Plan, the Competition Act Claim shall not be compromised or released by the Plan. For greater certainty, the Crown is entitled to participate in any distributions under the Plan with respect to the Competition Act Claim, and any funds distributed on account of the Competition Act Claim will reduce the amount outstanding thereunder.

4.2 Voting Rights of Creditors

Subject to this Plan and the Meeting Order, each Proven Creditor shall be entitled to one vote in an amount equal to such Proven Claim. Furthermore, votes in respect of Unconfirmed Voting Claims will be recorded by the Monitor, subject to further determination in accordance with the Meeting Order. The procedure for determining the validity and quantum of the Claims for voting purposes shall be governed by the Meeting Order.

4.3 Unaffected Creditors

Notwithstanding anything to the contrary herein, each Person who has an Unaffected Claim shall not be entitled to vote or to receive any distribution under this Plan in respect of such Unaffected Claim. All Unaffected Claims shall be unaffected by the CCAA Proceedings and principal and interest shall continue to accrue notwithstanding the CCAA Proceedings.

ARTICLE 5 - DISTRIBUTIONS

5.1 Employees (Section 6(5) CCAA)

To the best of the Company's knowledge, there are no amounts owing to employees of the Applicant generally, or which would be captured by section 6(5) of the CCAA. However, in the event any such claims exist, immediately after the rendering of the Sanction Order and the expiry of all appeal periods relating thereto or the affirmation of the Sanction Order in such appeals, employees and former employees of the Applicant shall receive payment of:

- (a) amounts at least equal to the amounts that they would have been qualified to receive under paragraph 136(1)(d) of the *Bankruptcy and Insolvency Act* if the Applicant had become bankrupt on the day on which proceedings commenced under the CCAA; and
- (b) wages, salaries, commissions or compensation for services rendered after the Initial CCAA Order and before the Sanction Order, together with, in the case of travelling salespersons, disbursements properly incurred by them in and about the Applicant's business during the

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same period.

The inclusion of this Section 5.1 herein does not constitute any admission or acknowledgment by the Applicant as to the existence of any employees or former employees claims.

5.2 Crown claims (Section 6(3) CCAA)

Within six (6) months after the date of the Sanction Order and the expiry of all appeal periods relating thereto or the affirmation of the Sanction Order in such appeals, all amounts that were outstanding at the time of the Applicant's application for an order under Section 11 or 11.02 of the CCAA and that are of a kind that could be subject to a demand under:

- (a) subsection 224(1.2) of the *Income Tax Act*;
- (b) any provision of the *Canada Pension Plan* or of the *Employment Insurance Act* that refers to subsection 224(1.2) of the *Income Tax Act* and provides for the collection of a contribution, as defined in the *Canada Pension Plan*, an employee's premium, or employer's premium, as defined in the *Employment Insurance Act*, or a premium under Part VII.1 of that Act, and of any related interest, penalties or other amounts; or
- (c) any provision of provincial legislation that has a purpose similar to subsection 224(1.2) of the *Income Tax Act*, or that refers to that subsection, to the extent that it provides for the collection of a sum, and of any related interest, penalties or other amounts, and the sum:
 - (i) has been withheld or deducted by a person from a payment to another person and is in respect of a tax similar in nature to the income tax imposed on individuals under the *Income Tax Act*, or
 - (ii) is of the same nature as a contribution under the *Canada Pension Plan* if the province is a "province providing a comprehensive pension plan" as defined in subsection 3(1) of the *Canada Pension Plan* and the provincial legislation establishes a "provincial pension plan" as defined in that subsection;

shall be paid in full to Her Majesty in right of Canada or a Province, as applicable, but expressly not including any claims as may be due under the Excise Tax Act or any analogous statute in any province.

The inclusion of this Section 5.2 herein does not constitute any admission or acknowledgment by the Applicant as to the existence of any such outstanding amounts.

5.3 Payment of Professional and Administrative Expenses

On the Plan Implementation Date, all outstanding fees and disbursements payable under any Order shall be fully paid, or a reserve for such amount fully funded, as determined by the Monitor. Parties entitled to be paid hereunder shall have sixty (60) days from the Plan Implementation Date, or such later date as may be agreed with the Monitor, to submit final invoices to the Monitor for payment. Any reserve shall be administered by the Monitor.

5.4 Initial Distribution

Within thirty (30) days of the Plan Implementation Date, the Monitor shall distribute to the Proven

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Creditors the Liquidation Proceeds, less any amounts required to be paid pursuant to this Article 5 as determined by the Monitor in its sole discretion, and less the Holdback Amount.

5.5 Subsequent Distribution(s)

From time to time, the Monitor shall distribute to the Proven Creditors any other amounts in the possession or coming into the possession of the Monitor which will be available from other sources, including amounts paid to the Applicant pursuant to the Polyols Settlement, less the Holdback amount, if any, as determined by the Monitor in its sole discretion.

5.6 Distributions *Pro Rata* and *Pari Passu*

All distributions made to Proven Creditors pursuant hereto shall be made on a *pro rata, pari passu* basis among such Proven Creditors, considering the amounts of their respective Proven Claims.

All distributions made by the Monitor are made as agent for and on behalf of the Applicant, and not in its personal capacity.

ARTICLE 6 - SANCTION ORDER

6.1 Application for Sanction Order

The application for the Sanction Order shall be brought by the Applicant as soon as reasonably practicable following the approval of this Plan by the requisite majorities of Creditors voting at the Approval Meeting.

6.2 Effect of Sanction Order

In addition to sanctioning this Plan, and subject to the discretion of the Ontario Court, the Sanction Order shall, among other things and without limitation:

- (a) direct and authorize the distributions contemplated under this Plan;
- (b) order and declare that any distributions under the Plan shall not constitute a "distribution" and the Monitor shall not constitute a "legal representative" or "representative" of the Applicants for the purposes of section 159 of the Income Tax Act (Canada), section 270 of the Excise Tax Act (Canada), section 14 of the Tax Administration Act (Quebec), section 107 of the Corporations Tax Act (Ontario), section 22 of the Retail Sales Tax Act (Ontario), section 117 of the Taxation Act, 2007 (Ontario), section 23 of the Canada Pension Plan, section 86 of the Employment Insurance Act or any other similar federal, provincial or territorial tax legislation (collectively the "Tax Statutes"), nor a "receiver" within the meaning of An Act Respecting the Quebec Sales Tax, given that the Monitor is only a disbursing agent under the CCAA Plan, and the Monitor in making such payments is not "distributing", nor shall be considered to "distribute" nor to have "distributed", such funds for the purpose of the Tax Statutes, and the Monitor shall not incur any liability under the Tax Statutes in respect of it making any payments ordered or permitted hereunder, and is hereby forever released, remised and discharged from any claims against it under or pursuant to the Tax Statutes or otherwise at law, arising in respect of payments made under the Plan and this Order and any claims of this nature are hereby forever barred.
- (c) declare that the compromises and releases effected hereby are approved, binding and

effective as of the Plan Implementation Date upon all Creditors, the Monitor and all other Persons affected by this Plan;

- (d) provide that no Person who is a party to any obligation or agreement with the Applicant shall, following the Plan Implementation Date, accelerate, terminate, rescind, refuse to perform or repudiate its obligations thereunder, or enforce or exercise any right (including any right of set-off, dilution or other remedy) or make any demand under or in respect of any such obligation or agreement, by reason:
- (i) of any event(s) that occurred on or prior to the Plan Implementation Date that would have entitled any other Person thereto to enforce those rights or remedies (including defaults or events of default arising as a result of the insolvency of the Applicant);
 - (ii) of the fact that relief under the CCAA has been sought or obtained in respect of the Applicant or that the CCAA Proceedings have been commenced or completed; or
 - (iii) of any compromises or arrangements effected pursuant to this Plan;
- (d) confirm the effect of the Meeting Order;
- (e) provide that the Monitor shall be discharged and released from its role as Monitor on the Plan Completion Date, save and except with respect to any remaining duties or powers required to implement and give effect to the terms of this Plan.

ARTICLE 7 - CONDITIONS PRECEDENT

7.1 Conditions Precedent to Implementation of Plan

The implementation of this Plan shall be conditional upon the fulfillment of the following conditions on or before the Plan Implementation Date:

- (a) **Approval by Creditors:** The Plan shall have been approved pursuant to the CCAA by the Proven Creditors;
- (b) **Granting of Sanction Order:** The Sanction Order shall have been granted by the Ontario Court in a form acceptable to the Applicant and the Monitor;
- (c) **Expiry of Appeal Periods:** The appeal periods and any periods for leave to appeal with respect to the Sanction Order shall have expired without an appeal or application for leave to appeal of such Order having been commenced or, in the event of an appeal or application for leave to appeal, a final determination denying leave to appeal or dismissing such appeal and affirming and recognizing the sanctioning of this Plan, as the case may be, shall have been made by the applicable appellate court, with no further right of appeal;
- (d) **Revenu Quebec Action:** The Applicant and the Directors and Officers shall have provided a binding undertaking to discontinue, settle or withdraw the Revenu Quebec Action on terms satisfactory to the Monitor and the Court, upon the Plan Implementation Date;
- (e) **HST Pre and Post Filing Dispute:** The Applicant and the Directors and Officers shall have provided a binding undertaking to settle or withdraw from further contesting the position of the Monitor with respect to this issue upon the Plan Implementation Date;

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- (f) **Completion of Necessary Documentation:** The execution and delivery by all relevant Persons of all agreements, settlements, resolutions, indentures, releases, documents and other instruments that are necessary to be executed and delivered to implement and give effect to all material terms and provisions of this Plan;

7.2 Monitor's Certificate

Upon the satisfaction of the conditions set out in Section 7.1 hereof, the Monitor shall file with the Ontario Court in the CCAA Proceedings a certificate that states that all conditions precedent set out in Section 7.1 of this Plan have been satisfied and that the Plan Implementation Date has occurred.

7.3 Termination of Plan for Failure to Become Effective

If the Plan Implementation Date shall not have occurred on or before one hundred and twenty ~~(120)~~ (120) days following the date of the Sanction Order, or such later date as the Applicant may stipulate, then, subject to further Order of the Ontario Court, this Plan shall automatically terminate and be of no further force or effect; provided that this Plan shall not automatically terminate pursuant to this section if the sole basis for the nonoccurrence of the Plan Implementation Date is the pendency of any appeal or application for leave to appeal with respect to the Sanction Order.

ARTICLE 8 - EFFECT OF PLAN

8.1 Effect of Plan Generally

The Plan (including, without limitation, the releases and injunctions contained in the Plan), upon being sanctioned and approved by the Ontario Court pursuant to the Sanction Order, shall be binding on the Plan Implementation Date on the Creditors and all other Persons (and each of their respective heirs, executors, administrators, guardians, legal personal representatives, successors and assigns) irrespective of the jurisdiction in which such Creditors and other Persons reside, or in which the Claims arose.

On the Plan Implementation Date, the Directors and Officers shall ~~and shall~~ and shall be deemed to resign without the requirement of further action on the part of such Directors and Officers. The Directors and Officers shall also consent to the discharge of the Directors and Officers' Charge, as created by and defined in the Initial Order.

Notwithstanding the foregoing and anything else in the Plan, the Competition Act Claim shall not be compromised or released by the Plan. For greater certainty, the Crown is entitled to participate in any distributions under the Plan with respect to the Competition Act Claim, and any funds distributed on account of the Competition Act Claim will reduce the amount outstanding thereunder.

8.2 Consents and Agreements

On the Plan Implementation Date, each Creditor shall be deemed to have consented and agreed to all of the provisions of this Plan in its entirety. In particular, each Creditor shall be deemed:

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~~(a)~~(a) to have executed and delivered to the Monitor all consents, releases or agreements required to implement and carry out this Plan in its entirety; and

~~(b)~~(b) to have agreed that, if there is any conflict between the provisions, express or implied, of any agreement or other arrangement, written or oral, existing between such Creditor and the Applicant at the Plan Implementation Date (other than those entered into by the Applicant in writing on or after the date hereof) and the provisions of this Plan, the provisions of this Plan take precedence and priority and the provisions of such agreement or other arrangement shall be deemed to be amended accordingly.

