

**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")

**MOTION RECORD OF THE APPLICANTS**

(returnable February 28, 2013)

(re Extension of Stay Period)

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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*, 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")

**NOTICE OF MOTION  
(returnable February 28, 2013)  
(Re Extension of Stay Period)**

**THE APPLICANTS** will make a motion to a judge presiding over the  
Commercial List on Thursday, February 28, 2013 at 10:00 a.m. or as soon after that  
time as the motion can be heard at 330 University Avenue, Toronto, Ontario.

**THIS MOTION IS FOR:**

- 1. An Order substantially in the form attached hereto as Schedule "A":
  - (a) if necessary, abridging the time for service of this Notice of Motion  
and the Motion Record, declaring that the motion is properly

returnable on February 28, 2013, and validating service of this Notice of Motion and Motion Record;

- (b) extending the stay of proceedings from the Initial Order of Justice Newbould dated January 12, 2012 (the “**Initial Order**”), and subsequently extended by, *inter alia*, the Order of Justice Newbould dated October 25, 2012, to and including July 31, 2013;
- (c) approving the Sixth Report of the Monitor (the “**Report**”) and the conduct of the monitor as set out therein.
- (d) approving the fees and disbursements of the monitor and its counsel;

2. Such further and other relief as counsel may advise and this Honourable Court deems just.

**THE GROUNDS FOR THE MOTION ARE:**

1. On January 12, 2012, the Applicants sought and were granted protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) pursuant to the Initial Order.

2. The Order of Justice Newbould dated October 25, 2012 extended the stay period under the Initial Order to February 28, 2013 (the “**Stay Period**”).
3. Deloitte & Touche Inc. (the “**Monitor**”) was appointed as monitor of the Applicants.
4. The Order of Justice Brown dated March 16, 2012, authorized and directed each of the Applicants to enter into agreements of purchase and sale. Each of the Applicants has sold its business on a going concern basis.
5. The Applicants have funds from these sales and their operations to distribute to their creditors.
6. By Order of Justice Brown dated June 15, 2012, a Claims Solicitation Procedure was authorized and approved.
7. The Monitor in conjunction with the Applicants have solicited claims from the creditors, issued Notices of Disallowance where appropriate, and received Notices of Dispute from certain creditors.
8. The Applicants are in discussions with certain of its major creditors, including the Competition Bureau, proposed class action creditors and Revenu Quebec/Canada Revenue Agency.



9. A further extension of the Stay Period is necessary and appropriate to allow the Applicants and the Monitor to complete various post-closing issues and the Claims Solicitation Process.

10. The Monitor is supportive of the relief sought herein.

11. The Applicants are operating in good faith and with due diligence.

12. Section 11 of the CCAA and the inherent and equitable jurisdiction of this Honourable Court.

13. Rules 1.04, 1.05, 2.03, 3.02, and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended.

14. Such further and other grounds as counsel may advise and this Honourable Court may permit.

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

	<b>DATE</b>	<b>DESCRIPTION</b>
1.	February 22, 2013	Affidavit of Tony Vallecoccia together with exhibits attached thereto

	<b>DATE</b>	<b>DESCRIPTION</b>
2.	February, 2013	Sixth Report of the Monitor together with exhibits attached thereto, filed separately
3.	January 12, 2012	Initial Order of Justice Newbould
4.	June 15, 2012	Order of Justice Brown (Claims Solicitation Procedure)
5.	October 25, 2012	Extension Order of Justice Newbould
6.	Such other material as counsel may advise and this Honourable Court may permit.	

February 22, 2013

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**SCHEDULE "A"**

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

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE ) THURSDAY, THE 28<sup>th</sup> DAY  
 )  
JUSTICE ) OF FEBRUARY, 2013

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)**

**THIS MOTION** made by the Applicants 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 February 22, 2013, and the exhibits thereto, the Sixth Report of Deloitte & Touche Inc., in its capacity as Court-appointed monitor of the Applicants (the "**Monitor**") and the appendices attached thereto (the "**Report**"), and on hearing the submissions of counsel for the Applicants, counsel for the Monitor,

no one appearing for anyone else on the Service List, although properly served as appears from the affidavit of service of Victoria Stewart sworn February 22, 2013,

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that the Stay Period of the Initial Order of Justice Newbould dated January 12, 2012 and as subsequently extended by, *inter alia*, the Order of Justice Newbould dated October 25, 2012, is hereby extended from February 28, 2013 to and including July 31, 2013.

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

4. **THIS COURT ORDERS** that the fees and disbursements of the Monitor and its legal counsel, as set out in the Report and the affidavits of Catherine Hristow and Grant Moffat, and the exhibits attached thereto, are hereby authorized and approved.

5. **THIS COURT ORDERS** that the Applicants are hereby authorized and directed to pay the fees and disbursements of the Monitor and of its legal counsel and agents in the amounts set out in the Report.

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 to 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 be 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  
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.

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

**ONTARIO**

**SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at TORONTO

**ORDER  
(Extension Order)**

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# TAB 2

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 February 22, 2013)**

**I, TONY VALLECOCCIA**, of the City of Brampton, 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 3113736 Canada Ltd.



(“Valle Foam”), and its affiliated companies, 4362063 Canada Ltd. (“Domfoam”) and A-Z Sponge & Foam Products Ltd. (“A-Z”) (collectively, the “Applicants”) i) to seek an extension of the stay granted pursuant to the Initial Order from February 28, 2013 to July 31, 2013; ii) to report to the Court on the status of the claims process; and iii) to report to Court on the status of the Class Action Claims against the Applicants.

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 this proceeding was changed by 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 and Domfoam.

#### BACKGROUND

4. On January 12, 2012, the Applicants sought and were granted protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “CCAA”) pursuant to the Order of Justice Newbould (the “Initial Order”).

5. The Applicants collectively operated as one of Canada's largest manufacturers and distributors of flexible polyurethane foam products from facilities located in Ontario, Quebec and British Columbia.

6. As reported in my previous affidavits in this proceeding, as a result of declining sales, fines imposed by the Competition Bureau of Canada, and class action lawsuits commenced against the Applicants in Canada and the United States, the Applicants required protection under the CCAA.

7. All three of the Applicants have now completed going concern sales of their businesses in accordance with the sale agreements which were approved by this Court by Order of Justice Brown dated March 16, 2012. As such, as anticipated the Applicants no longer have any active business.

8. The transaction for the sale of the assets of Domfoam to 8032858 Canada Inc. closed on March 26, 2012. The entire purchase price payable has now been provided to the Monitor.

9. The Valle Foam transaction to sell its assets to Fybon Industries Limited ("Fybon") closed in escrow on March 30, 2012 with escrow released on April 10, 2012 upon the filing of the Monitor's Certificate.

10. Since the date of my last affidavit, there had been an ongoing dispute with Fybon with respect to the calculation of an inventory adjustment arising from closing. The Applicant's counsel entered into extensive negotiations with counsel for Fybon over this issue. The Monitor was kept advised of this issue. The negotiations ultimately resulted in a payment made in February which settled the issue.

11. Pursuant to the terms of the transaction, Fybon was exclusively empowered to collect the receivables owing to Valle Foam for a period of 90 days after closing.

12. As of February 21, 2013, the amount outstanding to be collected was in excess of \$1.5 million. The Monitor has now provided a list of those material receivables which remain outstanding. The parties to those receivables will now be provided with demands for payment, following which actions will be commenced by counsel for Valle Foam to collect these outstanding amounts.

13. The A-Z transaction closed on April 2, 2012. There are no remaining issues on the A-Z transaction. The proceeds of sale have been paid to the Monitor.

14. On June 15, 2012, Justice Brown issued an order which established a Claims Solicitation Procedure (the “**Claims Process Order**”).

**COMPETITION ACT ISSUE**

15. As reported in my affidavit of January 11, 2012 in the proceedings, both Domfoam and Valle Foam were charged with, and on January 5, 2012, pled guilty to certain offences relating to a price fixing conspiracy 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.