8.3 Exculpation

The Monitor (including its affiliates, directors, officers, employees, associated individuals, agents and representatives) and all of its professional advisors and legal counsel shall have no liability or obligation to any Person for their role, or any act or omission, in connection with their appointments as Monitor or advisors or counsel thereto, the CCAA Proceedings, activities undertaken in preparation for or in anticipation of the CCAA Proceedings, the Plan, the pursuit of sanctioning of the Plan, the consummation and implementation of the Plan, the administration of the Plan or the property to be distributed under the Plan, from the date of their appointments to the earlier of the date of their discharges from those appointments, or the Plan Completion Date.

ARTICLE 9 - RELEASES AND INJUNCTIONS

~~9.1~~ 9.1 Plan Releases

- (a) On the Plan Implementation Date, the Applicant, the Directors, Officers, current and former employees, advisors, legal counsel and agents, (being referred to individually as a “**Domfoam Released Party**”) shall be released and discharged from the D&O Claims, the Claims and any and all demands, claims, actions, applications, causes of action, counterclaims, suits, debts, sums of money, accounts, covenants, damages, judgments, orders, including for injunctive relief or specific performance and compliance orders, expenses, executions, encumbrances and other recoveries on account of any liability, obligation, demand or cause of action of whatever nature which any Creditor, Unaffected Creditor, Her Majesty the Crown or other Person may be entitled to assert, including any and all Claims in respect of the payment and receipt of proceeds, statutory liabilities of the Directors and Officers and employees of the Applicant and any alleged fiduciary or other duty (whether such employees are acting as a Director and Officer or employee), whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any omission, transaction, duty, responsibility, indebtedness, liability, obligation, dealing or other occurrence existing or taking place on or prior to the later of the Plan Implementation Date and the date on which actions are taken to implement the Plan that are in any way relating to, arising out of or in connection with the Claims, the Business whenever or however conducted, the Plan, the CCAA Proceedings, or any Claim that has been barred or extinguished by the Claims Process Order and all claims arising out of such actions or omissions shall be forever waived and released (other than the right to enforce the Applicant’s obligations under the Plan or any related document),

all to the full extent permitted by applicable law, provided that nothing herein shall release or discharge (i) any Domfoam Released Party if such Domfoam Released Party is judged by the expressed terms of a judgment rendered on a final determination on the merits to have committed criminal, fraudulent or other wilful misconduct or (ii) the Directors with respect to matters set out in section 5.1(2) of the CCAA. For clarity, a D&O Claim with respect to the Revenu Quebec Action is not a claim to which section 5.1(2) applies and is to be released hereunder.

The Sanction and Vesting Order will enjoin ~~on the Plan Implementation Date~~ on the Plan Implementation Date the prosecution, whether directly, derivatively or otherwise, of any Claim, obligation, suit, judgment, damage, demand, debt, right, cause of action, liability or interest released, discharged, compromised or terminated pursuant to the Plan.

(b) Nothing in the Plan shall be interpreted as restricting the application of Section 21 of the CCAA.

(c) Notwithstanding the foregoing and anything else in the Plan, the Competition Act Claim shall not be compromised or released by the Plan. For greater certainty, the Crown is entitled to participate in any distributions under the Plan with respect to the Competition Act Claim, and any funds distributed on account of the Competition Act Claim will reduce the amount outstanding thereunder.

9.1 — 9.2 Injunction

(a) On the Plan Implementation Date, all Persons (regardless of whether or not such Persons are Creditors, but expressly excluding the Crown with respect to the enforcement of the Competition Act Claim), together with their respective affiliates, present and former officers, directors, employees, associated individuals, auditors, financial advisors, legal counsel, other professionals, sureties, insurers, indemnitees, agents, dependents, heirs, representatives and assigns, as applicable, are permanently and forever barred, estopped, stayed and enjoined, with respect to all Claims against the Monitor and the Domfoam Released Parties, from (i) commencing, conducting, or continuing in any manner, directly or indirectly, any action, suits, demands or other proceedings of any nature of kind whatsoever against the Monitor and the Domfoam Released Parties; (ii) levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, decree or order against the Monitor and the Domfoam Released Parties; (iii) commencing, conducting or continuing in any manner, directly or indirectly, any action, suits, or damages, including without limitation, by way of contribution or indemnity or other relief, in common law, or in equity, or under the provisions of any statute or regulation, or other proceedings of any nature or kind whatsoever (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against any Person who makes such a claim or might reasonably be expected to make such a claim in any manner or forum, against one or more of the Domfoam Released Parties or the Monitor; (iv) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any lien or encumbrance of any kind; or (v) taking any actions to interfere with the implementation or consummation of this Plan

(b) Notwithstanding its exclusion from section 9.2(a) hereof, the enforcement of the Competition Act Claim by the Crown against the Applicant shall continue to be stayed until such time as the stay of proceedings created by the Initial Order in the CCAA Proceedings expires.

ARTICLE 10 - COMPLETION OF PLAN

10.1 Monitor's Certificate

Upon the Monitor being satisfied that there is no likelihood of additional funds becoming available for distribution to Creditors under the Polyols ~~Settlement~~ Settlement or otherwise, the Monitor shall file with the Ontario Court a certificate confirming that there are no further distributions to be made to Creditors, and that the Plan is completed to the satisfaction of the Monitor.

10.2 Discharge and release of the Monitor

On the Plan Completion Date, and subject to the Sanction Order and any other Orders, the Monitor shall be discharged and released and shall have no further obligations or responsibilities. For clarity, nothing in this Plan shall discharge the Monitor from its duties related to Valle Foam or A-Z Foam.

ARTICLE 11 - GENERAL PROVISIONS

11.1 Plan Amendment

The Applicant reserves the exclusive right to amend this Plan, in a written document filed with the Ontario Court, at any time prior to the Plan Implementation Date, provided that:

- ~~(a)~~(a) if the amendment is made before or during the Meetings, prior to the vote being taken to approve the Plan, the Applicant shall, subject to the Meeting Order:
 - ~~(i)~~(i) give notice to all Proven Creditors of the details of any amendment that renders the Plan less favourable to such Proven Creditors; and
 - ~~(ii)~~(ii) may, in its entire discretion, give notice to Proven Creditors absent from a Meeting, of the details of any amendment that does not render the Plan less favourable to them.
- (b) if the Monitor, acting reasonably and in good faith, determines that the amendment is of a technical or administrative nature that would not be materially prejudicial to the interests of any of the Proven Creditors under the Plan, subject to the Meeting Order, and is necessary in order to give effect to the substance of the Plan or the Sanction Order, the Applicant need not give notice to Proven Creditors or obtain a further Order in connection therewith, regardless of whether the amendment is made prior to or subsequent to the vote on the Plan, or prior to or subsequent to the Sanction Order, if granted;
- (c) after the Approval Meeting, any other amendment may only be made if approved by the Ontario Court; and
- (d) any supplementary plan or plans of compromise or arrangement filed by the Applicant with

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the Ontario Court and, if required by this Section 11.1, approved by the Ontario Court, shall, for all purposes be a part of and incorporated into this Plan.

11.2 Severability

In the event that any provision in this Plan is held by the Ontario Court to be invalid, void or unenforceable, this Plan shall be null and void in all respects, with effect in accordance with Section 11.3 hereof.

11.3 Termination

At any time prior to the Plan Implementation Date, the Applicant may, subject to further order of the Ontario Court, determine not to proceed with this Plan notwithstanding any prior approvals given at the Meeting or the obtaining of the Sanction Order.

If the conditions precedent to implementation of this Plan are not satisfied, if the Applicant determines not to proceed with this Plan, if the Ontario Court holds any provision of this Plan to be invalid, void or unenforceable or if the Sanction Order is not issued by the Ontario Court:

- (a) this Plan shall be null and void in all respects;
- (b) any document or agreement executed pursuant to this Plan shall be deemed null and void; and
- (c) nothing contained in this Plan, and no act taken in preparation for the consummation of this Plan, shall:
 - (i) constitute or be deemed to constitute a waiver or release of any Creditor Claims or any defenses thereto by or against the Applicant or any other Person;
 - (ii) prejudice in any manner the rights of any of the Creditors, or any other Person in any further proceedings involving the Applicant or the Domfoam Released Parties; or
 - (iii) constitute an admission of any sort by any of the Creditors, the Applicant, the Monitor, or any other Person.

11.4 Paramouncy

From and after the Plan Implementation Date, any conflict between: (a) this Plan; and (b) any information statement or summary in respect of this Plan, or the covenants, warranties, representations, terms, conditions, provisions or obligations, express or implied, of any contract, mortgage, security agreement, indenture, loan agreement, commitment letter, document or agreement, written or oral, and any and all amendments and supplements thereto existing between the Applicant and any Creditor or other Person as at the Plan Implementation Date will be deemed to be governed by the terms, conditions and provisions of this Plan and the Sanction Order, which shall take precedence and priority.

11.5 Responsibilities of the Monitor

The Monitor is acting in its capacity as Monitor in the CCAA Proceedings, and it will not be

responsible or liable for any obligations of the Applicant hereunder. The Monitor will have only those powers granted to it by this Plan, by the CCAA and by any Order of the Ontario Court in the CCAA Proceedings, including the Initial CCAA Order.

11.6 Deeming Provisions

In this Plan, the deeming provisions are not rebuttable and are conclusive and irrevocable.

11.7 Notices

Any notice or communication to be delivered hereunder shall be in writing and shall reference this Plan and may, subject as hereinafter provided, be made or given by personal delivery or by fax addressed to the respective parties as follows:

~~(a)~~(a) if to the Applicant or to the Monitor:

~~(b)~~(b) if to a Creditor:

to the address specified in the Proof of Claim, or Proof of Creditor Claim filed by that Creditor or, if none has been specified, to such other address at which the notifying party may reasonably believe that the Creditor may be contacted;

or to such other address as any party may from time to time notify the others in accordance with this Section 11.7. All such notices and communications that are personally delivered shall be deemed to have been received on the date of delivery. Any such notices and communications that are faxed shall be deemed to be received on the date faxed if sent before 5:00 p.m. Eastern Time on a Business Day and otherwise shall be deemed to be received on the Business Day next following the day upon which such fax was sent. Any notice or other communication sent by mail shall be deemed to have been received on the fifth Business Day after the date of mailing. The unintentional failure to give a notice contemplated hereunder shall not invalidate any action taken by any Person pursuant to this Plan.

11.8 Successors and Assigns

The rights, benefits and obligations of any Person named or referred to in this Plan shall be binding on, and shall inure to the benefit of, any heir, executor, trustee, administrator, successor or assign of such Person.

11.9 Further Assurances

Notwithstanding that the transactions and events set out in this Plan shall be deemed to occur without any additional act or formality other than as set out herein, each of the Persons affected hereby shall make, do and execute or cause to be made, done or executed all such further acts, deeds, agreements, transfers, assurances, instruments, documents or discharges as may be reasonably required by the Monitor in order to implement and give effect to this Plan.

11.10 Governing Law

This Plan shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to any conflict of law

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provision that would require the application of the law of any other jurisdiction. In the event of any dispute or issue in connection with, or related to, the interpretation, application or effect of this Plan, such dispute or issue shall be subject to the exclusive jurisdiction of the Ontario Court.

Dated at Toronto, Ontario, as of this 23rd day of August, 2016.

Document comparison by Workshare Compare on Tuesday, October 18, 2016
2:24:11 PM

Input:

Document 1 ID	file:///I:/Users/DUllmann/File/Word/Active/Domfoam International Inc/Valle Foam/Plan of Compromise and Arrangement Final.pdf
Description	Plan of Compromise and Arrangement Final
Document 2 ID	file:///I:/Users/DUllmann/File/Word/Active/Domfoam International Inc/Valle Foam/PLAN/PLAN OF COMPROMISE AND ARRANGEMENT V11.docx
Description	PLAN OF COMPROMISE AND ARRANGEMENT V11
Rendering set	Standard

Legend:

Insertion

~~Deletion~~

~~Moved from~~

Moved to

Style change

Format change

~~Moved deletion~~

Inserted cell

Deleted cell

Moved cell

Split/Merged cell

Padding cell

Statistics:

	Count
Insertions	41
Deletions	30
Moved from	0
Moved to	0
Style change	0
Format changed	0

Total changes	71
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Exhibit E

This is Exhibit "E" referred to in the

AFFIDAVIT OF

TONY VALLECOCCIA

Tony Vallecoccia

STATE OF FLORIDA

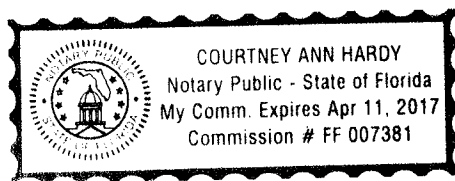
COUNTY OF Pinellas

SWORN before me this 13 day of January, 2017
By TONY VALLECOCCIA.

Courtney Ann Hardy

A Commissioner, Notary Public, etc.

Personally Known OR Produced Identification x
Type of Identification Produced Ontario Driver's License



Alexandra Teodorescu

From: David T. Ullmann
Sent: Wednesday, January 04, 2017 9:34 AM
To: Alexandra Teodorescu
Subject: FW: 4362063 Canada Ltd. (f/k/a Domfoam International Inc. - Your File No. CM-210305-14

David T. Ullmann

Partner

dullmann@blaney.com

☎ 416-596-4289 | ☎ 416-594-2437

From: Duval Jean [<mailto:Jean.Duval@revenuquebec.ca>]
Sent: October-20-16 4:25 PM
To: David T. Ullmann
Cc: Bérubé Normand
Subject: RE: 4362063 Canada Ltd. (f/k/a Domfoam International Inc. - Your File No. CM-210305-14

David,

We refer to your letter dated October 17, 2016.

As your client is prepared to accept (or has accepted) our settlement offer dated February 1st, 2016, subject to the Plan of Compromise and Arrangement being approved by the Court, we understand that a discontinuance will be filed by your client in both GST and PST files as soon as possible.

Also, we understand that you will inform the Honourable Paris before October 31st of the discontinuance to be produced in the TCC file in accordance with the settlement concluded by the parties and the Plan sanctioned by the Court.

Finally, we advise you that following the unlimited general strike announced by our Union, known as "LANEQ" (Les avocats et notaires de l'État québécois), beginning October 24th, 2016, it could be impossible to join me in the next weeks.

Regards

Jean Duval | DGLRE | Direction adjointe du contentieux – Montréal – Secteur fiscal
 Revenu Québec | 3, Complexe Desjardins, Montréal (Québec), secteur D221LC, H5B 1A4
 Tél. : (514) 287-8821

Jean.Duval@revenuquebec.ca | www.revenuquebec.ca

Devez-vous vraiment imprimer ce courriel?

De : David T. Ullmann [<mailto:DUllmann@blaney.com>]
Envoyé : lundi 17 octobre 2016 15:32
À : Duval Jean
Cc : 'gmoiffat@tgf.ca'
Objet : 4362063 Canada Ltd. (f/k/a Domfoam International Inc. - Your File No. CM-210305-14

Mr. Duval,

Please see attached our letter of today's date to you, with enclosure, with respect to the above-noted matter.

David Ullmann

**Blaney
McMurtry** 2 Queen Street East | Suite 1500
Toronto, Ontario M5C 3G5

Elly Simon

Legal Assistant to David Ullmann & Stephen Gaudreau

esimon@blaney.com

☎ 416-593-7221 ext. 4800

🌐 Blaney.com



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Blaney McMurtry LLP Lawyers 416-593-1221
 2 Queen Street East Suite 1500
 Toronto, Ontario M5C 3G5 Blaney.com

David T Ullmann

D: 416-596-4289 F: 416-594-2437
 dullmann@blaney.com

October 17, 2016

BY EMAIL

WITHOUT PREJUDICE

Mr. Jean Duval
 Lariviere Meunier
 Complexe Desjardins
 secteur D221LC, C.P. 5000
 Montreal, Quebec, H5B 1A7

Dear Mr. Duval:

**Re: 4362063 Canada Ltd. (f/k/a Domfoam International Inc.) (the "Company")
 Your File No. CM-210305-14**

On February 1, 2016, you provided us with an offer to settle the above referenced matter as follows:

1. the assessments with respect to the GST and QST files will be for the amount of \$120,548.10 and \$197,480.92, respectively;
2. the Company will accept a penalty in the amount of \$20,000.00 with respect to the QST file. No penalty shall be accepted with respect to the GST amount; and
3. the interest to be paid with respect to the GST and QST files will be calculated in accordance with the law, and not at the sole discretion of the Monitor.

A copy of your client's offer to settle is enclosed herewith.

The Company is prepared to accept the settlement offer as articulated on February 1, 2016, subject to the Plan of Compromise and Arrangement ("Plan") being approved and sanctioned by the Court and subject to the understanding of the following clarifications. We confirm that the Plan provides that the directors and officers shall be released and discharged from the D&O Claims (as defined in the Plan). As such, no tax authority will have any further claim against the directors and officers of Domfoam in respect of the amounts settled hereunder.

With respect to point 2 above, we wish to clarify that the Company will not be agreeing to pay a penalty outside the CCAA process, but rather an amount, equal to the amount of \$20,000 will be accepted in the claim approved by the Monitor.

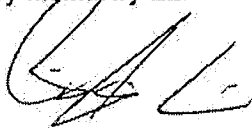
Second, we wish to confirm that the total amount agreed to here, being \$338,029.20, will be allowed in the CCAA process. This amount is a reduction of the \$622,339.13 originally claimed (which was made up of GST in the amount of \$193,357.68 and QST in the amount of \$428,981.45), and the claim will be correspondingly released.

- 2 -

We would appreciate hearing back from you with respect to the above as soon as possible. We confirm that the meeting to consider the Plan of Arrangement is scheduled to proceed on October 19, 2016. In addition, we are obliged to report to the Tax Court of Canada.

Yours very truly,

Blaney McMurtry LLP



David T Ullmann

DTU/at

Encl.

cc: Grant B. Moffat
Thornton Grout Finnigan LLP



Bordereau de télécopie

Date : 1^{er} février 2016

Nombre de pages : 3

Destinataire

Nom : Me David T. Ullmann

Organisme : Minden Gross LLP

Adresse :

145, King Street West
Suite 2200
Toronto, Ontario, M5H 4G2

Téléphone : 416-369-4148

Télécopieur : 416-864-9223

Expéditeur

Nom : LARIVIÈRE MEUNIER
Me Jean Duval

Unité administrative : Direction du contentieux

Téléphone : 514 287-8821

Télécopieur : 514 285-5348

Opérateur

Nom : Lucie Laliberté

Téléphone : 514 287-6095

Message :

4362083 Canada Ltd. (Domfoam International Inc.) c. Sa Majesté la Reine
2014-2105(GST)G Notre dossier : CM-210305-14

Voir correspondance jointe

Avis relatif aux renseignements confidentiels

Les renseignements contenus dans ce document peuvent être confidentiels. Ils sont destinés à l'usage du destinataire ci-dessus. Si vous n'êtes pas le destinataire visé ou une personne autorisée à lui remettre ce document, vous êtes par la présente avisé qu'il est strictement interdit d'utiliser, de copier ou de distribuer ce document, d'en dévoiler la teneur ou de prendre quelque mesure fondée sur l'information qu'il contient. Vous êtes donc prié de détruire ce document et de communiquer immédiatement avec l'expéditeur pour l'aviser de cette erreur.

Complexe Desjardins, secteur D221LC
C.P. 5000, succursale Place-Desjardins
Montréal (Québec) H5B 1A7
Tél. : 514 287-8333 sans frais : 1 888 830-8808, poste 287-8333
www.revenuquebec.ca



Direction du contentieux fiscal et civil

Montreal, February 1st, 2016**Without prejudice****By facsimile : 416-864-9223**

Me David T. Ullmann
MINDEN GROSS LLP
145, King Street West
Suite 2200
Toronto (Ontario) M5H 4G2

RE : 4362063 Canada Ltd. (Domfoam International Inc.)
Court N° : 2014-2105(GST)G
Court of Quebec: 500-80-028592-146
O/F : CM-210305-14

Dear Confreere,

We, hereby, confirm that our clients refuse the offer contained in your letter dated September 28th, 2015. However, our clients would accept to settle the above matters on the following basis.

1. In respect of the GST and QST files, the assessments (in rights) will be for the amount of 120 548,10 \$ (GST) and 197 480,92 \$ (QST).
2. Regarding the QST file, our client agrees to a penalty in the amount of 20 000 \$. No penalty will be paid in respect of the GST amount.
3. In respect of the GST and QST files, the interests to be paid have to be calculated in accordance with the law (and can not be let to the sole discretion of the Monitor).
4. Concerning the recourses against the Directors and Officers, our clients refuse to give a release and/or to withdraw their claims against the Directors and Officers.

Montréal
Complexe Desjardins, secteur 0221LC
C. P. 5000, succursale Place-Desjardins
Montréal (Québec) H5B 1A7
Téléphone : 514 287-8333
Sans frais : 1 888 830-8808, poste 2878333
Télécopieur : 514 285-5348

Québec
3800, rue de Marly, secteur 5-2-8
Québec (Québec) G1X 4A5
Téléphone : 418 652-6842
Sans frais : 1 888 830-7747, poste 6526842
Télécopieur : 418 577-5327

We look forward to receiving your client position.

Regards.

LARIVIÈRE MEUNIER



Jean Duval

Ligne directe : 514 287-8821

Courriel : jean.duval@revenuquebec.ca

Pour notification : Nolif-Montreal@revenuquebec.ca

JD/ll

Exhibit F

This is Exhibit "F" referred to in the

AFFIDAVIT OF

TONY VALLECOCCIA

Valleco

STATE OF FLORIDA

COUNTY OF Pinellas

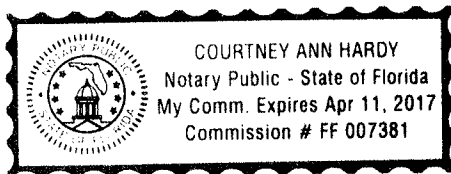
SWORN before me this 13 day of January, 2017
By TONY VALLECOCCIA.

Courtney Ann Hardy

A Commissioner, Notary Public, etc.

Personally Known OR Produced Identification

Type of Identification Produced Ontario Driver's License



DEC 19 2016

Tax Court of Canada



Cour canadienne de l'impôt

December 9, 2016

David T. Ullmann
 145 King Street West
 Suite 2200
 Toronto, Ontario M5H 4G2

Dear Sir:

RE: 4362063 Canada Ltd. fka Domfoam International Inc.
 v. Her Majesty the Queen
 2014-2105(GST)G

Please be advised that the Court has granted your request to have the above noted appeal held in abeyance pending the resolution of the sanction order. The parties are requested to report to the Court on or before January 31, 2017.