16. 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. The details of the plea were set out in my previous affidavits.

17. Full disclosure of the applicants’ financial difficulties was made to the Crown prior to finalizing the statement of admissions and the entry of the pleas.

The Crown was specifically advised of the Applicants' intention to file for protection under the provisions of the CCAA.

18. As part of the plea arrangement, certain officers and directors, including myself, agreed to cooperate with the continuing investigations being undertaken by the Competition Bureau in connection with other alleged co-conspirators. Interviews by counsel for the Competition Bureau were undertaken several months ago with the assistance of criminal counsel for the Applicants.

### CLASS ACTIONS

19. In connection with the conduct related to the *Competition Act* charges, class counsel in the US and Canada initiated a number of proposed class proceedings against the Applicants in the US and in Canada in 2010, and afterwards on behalf of purchasers of polyurethane foam and products containing polyurethane foam products. Some or all of the Applicants have been named as a defendant in at least five class action lawsuits in Canada, and over two dozen class action lawsuits in the United States (together, the "Class Actions"). These actions have been stayed as a result of the Initial Order.

### STATUS OF U.S. LITIGATION

20. Immediately prior to the Initial Order, our lawyers in New York, Skadden, Arps, successfully negotiated on behalf of the applicants a settlement with the three different groups of class action plaintiffs in the United States which are part of a multi-district litigation proceedings styled in Re Polyurethane Foam Anti Trust litigation in the United States District Court for the Northern District of Ohio.

21. The agreements specifically provided that they were contingent upon the applicants filing for creditor protection. No payment was contemplated by the settlements. The settlements did provide that the class action plaintiffs reserved the right to file claims in these proceedings. No such claims have been filed by the US class action claimants. Certain officers and employees of the Applicants agreed to provide information in connection with the issues raised in the litigation.

22. The class settlements have been approved on a preliminary basis by the court. Attached hereto and marked as Exhibit "A" is a copy of Judge Zouhary's Order dated March 26, 2012, providing for preliminary approval of the settlements. The class action plaintiffs have voluntarily dismissed Domfoam and

Valle Foam from the lawsuits. The direct class action plaintiffs are in the process of submitting a notice plan to the court and notices will be distributed to class members once the plan is approved and the court will hold a hearing on final approval.

23. A number of additional claims were also issued. The applicants, through the Monitor, sought and received recognition of the CCAA proceeding in the United States Bankruptcy Court for the Northern District of Ohio. Attached hereto and marked as **Exhibit "B"** to this my affidavit is a copy of the Recognition Order of Judge Whipple dated February 24, 2012. The Order recognizes the CCAA proceedings as a forum main proceeding pursuant to the U.S. Bankruptcy Code. The Order of Judge Whipple also provides that any extension or amendment of the Canadian Orders will be given full force and effect in the United States to the same extent that it is given effect in Canada.

24. As part of the implementation of the settlement agreements, various officers and employees of the Applicants were recently examined by the class action plaintiffs' counsel. Among those examined were myself, John Howard, Dean Brayianis, Robert Vale and Fred Zickmantel. The examinations took place over two weeks in Toronto and Florida, and involved over a dozen counsel for the class action plaintiffs.

### STATUS OF CANADIAN LITIGATION

25. There are currently five class action proceedings in Canada that are pending before the courts in Ontario, Quebec and British Columbia in connection with price-fixing allegations in the polyurethane foam industry. The Applicants have been named (or one or more of the Applicants have been named) in four of these class proceedings. The class action plaintiffs allege that the Applicants and the other manufacturers, along with certain individuals, are jointly and severally liable for damages to the proposed class members under the *Competition Act*, at common and under civil law, and they seek in excess of \$100 million dollars of damages along with other relief.

26. As previously reported in my earlier affidavits, a proposed national class settlement on behalf of the Applicants with the class action plaintiffs in respect of all of the Canadian Class Proceedings has been reached. The settlement agreement was executed by the Applicants and the class action plaintiffs on January 10, 2012.

27. Under the terms of this proposed national settlement, in exchange for cooperation from certain current and former Domfoam, Valle Foam and A-Z officers, employees and agents (in the form of interviews, depositions, and



testimony), and the production of certain available documents by the companies (to the extent practicable), the class action plaintiffs have agreed, subject to separate court approvals by the Ontario Superior Court, the B.C. Supreme Court and the Quebec Superior Court, to discontinue their proceedings as against the companies and to fully and forever release any of the companies' current or former officers, employees, agents, shareholders, or owners from any and all liability in this and potentially related matters.

28. The settlement agreement provided for an assignment by the Applicants of proceeds from the US Polyol litigation (described in more detail below) of up to \$200,000.00. The assignment is made expressly subject to any Order of this Honourable Court. Under the terms of the settlement, the class action plaintiffs have agreed to bear any risk relating to the validity or enforceability of the assignment. Attached hereto and marked as **Exhibit "C"** is a copy of the Assignment and Assumption Agreement made as of January 10, 2012. The proposed settlement also provides for the payment of \$1.2 million by certain individuals who are parties to the settlement agreement. The \$200,000.00 and the \$1.2 million will be held by our personal counsel, Robert Tanner pursuant to an escrow agreement entered into between the Applicants, the class action plaintiffs and the individual settling parties.

29. The implementation of the settlements was delayed for some time as a result of a carriage dispute in Quebec. It appears that the dispute has been resolved and the class action plaintiffs are proceeding with the implementation of the class settlement. As a result of certain issues arising in the claims process, the settlement agreement required amendments. The Applicants are continuing to cooperate in the implementation of the settlement.

30. In accordance with the settlement agreements and the Claims Process Order, the various class action claimants in Canada have filed proofs of claim in these proceedings. The claims were disallowed, but are subject to discussion and negotiation as described below. The claims total \$97.5 million.

#### **STATUS OF FUNDS**

31. As a result of completing the transactions and consolidating the remaining bank accounts and other amounts outstanding, the Applicants have significant funds available for distribution to the creditors.

32. In particular, the Monitor holds funds in approximately the following amounts as at February 20, 2013:

Valle Foam	\$5,456,530.90
Domfoam	\$3,449,570.33
A-Z	\$913,869.79

**In Re: Urethane Antitrust Litigation**

33. The Applicants are each claimants in a US class action proceeding that relates to price fixing for a product known as "Polyether Polyol". The Applicants as purchasers of that product are part of the litigation class, and are entitled to payment from the settlements in that litigation. To date there have been two separate settlements approved by the United States District Court for the District of Kansas, for which distributions have been made. The first relating to a settlement by Bayer AG and its subsidiaries (collectively "Bayer") was made back in 2008. A subsequent settlement was reached with BASF Corporation ("BASF") and Huntsman International LLC ("Huntsman"). This settlement was approved by the United States District Court for the District of Kansas by Order of Judge Lungstrum dated December 12, 2012. Attached hereto and marked as Exhibit "D" is a copy of the Order approving the Huntsman and BASF

Settlement dated December 12, 2012. The BASF and Huntsman settlements provide for payment in three annual instalments.

34. The Applicants entered into an agreement with a US entity known as Refund Recovery Services, LLC (“RRS”) in 2008. The agreement appointed RRS as the Applicants’ exclusive agent to assist in filing the necessary documents to secure its share of the settlement funds. A copy of the agreement is attached hereto as **Exhibit “E”**.

35. In accordance with the terms of the BASF and Huntsman settlements, the Applicants received the first instalments in the amount of \$225,128.65 directly from RRS with respect to the claims of A-Z Foam and Domfoam. The Valle Foam share in the amount of \$331,928.29 was received from an entity known as Enterprise Law Group. The Domfoam and A-Z payments are net of the fees owing to RRS. The Valle Foam settlement is a gross amount.

36. The Applicants, in discussion with the Monitor, are in the process of verifying the entitlement of Enterprise Law Group to the fees payable under the Services Agreement.

37. In addition, I am advised by David Ullmann that one of the defendants, The Dow Chemical Company in the US Polyol litigation has refused to settle. A trial

is proceeding with that defendant. It is anticipated that there could either be a substantial settlement, or a substantial award made in respect of that remaining defendant, which could result in further funds being payable to the Applicants.