Yours truly,

Craig Munro
 Registry Officer
 (613) 995-8704

c.c. Jean Duval

ADDRESS ALL COMMUNICATIONS TO THE REGISTRAR	PRINCIPAL OFFICE/BUREAU PRINCIPAL 200 KENT STREET 200, RUE KENT OTTAWA, ONTARIO OTTAWA (ONTARIO) K1A 0H1 TEL./TEL. : (613) 992-0901 FAX : (613) 957-9030	REGIONAL OFFICE/BUREAU REGIONAL 10 MCGILL STREET 10, RUE MCGILL MONTREAL, QUEBEC MONTREAL (QUEBEC) H2Y 3Z7 TEL./TEL. : (514) 283-9912 FAX : (514) 496-1996	REGIONAL OFFICE/BUREAU REGIONAL SUITE 200 / BUREAU 200 180 QUEEN STREET WEST 180, RUE QUEEN OUEST TORONTO, ONTARIO TORONTO (ONTARIO) M5H 1L6 TEL./TEL. : (416) 973-9182 FAX : (416) 973-9944	REGIONAL OFFICE/BUREAU REGIONAL IBM TOWER / TOUR IBM SUITE 300 / BUREAU 300 201 WEST GEORGIA STREET 201, RUE WEST GEORGIA VANCOUVER, B.C. VANCOUVER (C.-B.) V7Y 1N1 TEL./TEL. : (604) 666-7997 FAX : (604) 666-7967
--	--	--	---	---

Tab 3

Court File No. CV-12-9545-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) TUESDAY, THE 24th DAY
)
) OF JANUARY, 2017
)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c.C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF 3113736 CANADA LTD. 4362063 CANADA LTD., and
A-Z SPONGE & FOAM PRODUCTS LTD.

(the "**Applicants**")

SANCTION ORDER

THIS MOTION made by the Applicants for an Order pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. c-36, as amended (the "**CCAA**"), *inter alia* sanctioning the Plan of Compromise and Arrangement filed by 4362063 Canada Ltd. (formerly Domfoam International Inc.) ("**Domfoam**"), dated August 23, 2016 (as amended, varied or supplemented from time to time in accordance with the terms thereof, and together with all schedules thereto, the "**Plan**"), which Plan is attached as **Schedule "A"** hereto, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of Tony Vallecoccia sworn January 13, 2017 and the exhibits thereto (the "**Vallecoccia Affidavit**") and the Fifteenth Report of Deloitte & Touche Inc., now known as Deloitte Restructuring Inc., (the "**Fifteenth Report**") in its capacity as the Court-appointed monitor (the "**Monitor**") of the Applicants, and on hearing the submissions of counsel for the Applicants, the Monitor and all other counsel listed on the counsel slip, no one appearing for any other person on the service list, although properly served as appears from the Affidavit of Service of Beverly Rusk sworn January 13, 2017, filed:

DEFINED TERMS

1. **THIS COURT ORDERS** that any capitalized terms not otherwise defined in this Order shall have the meaning ascribed to such terms in the Plan.

SERVICE, NOTICE AND MEETING

2. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record and the Fifteenth Report is hereby abridged if necessary and validated and this Motion is properly returnable today without further service or notice thereof.

3. **THIS COURT ORDERS** that there has been good and sufficient notice, service and delivery of the Creditors' Information Package (as defined in the Meeting Order granted by this Court on September 6, 2016 (the "**Meeting Order**")), and that the Creditors' Meeting was duly called, convened, held and conducted, all in conformity with the CCAA and the Orders of this Court made in the CCAA Proceedings, including, without limitation, the Meeting Order.

SANCTION OF THE PLAN

4. **THIS COURT ORDERS AND DECLARES** that:
- (a) the Plan has been approved by the requisite majorities of Creditors present and voting, either in person or by proxy, at the Approval Meeting, all in conformity with the CCAA, the terms of the Initial CCAA Order and the Meeting Order;
 - (b) Domfoam has complied with the provisions of the CCAA and the Orders of the Court made in the CCAA Proceedings in all respects;
 - (c) Domfoam has not done or purported to do (nor does the Plan do or purport to do) anything that is not authorized by the CCAA; and
 - (d) Domfoam has acted in good faith and with due diligence and the Plan, together with all of the compromises, arrangements, transactions, releases, discharges, bar orders, injunctions and results provided for therein and effected thereby are fair,

reasonable and in the best interests of the Creditors and does not unfairly disregard the interests of any Person (whether a Creditor or otherwise).

5. **THIS COURT ORDERS** that the Plan is hereby sanctioned and approved pursuant to Section 6 of the CCAA.

PLAN IMPLEMENTATION

6. **THIS COURT ORDERS** that each of Domfoam, its directors and officers, and the Monitor is authorized and directed to take all steps and actions, and to do all things, necessary or appropriate to implement the Plan in accordance with its terms and to enter into, execute, deliver, complete, implement and consummate all of the steps, transactions, distributions, disbursements, payments, deliveries, allocations, instruments and agreements contemplated pursuant to the Plan, and such steps and actions are hereby authorized, ratified and approved. Domfoam, its directors and officers and the Monitor shall not incur any liability as a result of acting in accordance with the terms of the Plan or this Order, other than any liability arising out of or in connection with the gross negligence or wilful misconduct of such parties.

7. **THIS COURT ORDERS AND DECLARES** that the Plan and all associated steps, compromises, transactions, arrangements, releases and reorganizations effected thereby are hereby approved, shall be deemed to be implemented and shall be binding and effective as of the Effective Time in accordance with the terms of the Plan or at such other time, times or manner as may be set forth in the Plan in the sequence provided therein, and shall enure to the benefit of and be binding and effective upon Domfoam, all Creditors, the Domfoam Released Parties and all other Persons and parties named or referred to in, affected by, or subject to the Plan.

8. **THIS COURT ORDERS** that upon fulfillment or waiver of the conditions precedent to implementation of the Plan as set out in section 7.1 of the Plan, the Monitor shall file with the Court a certificate signed by the Monitor substantially in the form attached as **Schedule “B”** hereto confirming that all of the conditions precedent set out in section 7.1 of the Plan have been satisfied or waived, as applicable, in accordance with the terms of the Plan (the “**Monitor’s Plan Implementation Date Certificate**”) and, with the filing of such certificate by the Monitor, the Plan Implementation Date shall occur and the Plan shall be effective in accordance with its terms

and the terms of this Order. The Monitor is hereby directed to post a copy of the Monitor's Plan Implementation Date Certificate, once filed, on the Website and provide a copy to the Service List.

9. **THIS COURT ORDERS** that upon the Plan Implementation Date occurring, the charge in the amount of \$1,000,000 upon the Property of Domfoam in favour of the Directors and Officers created by the Initial CCAA Order and as subsequently amended by Order of this Court dated September 29, 2015, shall be permanently discharged.

10. **THIS COURT ORDERS** that upon the Plan Implementation Date occurring, the Monitor is hereby directed and authorized to complete the distributions contemplated under the Plan.

COMPROMISE OF CLAIMS AND EFFECT OF PLAN

11. **THIS COURT ORDERS** that, pursuant and in accordance with the terms of the Plan, on the Plan Implementation Date, all Claims and D&O Claims which are released pursuant to Article 9 of the Plan or discharged, compromised or terminated pursuant to the Plan shall be fully, finally, irrevocably and forever compromised, discharged and released with prejudice, and the ability of any Person to proceed against the Domfoam Released Parties in respect of or relating to any such Claim or D&O Claim shall be and shall be deemed forever discharged, extinguished, released and restrained, and all proceedings with respect to, in connection with or relating to such Claims and D&O Claims shall permanently be stayed against the Domfoam Released Parties, subject only to the right of Proven Creditors to receive the distributions pursuant to the Plan and this Order in respect of their Proven Claims, in the manner and to the extent provided for in the Plan. Notwithstanding the foregoing or any other provision of this order, the Competition Act Claim shall not be compromised or released by the Plan.

12. **THIS COURT ORDERS** that no Person who is a party to any obligation or agreement with Domfoam shall, following the Plan Implementation Date, accelerate, terminate, rescind, refuse to perform or repudiate its obligations thereunder, or enforce or exercise any right (including any right of set-off, dilution or other remedy) or make any demand under or in respect of any such obligation or agreement, by reason of:

- (a) any event(s) that occurred on or prior to the Plan Implementation Date that would have entitled any other Person thereto to enforce those rights and/or remedies (including defaults or events of default arising as a result of the CCAA Proceedings);
- (b) the fact that relief under the CCAA has been sought or obtained in respect of Domfoam or that the CCAA Proceedings have been commenced or completed; and
- (c) any compromises or arrangements effected pursuant to the Plan.

13. **THIS COURT ORDERS** that the determination of Proven Claims in accordance with the Claims Procedure Order, the Order of the Court dated September 6, 2016 admitting certain late filed Claims against Domfoam (the “**Domfoam Late Claims Order**”) and the Plan shall be final and binding on Domfoam and all Creditors.

14. **THIS COURT ORDERS** that a Creditor holding a Claim that is subject to a Notice of Revision or Disallowance (as defined in the Claims Procedure Order) shall not be entitled to receive a distribution under the Plan in respect of any portion thereof unless and until such Claim becomes a Proven Claim in accordance with the Claims Procedure Order and the Plan.

15. **THIS COURT ORDERS** that nothing in the Plan extends to or shall be interpreted as extending or amending the Claims Bar Date or gives or shall be interpreted as giving any rights to any Person in respect of Claims that have been barred or extinguished pursuant to the Claims Procedure Order. Any Claim for which a Proof of Claim has not been filed by the Claims Bar Date in accordance with the Claims Procedure Order or admitted as a Proven Claim pursuant to the Domfoam Late Claims Order, whether or not the holder of such a Claim has received personal notification of the claims process established by the Claims Procedure Order, shall be and is hereby forever barred, extinguished and released with prejudice.

16. **THIS COURT ORDERS** that each Person named or referred to in, or subject to, the Plan shall be and is hereby deemed to have consented and agreed to all of the provisions in the Plan, in its entirety, and each Person named or referred to in, or subject to, the Plan shall be and

is hereby deemed to have executed and delivered to Domfoam all consents, releases, assignments and waivers, statutory or otherwise, required to implement and carry out the Plan in its entirety.

17. **THIS COURT ORDERS AND DECLARES** that all distributions or payments by the Monitor to Creditors with Proven Claims under the Plan are for the account of Domfoam and the fulfillment of its obligations under the Plan.

18. **THIS COURT ORDERS** that section 95 and 101 of the *Bankruptcy and Insolvency Act* and any other federal or provincial law relating to preferences, fraudulent conveyances or transfers at undervalue, shall not apply to the Plan or to any transactions, distributions or settlement payments implemented pursuant to the Plan.

19. **THIS COURT ORDERS AND DECLARES** that Domfoam shall be authorized, in connection with the making or any payment or distribution, and in connection with the taking of any step or transaction or performance of any function under or in connection with the Plan, to apply to any Person, including but not limited to a government department, agency or regulatory body (“**Government Authority**”) for any consent, authorization, certificate or approval in connection therewith.

20. **THIS COURT ORDERS AND DECLARES** that any distributions, disbursements or payments made under the Plan or this Order (including without limitation distributions made to or for the benefit of the Proven Creditors and the Crown with respect to the Competition Act Claim) shall not constitute a “distribution” by any person and the Monitor shall not constitute a “legal representative” or “representative” of the Applicants for the purposes of section 159 of the *Income Tax Act* (Canada), section 270 of the *Excise Tax Act* (Canada), section 14 of the *Tax Administration Act* (Quebec) , section 107 of the *Corporations Tax Act* (Ontario), section 22 of the *Retail Sales Tax Act* (Ontario), section 117 of the *Taxation Act, 2007* (Ontario), section 23 of the *Canada Pension Plan*, section 86 of the *Employment Insurance Act* or any other similar federal, provincial or territorial tax legislation (collectively the “**Tax Statutes**”), nor a “receiver” within the meaning of *An Act Respecting the Quebec Sales Tax*, and the Monitor, in making any such distributions, disbursements or payments, as applicable, is merely a disbursing agent under the Plan, and is not exercising any discretion in making payments under the Plan and no person

is “distributing”, nor shall be considered to “distribute” nor to have "distributed", such funds for the purpose of the Tax Statutes.