38. Counsel for the Applicants are in communication with RRS in order to monitor the process and advise the Applicants with respect to this matter.

#### Intercompany Accounts

39. As previously reported in my earlier affidavits, Domfoam entered into a loan agreement with Valle Foam which allowed Valle Foam to make advances to Domfoam to assist it during the CCAA process. Valle Foam was granted a charge to secure these advances in the Initial Order.

40. There may be monies owed from A-Z Foam to either of the other Applicants in respect of fees incurred during the CCAA process.

41. The Monitor and the Applicants are in the process of reconciling the various intercompany accounts to determine how to address these intercompany debts. This issue will have to be reconciled before any distribution is made to the creditors.

### CLAIMS PROCESS

42. The Claims Process Order established a process to identify pre and post-filing claims against the Applicants and/or their officers and directors. The process was meant to solicit claims from all parties, including the Crown and the various Class Action claimants in Canada and in the United States. Claims were due by August 31, 2012.

43. The Monitor received claims in the aggregate amount of approximately \$900 million, of which approximately \$810,000.00 were post-filing claims.

44. At this time, the significant claims are as follows: i) Revenu Quebec in the amount of \$2.9 million against Domfoam; ii) Competition Bureau in the amount of \$6 million against each of Domfoam and Valle Foam; and iii) the Canadian class actions in the amount of \$97.5 million.

45. The class action claims were filed in the same amount against each of the three companies. In discussion with the class plaintiffs' counsel we have confirmed that their total claim is \$97.5 million against the Applicants on a joint and several basis.

46. The extent of the anticipated distribution by the Applicants will be determined once the negotiation and/or adjudication of the claims have been completed.

### Contested Claims

47. As reported in my last affidavit in these proceedings, the Monitor has, in accordance with the Claims Process Order, disallowed the claims of Revenu Quebec and the class action creditors.

### Class Action Creditors

48. With respect to the class action creditors, the claims were disallowed on the following basis:

- The claim was filed on behalf of a proposed class, but there was not yet any court order or agreement authorizing the filing as a class;
- The claims were in an amount "to be ascertained" and the claims process required that claimants put a value on the claim.

49. After receipt of the Notices of Dispute from the disallowances from the class action plaintiffs, the Applicants' counsel and the Monitor have entered into preliminary discussions to determine whether there is a quantum of the claims of

the class action plaintiffs that could be accepted on a consensual basis, in order to avoid protracted proceedings as contemplated by the Claims Process Order. The class action plaintiffs have provided a confidential without prejudice expert report to substantiate their claims. The report and other relevant background information are currently being reviewed by class action counsel for the Applicants. The class action plaintiffs are, by far, the largest creditor class of the Applicants.

50. As part of the discussions with the class action plaintiffs' counsel, the issue of the authority of counsel to act on behalf of the class and the certification of the class was raised. The class action plaintiffs' counsel are now proceeding to expedite a hearing of a partial certification order along with a multi-jurisdictional case management order in the Courts of British Columbia, Quebec and Ontario. We have been advised by the class action plaintiffs' counsel that they are in the process of arranging for a joint video conference hearing involving each of the judges case managing the class actions, Madam Justice Leitch in Ontario, Mr. Justice Bowden in British Columbia and Mr. Justice Lalonde in Quebec.



Revenu Quebec

51. Revenu Quebec issued Notices of Assessment in connection with Quebec Sales Tax and GST after the date of the Initial Order and Claims Process Order. In July 2012, it filed a proof of claim against Domfoam in accordance with the Claims Process Order.

52. The claims of Revenu Quebec were disallowed by the Monitor based on advice from the Applicants that the claim by Revenu Quebec was inaccurate and based on an incomplete review of the Applicants' books and records. The Applicants' were also able to produce executed intercompany acknowledgements which reduce a significant amount of the claim.

53. On October 5, 2012 a Notice of Dispute of this disallowance was received from Revenu Quebec in accordance with the Claims Process Order.

54. Revenu Quebec principally took the position in its Notice of Dispute that Domfoam was required to file a Notice of Objection under the *Quebec Taxation Act* and the *Excise Tax Act* to the Notices of Assessment from which the claims arose, and had failed to do so.

55. On November 1, 2012, the Monitor advised Revenu Quebec of the Monitor's position that Revenu Quebec was obliged to have its claim determined in accordance with the Claims Process Order. Attached hereto and marked as **Exhibit "F"** is a copy of that letter. There was no response.

56. Domfoam, in consultation with the Monitor, on November 8, 2012 filed a Notice of Objection to the assessment. A copy of the Notice of Objection (without appendices) is attached hereto as **Exhibit "G"**.

57. The Notice of Objection asserts, among other things, that the vast majority of the amount claimed was not in fact due and owing. This position is supported by certain elections made by the Applicants and accounting records now located which were not available to the Revenu Quebec at the time of their review. It also asserts that Revenu Quebec was bound by the process set out in the Claims Process Order.

58. On December 20, 2012, Domfoam was advised that its Notice of Objection was out of time. Attached hereto and marked as **Exhibit "H"** is a copy of that letter. The letter provided that Domfoam could apply for an extension of time to file the Notice of Objection and set a deadline of January 21, 2013 for filing such an application.

59. On January 18, 2013, Domfoam filed an appeal to extend the time for filing the Notice of Objection. A copy of that appeal (without appendices) is attached hereto as **Exhibit "I"**.

60. No decision has as yet been provided on the request for an extension.

61. As set out in its appeal, Domfoam is of the view that the Initial Order and the Claims Process Order govern this situation and that the stay of proceedings applies to Revenu Quebec from taking any action against Domfoam in respect of the claimed debt. Further, Revenu Quebec filed a claim within the claims process and the Notice of Disallowance was delivered within the time period for filing a Notice of Objection.

62. Domfoam is confident that, if the claim of Revenu Quebec were to be determined in accordance with the Claims Process Order, the majority of the claim would be disallowed on the basis that it is not in fact due and owing (as argued in the Notice of Objection). I am advised that the Monitor shares this analysis.

63. The Applicants and the Monitor are engaged in further review with respect to this issue. In the event a resolution cannot be reached with Revenu Quebec, the Applicants may bring a motion before this Court to resolve this issue, as permitted by the Claims Process Order.

**PROPOSED EXTENSION**

64. The Applicants propose that the stay of the proceeding be extended from February 28, 2013 to July 31, 2013.

65. The extension sought herein will provide the Applicants with the time necessary to attend to the resolution of the claims filed by the class action claimants, to allow for a resolution of the disputed claim with Revenu Quebec, to collect outstanding amounts owed to Valle Foam, to attend to the collection of the further instalments of the US Polyol settlement funds, and otherwise attend to the possible development of a plan for the distribution of the sale proceeds.

66. I am not aware of any party who objects to the proposed extension.

67. No cash flow is being provided with this affidavit as the Applicants have limited expenses and no employees, nor are they purchasing any further goods or services other than professional services. I am confident that the Applicants each

have sufficient funds on hand to meet these obligations on a go forward basis for the period of the proposed extension.

68. I have been advised that the Monitor will support the proposed extension of the stay to July 31, 2013.

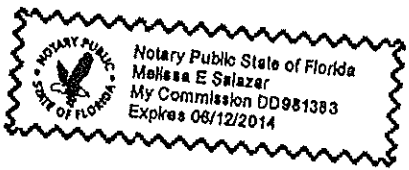
69. The Applicants are operating with good faith and with due diligence.

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

SWORN before me at the City )  
of Tampa , in the State of )  
Florida, this 22<sup>nd</sup> day of )  
February, 2013. )

  
TONY VALLECOCCIA

A Notary Public   
#2001726 | 4079509

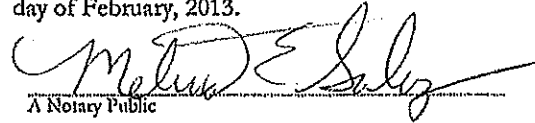


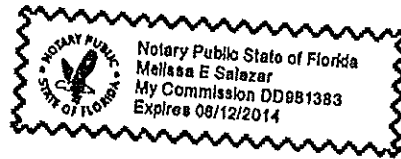
# TAB A

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This is Exhibit "A" referred to  
in the Affidavit of Tony Vallecoccia

Sworn this 22nd  
day of February, 2013.