21. **THIS COURT ORDERS** that the Monitor shall not incur any liability under the Tax Statutes in respect of any distributions, disbursements or payments made by it pursuant to the Plan or this Order and is hereby forever released, remised and discharged from any claims against it under or pursuant to the Tax Statutes or otherwise at law, arising in respect of or as a result of distributions, disbursements or payments made by it in accordance with the Plan and this Order and any claims of this nature are hereby forever barred.

RELEASES

22. **THIS COURT ORDERS AND DECLARES** that the compromises and releases set out in Article 9 of the Plan are approved and shall be binding and effective as at the Plan Implementation Date.

23. **THIS COURT ORDERS** that from and after the Plan Implementation Date any and all Persons (other than the Crown with respect to the Competition Act Claim) shall be and are hereby forever barred, estopped, stayed and enjoined from commencing, taking, applying for or issuing or continuing any and all steps or proceedings, whether directly, derivatively or otherwise, and including without limitation, administrative hearings and orders, declarations or assessments, commenced, taken or proceeded with or that may be commenced, taken or proceeded with against any Domfoam Released Party in respect of all Claims, D&O Claims and matters which are released pursuant to paragraph 11 of this Order and Article 9 of the Plan or discharged, compromised or terminated pursuant to the Plan.

24. **THIS COURT ORDERS** that the Crown shall be stayed and enjoined from commencing, taking, applying for or issuing or continuing any and all steps or proceedings, whether directly, derivatively or otherwise, in respect of the Competition Act Claim until such time as the stay of proceedings against Domfoam created by the Initial CCAA Order expires or is terminated by the Court.

THE MONITOR

25. **THIS COURT ORDERS** that in addition to its prescribed rights and obligations under the CCAA and the Orders of the Court made in these CCAA Proceedings, the Monitor is granted the powers, duties and protections contemplated by and required under the Plan and that the Monitor be and is hereby authorized, entitled and empowered to perform its duties and fulfill its obligations under the Plan to facilitate the implementation thereof, including without limitation:

- (a) to receive on behalf of Domfoam the proceeds of the Polyols Settlement and any remaining Liquidation Proceeds and distribute same in accordance with the terms of the Plan and this Order; and
- (b) apply to this Court for any orders necessary or advisable to carry out its powers and obligations under any other Order granted by this Court including for advice and directions with respect to any matter arising from or under the Plan.

26. **THIS COURT ORDERS** that, without limiting the provisions of the Initial Order or the provisions of any other Order granted in the CCAA Proceedings, including this Order, the Applicant shall remain in possession and control of its Property (as defined in the Initial Order) and that the Monitor shall not take possession or be deemed to be in possession and/or control of any of the Property.

27. **THIS COURT ORDERS AND DECLARES** that the Monitor shall be authorized, in connection with the taking of any step or transaction or performance or any function under or in connection with the Plan, to apply to any Governmental Authority for any consent, authorization, certificate or approval in connection therewith.

28. **THIS COURT ORDERS AND DECLARES** that: (i) in carrying out the terms of this Order and the Plan, the Monitor shall have all the protections given to it by the CCAA, the Initial Order, and as an officer of the Court, including the Stay of Proceedings in its favour; (ii) the Monitor shall not be or become liable for any obligations of Domfoam as a result of carrying out the provisions of this Order and/or the Plan; (iii) the Monitor (including its affiliates, directors, officers, employees, associated individuals, agents and representatives) and all of its professional

advisors and legal counsel shall have no liability or obligation to any Person for their role, or any act or omission, in connection with their appointments as Monitor or advisors or counsel thereto, the CCAA Proceedings, activities undertaken in preparation for or in anticipation of the CCAA Proceedings, the Plan, the pursuit of sanctioning of the Plan, the consummation and implementation of the Plan, the administration of the Plan or the property to be distributed under the Plan, from the date of their appointments to the earlier of the date of their discharges from those appointments, or the Plan Completion Date; (iv) the Monitor shall be entitled to rely on the books and records of the Applicants and any information provided by them without independent investigation; and (v) the Monitor shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information.

29. **THIS COURT ORDERS** that the form of Monitor's Plan Completion Certificate attached as **Schedule "C"** hereto is hereby approved and, upon the Monitor being satisfied that there is no likelihood of additional funds becoming available for distribution to the Creditors under the Polyols Settlement or otherwise, authorizes and directs the Monitor to file the Monitor's Plan Completion Certificate with this Court stating that all of its duties and Domfoam's duties under the Plan and the Orders have been completed, and thereafter the Monitor shall seek an Order, *inter alia*, (a) approving its final fees and disbursements and those of its counsel; (b) discharging the Monitor from its duties as Monitor in the CCAA Proceedings; and (c) releasing Domfoam, the Monitor and any Directors and Officers holding such office following the Plan Implementation Date and their advisors, from all claims relating to the implementation of the Plan.

30. **THIS COURT ORDERS** that the Monitor is hereby directed to post a copy of the Monitor's Plan Completion Certificate, once filed, on the Website and provide a copy to the Service List.

31. **THIS COURT ORDERS** that, upon the Plan Completion Date, the Monitor shall be discharged and released and shall have no further obligations, duties or responsibilities pursuant to the Plan.

GENERAL

32. **THIS COURT ORDERS** that:

- (a) except to the extent that the Initial CCAA Order has been varied by or is inconsistent with this Order or any further Order of this Court, the provisions of the Initial CCAA Order shall remain in full force and effect; provided that the protections granted in favour of the Monitor shall continue in full force and effect after the Plan Implementation Date; and
- (b) other Orders made in the CCAA Proceedings shall continue in full force and effect in accordance with their respective terms, except to the extent that such Orders are varied by, or are inconsistent with, this Order or any further Order of this Court in the CCAA Proceedings; provided that the protections granted in favour of the Monitor shall continue in full force and effect after the Plan Implementation Date.

33. **THIS COURT ORDERS** that any of the Applicants or the Monitor may from time to time apply to this Court to amend, vary, supplement or replace this Order or for advice and directions with respect to any matter arising from or under the Plan or this Order.

34. **THIS COURT ORDERS** that Domfoam (in its sole discretion) is hereby authorized to seek an order of any court of competent jurisdiction to recognize the Plan and this Order, to confirm the Plan and this Order as binding and effective in any appropriate foreign jurisdiction, and to assist Domfoam, the Monitor and their respective agents in carrying out the terms of the Plan and this Order.

35. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States, or in any other foreign jurisdiction, to recognize and give effect to the Plan and this Order, to confirm the Plan and this Order as binding and effective in any appropriate foreign jurisdiction, and to assist Domfoam, the Monitor and their respective agents in carrying out the terms of the Plan and this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to Domfoam and the Monitor, as

an officer of the Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist Domfoam and the Monitor and their respective agents in carrying out the terms of this Order.

Schedule A

PLAN OF COMPROMISE AND ARRANGEMENT

PURSUANT TO THE *COMPANIES' CREDITORS ARRANGEMENT ACT* (CANADA)

ARTICLE 1 - INTERPRETATION 1.1

1.2 Definitions

In this Plan:

"**Applicant**" means 4362063 Canada Ltd. (formerly Domfoam International Inc.);

"**Approval Meeting**" means a meeting of Creditors, held pursuant to the Meeting Order, to vote on the Plan, and includes any meeting or meetings resulting from the adjournment thereof;

"**A-Z Foam**" means the applicant A-Z Sponge & Foam Products Ltd, in these proceedings;

"**Business**" means the business and operations carried on by or formerly carried on by the Applicant;

"**Business Day**" means a day other than a Saturday or Sunday on which banks are generally open for business in Toronto, Ontario, and Montreal, Quebec;

"**CCAA**" means the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended;

"**CCAA Proceedings**" means the proceedings under the CCAA commenced by the Applicant on January 12, 2012 at Toronto under Court File No. CV-12-9545-00CL;

"**Claim**" means any right or claim of any Person, or class of Persons or representative Person, against the Applicant whether or not asserted, in connection with any indebtedness, liability or obligation of any kind whatsoever of the Applicant in existence on the Filing Date, or which has arisen since the Filing Date, any accrued interest thereon and costs payable in respect thereof to and including the Filing Date, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, and includes any other claims that would have been claims provable in bankruptcy had the Applicant become bankrupt on the Filing Date;

"**Claims Bar Date**" means the 5:00 PM August 31, 2012 bar date referred to at paragraphs 5(b) and (f) of the Claims Process Order;

"**Claims Process Order**" means the Order of Justice Brown in the CCAA Proceedings dated June 15, 2012;

"**Court**" means the Ontario Superior Court of Justice;

"**Competition Act Claim**" means the proof of claim filed by Her Majesty the Queen in Right of Canada (the "**Crown**") in respect of fines owed to the Crown by Domfoam International Inc. and

Valle Foam Industries (1995) Inc. as a result of their participation in offences under ss. 45(1)(a) and 45(1)(c) of the *Competition Act*, RSC 1985, c C-34, as approved by Court Order, dated [x].

"Creditor" means any Person with a Claim or a D&O Claim regardless of whether such Person has filed a Proof of Claim in the CCAA Proceedings;

"D&O Claim" means any right of any Person against one or more of the Directors and Officers (as defined below) which arose as a result of their position, supervision, management or involvement as Director and Officer, where such right arose on, before or after June 15, 2012, and whether enforceable in any civil, administrative or criminal proceedings, including, without limitation, any person (including the crown) who filed a claim against the Directors and Officers pursuant to the Claims Process Order, including, without limitation any possible D&O Claim related to or derived from the facts alleged against the Applicant in the Revenu Quebec Action;

"DIP Loan" means any loans made between or among the Applicant, Valle Foam and A-Z Foam on or after January 12, 2012 which were expressly authorized to be considered a DIP loan by an Order of the Court;

"Directors and Officers" means (i) the current and former directors of the Applicant; and (ii) the current and former officers of the Applicant;

"Effective Time" means the first moment in time on the Plan Implementation Date;

"Equity Claim" means an equity claim as defined by the *Bankruptcy Insolvency Act*, R.S.C. 1985, c. B-3;

"Excepted Claim" has the meaning given to that term in Section 9.5 hereof;

"Filing Date" means January 12, 2012;

"Holdback Amount" means that amount from the cash on hand from the Applicant which the Monitor, in consultation with the Applicant, elects to hold back from the distribution of the Liquidation Proceeds, for future administration costs of these CCAA Proceedings;

"HST Pre and Post Filing Dispute" means the outstanding dispute between the Applicant and the Monitor as to the treatment of certain outstanding claims for payment of HST by Revenu Quebec as either a pre or post Filing Date obligation of the Applicant as further described in the Affidavit of Tony Vallecoccia sworn August 23, 2016;

"Initial CCAA Order" means the initial order of the Ontario Court dated January 12, 2012, pursuant to which, among other things, the Ontario Court granted a stay of proceedings with respect to the Applicant, as same may be further amended from time to time;

"Intercompany Claims" means any Claims, including the DIP Loan, owing among or between the Applicant and A-Z Foam or Valle Foam or any of them;

"Liquidation Proceeds" means the proceeds realized from the Business or collected by the Applicant or the Monitor on behalf of the Business since the Filing Date;

"Meeting" means an Information Meeting or an Approval Meeting;

"Meeting Order" means the Order of the Ontario Court dated September 6, 2016, regarding, *inter alia*, the calling and holding of the Meeting;

"Monitor" means Deloitte Restructuring Inc. (previously known as Deloitte & Touche Inc.), in its capacity as monitor of the Applicant, appointed pursuant to the Initial CCAA Order;

"Ontario Court" means the Superior Court of Justice (Ontario);

"Order" means an order of the Ontario Court in the CCAA Proceedings;