  
A Notary Public



Case: 1:10-md-02196-JZ Doc #: 355 Filed: 03/26/12 1 of 1. PageID #: 5694

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

In Re: Case No. 1:10 MD 2196  
Polyurethane Foam Antitrust Litigation ORDER  
This document related to: ALL CASES JUDGE JACK ZOUHARY  
MAGISTRATE JUDGE JAMES R. KNEPP, II

This Court conducted a record Phone Conference on March 23, 2012.

Pending before this Court are Plaintiff Direct Action Plaintiffs' Motion for Preliminary Approval of Voluntary Dismissal and Settlement Agreement with Defendants Domfoam International Inc., Valle Foam Industries Inc., A-Z Sponge & Foam Products Ltd. and Individual Settling Parties (Doc. 343), and Plaintiff Indirect Purchaser Class' Motion for Preliminary Approval of Settlement with Domfoam International, Inc., Valle Foam Industries Inc., and A-Z Sponge & Foam Products Ltd. and Certain Individuals (Doc. 344).

Following the same rationale set forth in this Court's Order dated January 13, 2012 (Doc. 323), and Defendants having no specific objection, other than those previously considered, this Court finds the instant proposed settlements fall within the range of possible approval, do not disclose grounds to doubt their fairness, and include no obvious deficiencies. The settlements are therefore preliminarily approved. Final determination of class certification and the ultimate fairness of these settlements will occur at a later date if and when this Court approves Plaintiffs' notice and distribution plans, and after potentially affected parties have had the opportunity to object and be heard.

IT IS SO ORDERED.

sl Jack Zouhary  
JACK ZOUHARY  
U. S. DISTRICT JUDGE

sl James R. Knepp, II  
JAMES R. KNEPP, II  
U. S. MAGISTRATE JUDGE

March 26, 2012



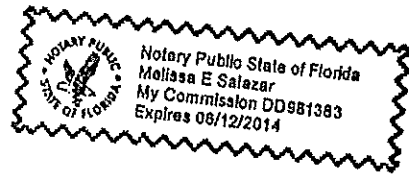
# TAB B

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This is Exhibit "B" referred to  
in the Affidavit of Tony Vallecocchia

Sworn this 22nd  
day of February, 2013,

  
A Notary Public



The court incorporates by reference in this paragraph and adopts as the findings and orders of this court the document set forth below. This document has been entered electronically in the record of the United States Bankruptcy Court for the Northern District of Ohio.



Dated: February 24 2012

Mary Ann Whipple  
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

_____ )	
In re: )	Case Nos. 12-30214
)	(Jointly Administered)
VALLE FOAM INDUSTRIES (1995) )	
INC., et. al. <sup>1</sup> )	Chapter 15
)	
Foreign Applicants in Foreign )	Judge Mary Ann Whipple
Proceedings. )	
_____ )	

**ORDER GRANTING RECOGNITION OF FOREIGN MAIN  
PROCEEDINGS AND OTHER CHAPTER 15 RELIEF**

Upon the Verified Chapter 15 Petitions (the "Chapter 15 Petitions") filed by Deloitte & Touche Inc., the court appointed Monitor (the "Monitor") of Valle Foam Industries (1995) Inc. ("Valle Foam"), Domfoam International Inc. ("Domfoam"), and A-Z Sponge & Foam Products Ltd. ("A-Z" and, together with

<sup>1</sup> The Foreign Applicants include Valle Foam Industries (1995) Inc., Domfoam International, Inc., and A-Z Sponge & Foam Products Ltd.