"Person" means any individual, partnership, limited partnership, limited liability company, joint venture, trust, trustee, corporation, unincorporated organization, government, agency, regulatory body or instrumentality thereof, legal personal representative or litigation guardian, or any other entity howsoever designated or constituted;

"Plan" means this plan of compromise or arrangement and all schedules hereto, as same may be amended hereafter in accordance with Section 11.1 herein;

"Plan Completion Date" means the Business Day on which the Monitor has completed and filed a certificate in accordance with Section 10.1 of this Plan;

"Plan Implementation Date" means the Business Day on which the conditions precedent to implementation of this Plan as set out in Section 7.1 hereof have been satisfied or fulfilled, and the Monitor has completed and filed its certificate in accordance with Section 7.2 of this Plan;

"Polyols Settlement" means the settlement as described in the affidavit of Tony Vallecoccia, sworn August 23, 2016, between the Applicant, as a member of a class of plaintiffs, and Dow Chemical Inc. in the United States;

"Proof of Claim" means the form attached as Schedule B to the Claims Process Order;

"Proven Claim" means a Creditor Claim that was properly filed with the Monitor, to the extent that it was allowed in whole or in part by (a) the Monitor, or (b) the Ontario Court, following an appeal from the determination of the Monitor;

"Proven Creditor" means a Creditor having a Proven Claim;

"Revenu Quebec Action" means the outstanding action by the Applicant against each of Revenu Quebec and Canada Revenue Agency with respect to certain amounts assessed as due and owing by Revenu Quebec and Canada Revenue Agency against the Applicant, before each of the Superior Court of Quebec and the Tax Court of Canada;

"Sanction Order" means an order of the Ontario Court approving this Plan;

"Unaffected Claim" has the meaning given to that term in Section 3.3 hereof;

"Unaffected Creditor" means any Person holding Unaffected Claims, to the extent of those

Unaffected Claims;

"Unconfirmed Vote" means a vote cast at the Approval Meeting and marked by the Monitor as relating not to a Proven Claim, but to a Claim which the Monitor revised or disallowed in whole or in part and which remains in dispute;

"Unconfirmed Voting Claim" means a Creditor Claim in respect of which the Creditor's vote is an Unconfirmed Vote;

"Valle Foam" means Valle Foam Industries (1995) Inc. one of the applicants in the CCAA Proceedings; and

"Website" means the website established by the Monitor for purposes of the Plan and having the following address: www.deloitte.com/ca/vallefoam.

1.2 Certain Rules of Interpretation

In this Plan and all schedules hereto:

- (a) the division of this Plan into articles, sections, subsections and clauses and the insertion of headings and a table of contents are for convenience of reference only and shall not affect the construction or interpretation of this Plan. The terms "this Plan", "hereof", "hereunder", "herein" and similar expressions refer to this Plan and not to any particular article, section, subsection or clause and include any plan supplemental hereto. Unless otherwise indicated, any reference in this Plan to an article, section, subsection, clause or schedule refers to the specified article, section, subsection, clause or schedule of or to this Plan;
- (b) the use of words in the singular or plural, or with a particular gender, shall not limit the scope or exclude the application of any provision of this Plan or a schedule hereto to such Person (or Persons) or circumstances as the context otherwise permits;
- (c) the words "includes" and "including" and similar terms of inclusion shall not, unless expressly modified by the words "only" or "solely", be construed as terms of limitation, but rather shall mean "includes without limitation" and "including without limitation", so that references to included matters shall be regarded as illustrative without being either characterizing or exhaustive;
- (d) unless otherwise specified, all references to time herein and in any document issued pursuant hereto mean local time in Toronto, Ontario and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day. Unless otherwise specified, the time period within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next succeeding Business Day if the last day of the period is not a Business Day; and
- (e) unless otherwise provided, any reference to a statute, or other enactment of parliament or a legislature includes all regulations made thereunder, all enactments to or re-enactments of such statute or regulations in force from time to time, and, if applicable, any statute or

regulation that supplements or supersedes such statute or regulation.

ARTICLE 2 - PURPOSE AND EFFECT OF THE PLAN

2.1 Purpose

The purpose of this Plan is to enable the Applicant to efficiently distribute the Liquidation Proceeds and the proceeds of the Polyols Settlement to its Proven Creditors on a pro-rated basis, and to provide for releases for the Directors and Officers.

2.2 Affected Persons

This Plan will be implemented pursuant to the CCAA. On the Plan Implementation Date, subject to Section 3.3 hereof and subject to the satisfaction of the conditions contained in Section 7.1 herein, this Plan will be binding upon all Creditors and all other Persons in accordance with its terms.

ARTICLE 3 - CLASSIFICATION OF CREDITORS

3.1 Class of Creditors

The sole class for the purpose of considering and voting on this Plan shall be a single class consisting of Creditors.

3.2 Creditor Identification Procedure

Creditor Claims which have been delivered by Proof of Claim by the Claims Bar Date shall be as if they had been filed in respect of the Plan, and Creditors need not deliver to the Monitor a further Proof of Creditor Claim in respect thereof.

3.3 Unaffected Claims

This Plan does not compromise, release or otherwise affect any rights or claims:

- (a) for fees and expenses authorized pursuant to paragraph 6 of the Initial CCAA Order, incurred in the provision of goods and services relating to the CCAA Proceedings;
- (b) of the Applicant, the Monitor and of its counsel;
- (c) that fall within Section 6(3), 6(5) or 6(6) of the CCAA;
- (d) that arise from the DIP Loan; or
- (e) any outstanding Intercompany Claims.

Each of the foregoing rights and claims set out in this Section 3.3 is referred to herein as an "**Unaffected Claim**".

3.4 Equity Claims

All Persons holding Equity Claims shall not be entitled to vote at or attend the Approval Meeting,

and shall not receive any distributions under the Plan or otherwise receive any other compensation in respect of their Equity Claims.

ARTICLE 4 - TREATMENT OF CREDITORS

4.1 Treatment of Claims

On the Plan Implementation Date, the Claims will be compromised, released and otherwise affected in accordance with the terms of this Plan.

Notwithstanding the foregoing and anything else in the Plan, the Competition Act Claim shall not be compromised or released by the Plan. For greater certainty, the Crown is entitled to participate in any distributions under the Plan with respect to the Competition Act Claim, and any funds distributed on account of the Competition Act Claim will reduce the amount outstanding thereunder.

4.2 Voting Rights of Creditors

Subject to this Plan and the Meeting Order, each Proven Creditor shall be entitled to one vote in an amount equal to such Proven Claim. Furthermore, votes in respect of Unconfirmed Voting Claims will be recorded by the Monitor, subject to further determination in accordance with the Meeting Order. The procedure for determining the validity and quantum of the Claims for voting purposes shall be governed by the Meeting Order.

4.3 Unaffected Creditors

Notwithstanding anything to the contrary herein, each Person who has an Unaffected Claim shall not be entitled to vote or to receive any distribution under this Plan in respect of such Unaffected Claim. All Unaffected Claims shall be unaffected by the CCAA Proceedings and principal and interest shall continue to accrue notwithstanding the CCAA Proceedings.

ARTICLE 5 - DISTRIBUTIONS

5.1 Employees (Section 6(5) CCAA)

To the best of the Company's knowledge, there are no amounts owing to employees of the Applicant generally, or which would be captured by section 6(5) of the CCAA. However, in the event any such claims exist, immediately after the rendering of the Sanction Order and the expiry of all appeal periods relating thereto or the affirmation of the Sanction Order in such appeals, employees and former employees of the Applicant shall receive payment of:

- (a) amounts at least equal to the amounts that they would have been qualified to receive under paragraph 136(1)(d) of the *Bankruptcy and Insolvency Act* if the Applicant had become bankrupt on the day on which proceedings commenced under the CCAA; and
- (b) wages, salaries, commissions or compensation for services rendered after the Initial CCAA Order and before the Sanction Order, together with, in the case of travelling salespersons, disbursements properly incurred by them in and about the Applicant's business during the same period.

The inclusion of this Section 5.1 herein does not constitute any admission or acknowledgment by the Applicant as to the existence of any employees or former employees claims.

5.2 Crown claims (Section 6(3) CCAA)

Within six (6) months after the date of the Sanction Order and the expiry of all appeal periods relating thereto or the affirmation of the Sanction Order in such appeals, all amounts that were outstanding at the time of the Applicant's application for an order under Section 11 or 11.02 of the CCAA and that are of a kind that could be subject to a demand under:

- (a) subsection 224(1.2) of the *Income Tax Act*;
- (b) any provision of the *Canada Pension Plan* or of the *Employment Insurance Act* that refers to subsection 224(1.2) of the *Income Tax Act* and provides for the collection of a contribution, as defined in the *Canada Pension Plan*, an employee's premium, or employer's premium, as defined in the *Employment Insurance Act*, or a premium under Part VII.1 of that Act, and of any related interest, penalties or other amounts; or
- (c) any provision of provincial legislation that has a purpose similar to subsection 224(1.2) of the *Income Tax Act*, or that refers to that subsection, to the extent that it provides for the collection of a sum, and of any related interest, penalties or other amounts, and the sum:
 - (i) has been withheld or deducted by a person from a payment to another person and is in respect of a tax similar in nature to the income tax imposed on individuals under the *Income Tax Act*, or
 - (ii) is of the same nature as a contribution under the *Canada Pension Plan* if the province is a "province providing a comprehensive pension plan" as defined in subsection 3(1) of the *Canada Pension Plan* and the provincial legislation establishes a "provincial pension plan" as defined in that subsection;

shall be paid in full to Her Majesty in right of Canada or a Province, as applicable, but expressly not including any claims as may be due under the Excise Tax Act or any analogous statute in any province.

The inclusion of this Section 5.2 herein does not constitute any admission or acknowledgment by the Applicant as to the existence of any such outstanding amounts.

5.3 Payment of Professional and Administrative Expenses

On the Plan Implementation Date, all outstanding fees and disbursements payable under any Order shall be fully paid, or a reserve for such amount fully funded, as determined by the Monitor. Parties entitled to be paid hereunder shall have sixty (60) days from the Plan Implementation Date, or such later date as may be agreed with the Monitor, to submit final invoices to the Monitor for payment. Any reserve shall be administered by the Monitor.

5.4 Initial Distribution

Within thirty (30) days of the Plan Implementation Date, the Monitor shall distribute to the Proven Creditors the Liquidation Proceeds, less any amounts required to be paid pursuant to this Article 5 as determined by the Monitor in its sole discretion, and less the Holdback Amount.

5.5 Subsequent Distribution(s)

From time to time, the Monitor shall distribute to the Proven Creditors any other amounts in the possession or coming into the possession of the Monitor which will be available from other sources, including amounts paid to the Applicant pursuant to the Polyols Settlement, less the Holdback amount, if any, as determined by the Monitor in its sole discretion.

5.6 Distributions *Pro Rata* and *Pari Passu*

All distributions made to Proven Creditors pursuant hereto shall be made on a *pro rata, pari passu basis* among such Proven Creditors, considering the amounts of their respective Proven Claims.

All distributions made by the Monitor are made as agent for and on behalf of the Applicant, and not in its personal capacity.

ARTICLE 6 - SANCTION ORDER

6.1 Application for Sanction Order

The application for the Sanction Order shall be brought by the Applicant as soon as reasonably practicable following the approval of this Plan by the requisite majorities of Creditors voting at the Approval Meeting.

6.2 Effect of Sanction Order

In addition to sanctioning this Plan, and subject to the discretion of the Ontario Court, the Sanction Order shall, among other things and without limitation:

- (a) direct and authorize the distributions contemplated under this Plan;
- (b) order and declare that any distributions under the Plan shall not constitute a "distribution" and the Monitor shall not constitute a "legal representative" or "representative" of the Applicants for the purposes of section 159 of the Income Tax Act (Canada), section 270 of the Excise Tax Act (Canada), section 14 of the Tax Administration Act (Quebec), section 107 of the Corporations Tax Act (Ontario), section 22 of the Retail Sales Tax Act (Ontario), section 117 of the Taxation Act, 2007 (Ontario), section 23 of the Canada Pension Plan, section 86 of the Employment Insurance Act or any other similar federal, provincial or territorial tax legislation (collectively the "Tax Statutes"), nor a "receiver" within the meaning of An Act Respecting the Quebec Sales Tax, given that the Monitor is only a disbursing agent under the CCAA Plan, and the Monitor in making such payments is not "distributing", nor shall be considered to "distribute" nor to have "distributed", such funds for the purpose of the Tax Statutes, and the Monitor shall not incur any liability under the Tax Statutes in respect of it making any payments ordered or permitted hereunder, and is hereby forever released, remised and discharged from any claims against it under or pursuant to the Tax Statutes or otherwise at law, arising in respect of payments made under the Plan and this Order and any claims of this nature are hereby forever barred.
- (c) declare that the compromises and releases effected hereby are approved, binding and

effective as of the Plan Implementation Date upon all Creditors, the Monitor and all other Persons affected by this Plan;

- (d) provide that no Person who is a party to any obligation or agreement with the Applicant shall, following the Plan Implementation Date, accelerate, terminate, rescind, refuse to perform or repudiate its obligations thereunder, or enforce or exercise any right (including any right of set-off, dilution or other remedy) or make any demand under or in respect of any such obligation or agreement, by reason:
 - (i) of any event(s) that occurred on or prior to the Plan Implementation Date that would have entitled any other Person thereto to enforce those rights or remedies (including defaults or events of default arising as a result of the insolvency of the Applicant);
 - (ii) of the fact that relief under the CCAA has been sought or obtained in respect of the Applicant or that the CCAA Proceedings have been commenced or completed; or
 - (iii) of any compromises or arrangements effected pursuant to this Plan;
- (d) confirm the effect of the Meeting Order;
- (e) provide that the Monitor shall be discharged and released from its role as Monitor on the Plan Completion Date, save and except with respect to any remaining duties or powers required to implement and give effect to the terms of this Plan.

ARTICLE 7 - CONDITIONS PRECEDENT

7.1 Conditions Precedent to Implementation of Plan

The implementation of this Plan shall be conditional upon the fulfillment of the following conditions on or before the Plan Implementation Date:

- (a) **Approval by Creditors:** The Plan shall have been approved pursuant to the CCAA by the Proven Creditors;
- (b) **Granting of Sanction Order:** The Sanction Order shall have been granted by the Ontario Court in a form acceptable to the Applicant and the Monitor;
- (c) **Expiry of Appeal Periods:** The appeal periods and any periods for leave to appeal with respect to the Sanction Order shall have expired without an appeal or application for leave to appeal of such Order having been commenced or, in the event of an appeal or application for leave to appeal, a final determination denying leave to appeal or dismissing such appeal and affirming and recognizing the sanctioning of this Plan, as the case may be, shall have been made by the applicable appellate court, with no further right of appeal;
- (d) **Revenu Quebec Action:** The Applicant and the Directors and Officers shall have provided a binding undertaking to discontinue, settle or withdraw the Revenu Quebec Action on terms satisfactory to the Monitor and the Court, upon the Plan Implementation Date;
- (e) **HST Pre and Post Filing Dispute:** The Applicant and the Directors and Officers shall have provided a binding undertaking to settle or withdraw from further contesting the position of the Monitor with

respect to this issue upon the Plan Implementation Date;

- (f) **Completion of Necessary Documentation:** The execution and delivery by all relevant Persons of all agreements, settlements, resolutions, indentures, releases, documents and other instruments that are necessary to be executed and delivered to implement and give effect to all material terms and provisions of this Plan;

7.2 Monitor's Certificate

Upon the satisfaction of the conditions set out in Section 7.1 hereof, the Monitor shall file with the Ontario Court in the CCAA Proceedings a certificate that states that all conditions precedent set out in Section 7.1 of this Plan have been satisfied and that the Plan Implementation Date has occurred.

7.3 Termination of Plan for Failure to Become Effective

If the Plan Implementation Date shall not have occurred on or before one hundred and twenty (120) days following the date of the Sanction Order, or such later date as the Applicant may stipulate, then, subject to further Order of the Ontario Court, this Plan shall automatically terminate and be of no further force or effect; provided that this Plan shall not automatically terminate pursuant to this section if the sole basis for the nonoccurrence of the Plan Implementation Date is the pendency of any appeal or application for leave to appeal with respect to the Sanction Order.

ARTICLE 8 - EFFECT OF PLAN

8.1 Effect of Plan Generally

The Plan (including, without limitation, the releases and injunctions contained in the Plan), upon being sanctioned and approved by the Ontario Court pursuant to the Sanction Order, shall be binding on the Plan Implementation Date on the Creditors and all other Persons (and each of their respective heirs, executors, administrators, guardians, legal personal representatives, successors and assigns) irrespective of the jurisdiction in which such Creditors and other Persons reside, or in which the Claims arose.

On the Plan Implementation Date, the Directors and Officers shall and shall be deemed to resign without the requirement of further action on the part of such Directors and Officers. The Directors and Officers shall also consent to the discharge of the Directors and Officer's Charge, as created by and defined in the Initial Order.

Notwithstanding the foregoing and anything else in the Plan, the Competition Act Claim shall not be compromised or released by the Plan. For greater certainty, the Crown is entitled to participate in any distributions under the Plan with respect to the Competition Act Claim, and any funds distributed on account of the Competition Act Claim will reduce the amount outstanding thereunder.

8.2 Consents and Agreements

On the Plan Implementation Date, each Creditor shall be deemed to have consented and agreed

to all of the provisions of this Plan in its entirety. In particular, each Creditor shall be deemed:

- (a) to have executed and delivered to the Monitor all consents, releases or agreements required to implement and carry out this Plan in its entirety; and
- (b) to have agreed that, if there is any conflict between the provisions, express or implied, of any agreement or other arrangement, written or oral, existing between such Creditor and the Applicant at the Plan Implementation Date (other than those entered into by the Applicant in writing on or after the date hereof) and the provisions of this Plan, the provisions of this Plan take precedence and priority and the provisions of such agreement or other arrangement shall be deemed to be amended accordingly.

8.3 Exculpation

The Monitor (including its affiliates, directors, officers, employees, associated individuals, agents and representatives) and all of its professional advisors and legal counsel shall have no liability or obligation to any Person for their role, or any act or omission, in connection with their appointments as Monitor or advisors or counsel thereto, the CCAA Proceedings, activities undertaken in preparation for or in anticipation of the CCAA Proceedings, the Plan, the pursuit of sanctioning of the Plan, the consummation and implementation of the Plan, the administration of the Plan or the property to be distributed under the Plan, from the date of their appointments to the earlier of the date of their discharges from those appointments, or the Plan Completion Date.

ARTICLE 9 - RELEASES AND INJUNCTIONS

9.1 Plan Releases

- (a) On the Plan Implementation Date, the Applicant, the Directors, Officers, current and former employees, advisors, legal counsel and agents, (being referred to individually as a “**Domfoam Released Party**”) shall be released and discharged from the D&O Claims, the Claims and any and all demands, claims, actions, applications, causes of action, counterclaims, suits, debts, sums of money, accounts, covenants, damages, judgments, orders, including for injunctive relief or specific performance and compliance orders, expenses, executions, encumbrances and other recoveries on account of any liability, obligation, demand or cause of action of whatever nature which any Creditor, Unaffected Creditor, Her Majesty the Crown or other Person may be entitled to assert, including any and all Claims in respect of the payment and receipt of proceeds, statutory liabilities of the Directors and Officers and employees of the Applicant and any alleged fiduciary or other duty (whether such employees are acting as a Director and Officer or employee), whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any omission, transaction, duty, responsibility, indebtedness, liability, obligation, dealing or other occurrence existing or taking place on or prior to the later of the Plan Implementation Date and the date on which actions are taken to implement the Plan that are in any way relating to, arising out of or in connection with the Claims, the Business whenever or however conducted, the Plan, the CCAA Proceedings, or any Claim that has been barred or extinguished by the Claims Process Order and all claims arising out of such actions or

omissions shall be forever waived and released (other than the right to enforce the Applicant's obligations under the Plan or any related document), all to the full extent permitted by applicable law, provided that nothing herein shall release or discharge (i) any Domfoam Released Party if such Domfoam Released Party is judged by the expressed terms of a judgment rendered on a final determination on the merits to have committed criminal, fraudulent or other wilful misconduct or (ii) the Directors with respect to matters set out in section 5.1(2) of the CCAA. For clarity, a D&O Claim with respect to the Revenu Quebec Action is not a claim to which section 5.1(2) applies and is to be released hereunder.

- (b) The Sanction and Vesting Order will enjoin on the Plan Implementation Date the prosecution, whether directly, derivatively or otherwise, of any Claim, obligation, suit, judgment, damage, demand, debt, right, cause of action, liability or interest released, discharged, compromised or terminated pursuant to the Plan.
- (c) Nothing in the Plan shall be interpreted as restricting the application of Section 21 of the CCAA.
- (d) Notwithstanding the foregoing and anything else in the Plan, the Competition Act Claim shall not be compromised or released by the Plan. For greater certainty, the Crown is entitled to participate in any distributions under the Plan with respect to the Competition Act Claim, and any funds distributed on account of the Competition Act Claim will reduce the amount outstanding thereunder.

9.2 Injunction

- (a) On the Plan Implementation Date, all Persons (regardless of whether or not such Persons are Creditors, but expressly excluding the Crown with respect to the enforcement of the Competition Act Claim), together with their respective affiliates, present and former officers, directors, employees, associated individuals, auditors, financial advisors, legal counsel, other professionals, sureties, insurers, indemnitees, agents, dependents, heirs, representatives and assigns, as applicable, are permanently and forever barred, estopped, stayed and enjoined, with respect to all Claims against the Monitor and the Domfoam Released Parties, from (i) commencing, conducting, or continuing in any manner, directly or indirectly, any action, suits, demands or other proceedings of any nature of kind whatsoever against the Monitor and the Domfoam Released Parties; (ii) levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, decree or order against the Monitor and the Domfoam Released Parties; (iii) commencing, conducting or continuing in any manner, directly or indirectly, any action, suits, or damages, including without limitation, by way of contribution or indemnity or other relief, in common law, or in equity, or under the provisions of any statute or regulation, or other proceedings of any nature or kind whatsoever (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against any Person who makes such a claim or might

reasonably be expected to make such a claim in any manner or forum, against one or more of the Domfoam Released Parties or the Monitor; (iv) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any lien or encumbrance of any kind; or (v) taking any actions to interfere with the implementation or consummation of this Plan

- (b) Notwithstanding its exclusion from section 9.2(a) hereof, the enforcement of the Competition Act Claim by the Crown against the Applicant shall continue to be stayed until such time as the stay of proceedings created by the Initial Order in the CCAA Proceedings expires.

ARTICLE 10 - COMPLETION OF PLAN

10.1 Monitor's Certificate

Upon the Monitor being satisfied that there is no likelihood of additional funds becoming available for distribution to Creditors under the Polyols Settlement or otherwise, the Monitor shall file with the Ontario Court a certificate confirming that there are no further distributions to be made to Creditors, and that the Plan is completed to the satisfaction of the Monitor.

10.2 Discharge and release of the Monitor

On the Plan Completion Date, and subject to the Sanction Order and any other Orders, the Monitor shall be discharged and released and shall have no further obligations or responsibilities. For clarity, nothing in this Plan shall discharge the Monitor from its duties related to Valle Foam or A-Z Foam.

ARTICLE 11 - GENERAL PROVISIONS

11.1 Plan Amendment

The Applicant reserves the exclusive right to amend this Plan, in a written document filed with the Ontario Court, at any time prior to the Plan Implementation Date, provided that:

- (a) if the amendment is made before or during the Meetings, prior to the vote being taken to approve the Plan, the Applicant shall, subject to the Meeting Order:
- (i) give notice to all Proven Creditors of the details of any amendment that renders the Plan less favourable to such Proven Creditors; and
 - (ii) may, in its entire discretion, give notice to Proven Creditors absent from a Meeting, of the details of any amendment that does not render the Plan less favourable to them.
- (b) if the Monitor, acting reasonably and in good faith, determines that the amendment is of a technical or administrative nature that would not be materially prejudicial to the interests of any of the Proven Creditors under the Plan, subject to the Meeting Order, and is necessary in order to give effect to the substance of the Plan or the Sanction Order, the Applicant need not give notice to Proven Creditors or obtain a further Order in connection therewith, regardless of whether the amendment is made prior to or subsequent to the vote on the Plan, or prior to or subsequent to the Sanction Order, if granted;

- (c) after the Approval Meeting, any other amendment may only be made if approved by the Ontario Court; and
- (d) any supplementary plan or plans of compromise or arrangement filed by the Applicant with the Ontario Court and, if required by this Section 11.1, approved by the Ontario Court, shall, for all purposes be a part of and incorporated into this Plan.

11.2 Severability

In the event that any provision in this Plan is held by the Ontario Court to be invalid, void or unenforceable, this Plan shall be null and void in all respects, with effect in accordance with Section 11.3 hereof.

11.3 Termination

At any time prior to the Plan Implementation Date, the Applicant may, subject to further order of the Ontario Court, determine not to proceed with this Plan notwithstanding any prior approvals given at the Meeting or the obtaining of the Sanction Order.

If the conditions precedent to implementation of this Plan are not satisfied, if the Applicant determines not to proceed with this Plan, if the Ontario Court holds any provision of this Plan to be invalid, void or unenforceable or if the Sanction Order is not issued by the Ontario Court:

- (a) this Plan shall be null and void in all respects;
- (b) any document or agreement executed pursuant to this Plan shall be deemed null and void; and
- (c) nothing contained in this Plan, and no act taken in preparation for the consummation of this Plan, shall:
 - (i) constitute or be deemed to constitute a waiver or release of any Creditor Claims or any defenses thereto by or against the Applicant or any other Person;
 - (ii) prejudice in any manner the rights of any of the Creditors, or any other Person in any further proceedings involving the Applicant or the Domfoam Released Parties; or
 - (iii) constitute an admission of any sort by any of the Creditors, the Applicant, the Monitor, or any other Person.

11.4 Paramountcy

From and after the Plan Implementation Date, any conflict between: (a) this Plan; and (b) any information statement or summary in respect of this Plan, or the covenants, warranties, representations, terms, conditions, provisions or obligations, express or implied, of any contract, mortgage, security agreement, indenture, loan agreement, commitment letter, document or agreement, written or oral, and any and all amendments and supplements thereto existing between the Applicant and any Creditor or other Person as at the Plan Implementation Date will be deemed to be governed by the terms, conditions and provisions of this Plan and the Sanction Order, which shall take precedence and priority.

11.5 Responsibilities of the Monitor

The Monitor is acting in its capacity as Monitor in the CCAA Proceedings, and it will not be responsible or liable for any obligations of the Applicant hereunder. The Monitor will have only those powers granted to it by this Plan, by the CCAA and by any Order of the Ontario Court in the CCAA Proceedings, including the Initial CCAA Order.

11.6 Deeming Provisions

In this Plan, the deeming provisions are not rebuttable and are conclusive and irrevocable.

11.7 Notices

Any notice or communication to be delivered hereunder shall be in writing and shall reference this Plan and may, subject as hereinafter provided, be made or given by personal delivery or by fax addressed to the respective parties as follows:

(a) if to the Applicant or to the Monitor:

(b) if to a Creditor:

to the address specified in the Proof of Claim, or Proof of Creditor Claim filed by that Creditor or, if none has been specified, to such other address at which the notifying party may reasonably believe that the Creditor may be contacted;

or to such other address as any party may from time to time notify the others in accordance with this Section 11.7. All such notices and communications that are personally delivered shall be deemed to have been received on the date of delivery. Any such notices and communications that are faxed shall be deemed to be received on the date faxed if sent before 5:00 p.m. Eastern Time on a Business Day and otherwise shall be deemed to be received on the Business Day next following the day upon which such fax was sent. Any notice or other communication sent by mail shall be deemed to have been received on the fifth Business Day after the date of mailing. The unintentional failure to give a notice contemplated hereunder shall not invalidate any action taken by any Person pursuant to this Plan.

11.8 Successors and Assigns

The rights, benefits and obligations of any Person named or referred to in this Plan shall be binding on, and shall inure to the benefit of, any heir, executor, trustee, administrator, successor or assign of such Person.

11.9 Further Assurances

Notwithstanding that the transactions and events set out in this Plan shall be deemed to occur without any additional act or formality other than as set out herein, each of the Persons affected hereby shall make, do and execute or cause to be made, done or executed all such further acts, deeds, agreements, transfers, assurances, instruments, documents or discharges as may be reasonably required by the Monitor in order to implement and give effect to this Plan.

11.10 Governing Law

This Plan shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to any conflict of law provision that would require the application of the law of any other jurisdiction. In the event of any dispute or issue in connection with, or related to, the interpretation, application or effect of this Plan, such dispute or issue shall be subject to the exclusive jurisdiction of the Ontario Court.

Dated at Toronto, Ontario, as of this 23rd day of August, 2016.

Schedule B

Court File No. CV-12-9545-00CL

**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 A PLAN OF COMPROMISE OR
ARRANGEMENT OF 3113736 CANADA LTD., 4362063 CANADA LTD., and
A-Z SPONGE & FOAM PRODUCTS LTD.

(the "**Applicants**")

Plan Implementation Certificate

All capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Plan of Compromise and Arrangement concerning, affecting and involving 4362063 Canada Ltd., formerly known as Domfoam International Inc. ("**Domfoam**") dated August 23, 2016 (as amended, varied or supplemented from time to time in accordance with the terms thereof, and together with all schedules thereto, the "**Plan**"), which Plan is attached as Schedule "A" to the Order of the Honourable Justice ► made in these proceedings on January 24, 2017 (the "**Sanction Order**").

Pursuant to section 7.1 of the Plan and paragraph 8 of the Sanction Order, Deloitte Restructuring Inc., in its capacity as the Court-appointed monitor of the Applicants (the "**Monitor**") delivers this certificate and hereby certifies that:

1. The conditions precedent set out in section 7.1 of the Plan have been satisfied or waived, as applicable.

2. Pursuant to the terms of the Plan, upon the filing of this Plan Implementation Certificate with the Court, the Plan Implementation Date shall occur and the Plan shall become effective.
3. This Plan Implementation Certificate will be filed with the Court.

DATED at the City of Toronto, in the Province of Ontario, this _____ day of _____, 2017.

DELOITTE RESTRUCTURING INC., in its capacity as the Court-appointed Monitor of the Applicants, and not in its personal capacity

Per: _____
Name:
Title:

Schedule C

Court File No. CV-12-9545-00CL

**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 A PLAN OF COMPROMISE OR
ARRANGEMENT OF 3113736 CANADA LTD., 4362063 CANADA LTD., and
A-Z SPONGE & FOAM PRODUCTS LTD.

(the "**Applicants**")

Plan Completion Certificate

All capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Plan of Compromise and Arrangement concerning, affecting and involving 4362063 Canada Ltd., formerly known as Domfoam International Inc. ("**Domfoam**") dated August 23, 2016 (as amended, varied or supplemented from time to time in accordance with the terms thereof, and together with all schedules thereto, the "**Plan**"), which Plan is attached as Schedule "A" to the Order of the Honourable Justice ► made in these proceedings on January 24, 2017 (the "**Sanction Order**").

Pursuant to section 10.1 of the Plan and paragraph [29] of the Sanction Order, Deloitte Restructuring Inc., in its capacity as the Court-appointed monitor of the Applicants (the "**Monitor**") delivers this certificate and hereby certifies that:

1. To the best of the Monitor's knowledge and belief, there is no likelihood of additional funds becoming available for distribution to the Creditors under the Polyols Settlement or otherwise and, accordingly, there are no further distributions to be made to the Creditors.

2. Each of: (i) the Monitor's duties under the Plan and the Orders; (ii) Domfoam's duties under the Plan and the Orders; and (iii) the Plan, have been completed to the satisfaction of the Monitor.
3. Pursuant to the terms of the Plan, upon the filing of this Plan Completion Certificate with the Court, the Plan Completion Date shall occur.
4. This Plan Completion Certificate will be filed with the Court.

DATED at the City of Toronto, in the Province of Ontario, this _____ day of _____, 2017.

DELOITTE RESTRUCTURING INC., in its capacity as the Court-appointed Monitor of the Applicants, and not in its personal capacity

Per: _____
Name:
Title:

Tab 4

Court File No. CV-12-9545-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) TUESDAY, THE 24TH DAY
)
) OF JANUARY, 2017
)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c.C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF 3113736 CANADA LTD., 4362063 CANADA LTD., and
A-Z SPONGE & FOAM PRODUCTS LTD.

(the "**Applicants**")

ORDER
(Extension of Stay Period and Approval of Monitor's Actions)

THIS MOTION made by the Applicants pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. c-36, as amended (the "**CCAA**") for an order extending the stay of proceedings was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of Tony Vallecoccia sworn January 13, 2017, and the exhibits thereto (the "**Vallecoccia Affidavit**") and the Fifteenth Report of Deloitte Restructuring Inc. (formerly Deloitte & Touche Inc.) (the "**Fifteenth Report**") in its capacity as the Court-appointed monitor (the "**Monitor**") of the Applicants, and on hearing the submissions of counsel for the Applicants, the Monitor and all other counsel listed on the counsel slip, no one appearing for any other person on the service list, although properly served as appears from the Affidavit of Service of Beverly Rusk sworn January 13, 2017, filed:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record and the Fifteenth Report is hereby abridged if necessary and validated and this Motion is properly returnable today without further service or notice thereof.

DEFINITIONS

2. **THIS COURT ORDERS** that capitalized terms not otherwise defined in this Order shall have the meaning set out in the Fifteenth Report.

STAY EXTENSION

3. **THIS COURT ORDERS** that the Stay Period granted under the Initial Order of Justice Newbould dated January 12, 2012 (the “**Initial Order**”) and as subsequently extended by, *inter alia*, the Order of Justice Newbould, dated August 30, 2016, is hereby extended from January 30, 2017 to and including June 30, 2017.

MONITOR’S REPORT, ACTIONS AND FEES

4. **THIS COURT ORDERS** that the Fifteenth Report and actions, decisions and conduct of the Monitor as set out in the Fifteenth Report are hereby authorized and approved.

5. **THIS COURT ORDERS** that the fees and disbursements of the Monitor and its legal counsel as set out in the Fifteenth Report are hereby authorized and approved.

6. **THIS COURT HEREBY** requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such Orders and to provide such assistance to the Applicants and the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

7. **THIS COURT ORDERS** that each of the Applicants and the Monitor is at liberty and are hereby authorized and empowered to apply to any Court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

Court File No. **CV-12-9545-00CL**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF 3113736 Canada LTD., 4362063 CANADA LTD., and A-Z SPONGE &
FOAM PRODUCTS LTD**

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at TORONTO

APPLICANTS' MOTION RECORD
(Plan Sanction Hearing,
returnable January 24, 2017)

BLANEY McMURTRY LLP
Barristers and Solicitors
1500 - 2 Queen Street East
Toronto, ON M5C 3G5

David Ullmann (LSUC #423571)
Tel: (416) 596-4289
Fax: (416) 594-2437

Alexandra Teodorescu (LSUC #63889D)
Tel: (416) 596-4279
Fax: (416) 593-5437

Lawyers for the Applicants