<sup>2</sup> Capitalized terms not defined herein shall have the meanings given to them in the Declaration

{K0289088.1}

Valle Foam and Domfoam, the "Valle Foam Group") in proceedings (the "Canadian Proceedings") under Canada's *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"), pending before the Ontario Superior Court of Justice (Commercial List) (the "Ontario Court"), and upon the statements and affirmations made and contained therein, and the Court having reviewed the Chapter 15 Petitions and the Declarations filed contemporaneously with the Chapter 15 Petitions and the exhibits attached thereto, including a certified copy of the Initial Order entered by the Ontario Court on January 12, 2012 (the "Canadian Order for Relief"); and a hearing having been held on the 23rd day of February, 2012 (the "Recognition Hearing"); and upon the oral statements of counsel for the Monitor; and the Court having reviewed the Notice of the filing of the Chapter 15 Petitions and of the Recognition Hearing and its certificate of service [Dkt No. 15], which notice is deemed adequate for all purposes such that no other or further notice need be given; and the Court having determined that the legal and factual bases set forth in the Chapter 15 Petitions and all other pleadings and proceedings in this case establish just cause to grant the relief ordered herein, and after due deliberation therefore,

**THE COURT HEREBY FINDS AND DETERMINES THAT:**

A. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding by Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as

such. To the extent that any conclusions of law constitute finds of fact, they are adopted as such.

B. This Court has jurisdiction over this matter pursuant to 11 U.S.C. §§ 1334 and 157(a) of the Bankruptcy Code and General Order 84 entered on July 16, 1984 by the United States District Court for the Northern District of Ohio. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P). Venue is proper before this Court pursuant to 28 U.S.C. § 1410(2).

C. The Monitor is a "person" within the meaning of section 101(41) of the Bankruptcy Code and is the duly appointed "foreign representative" of the Valle Foam Group within the meaning of section 101(24) of the Bankruptcy Code.

D. The Chapter 15 cases of Valle Foam, Domfoam and A-Z (the "Chapter 15 Cases") were properly commenced pursuant to sections 1504, 1509, and 1515 of the Bankruptcy Code.

E. The Monitor has satisfied the requirements of section 1515 of the Bankruptcy Code and Rule 2002(q) of the Federal Rules of Bankruptcy Procedure.

F. The Canadian Proceedings are a "foreign proceeding" within the meaning of section 101(23) of the Bankruptcy Code.

G. The Canadian Proceedings are entitled to recognition by this Court pursuant to section 1517 of the Bankruptcy Code.

H. The Canadian Proceedings are pending in Canada, which is the location of each member of the Valle Foam Group's center of main interests, and

accordingly, the Canadian Proceedings are a "foreign main proceeding" pursuant to section 1502(4) of the Bankruptcy Code and are entitled to recognition as a foreign main proceeding pursuant to section 1517(b)(1) of the Bankruptcy Code.

I. The Monitor is entitled to all the automatic relief provided by section 1520 of the Bankruptcy Code, without limitation.

J. The relief granted herein is necessary and appropriate, in the interests of the public and international comity, consistent with the public policy of the United States, and warranted pursuant to sections 1517, 1520, and 1521 of the Bankruptcy Code.

**NOW, THEREFORE, THE COURT HEREBY ORDERS, ADJUDGES, AND DECREES AS FOLLOWS:**

1. The Canadian Proceedings are hereby recognized as a foreign main proceeding pursuant to section 1517 of the Bankruptcy Code.

2. All relief afforded foreign main proceedings pursuant to section 1520 of the Bankruptcy Code is hereby granted to each member of the Valle Foam Group, including, without limitation, the stay under section 362 throughout the duration of these Chapter 15 Cases or until otherwise ordered by this Court.

3. The stay pursuant to section 362(a)(1) of the Bankruptcy Code is hereby modified and limited in the following respects:

- (a) The stay shall not stay any act pertaining to finalizing the Settlements;<sup>2</sup> and
- (b) The stay shall not stay the filing of a new complaint against any member of the Valle Foam Group, but shall stay any act to continue such litigation after the filing of the complaint, including service of process on any member of the Valle Foam Group.

4. The Canadian Order for Relief (and any extensions, amendments or modifications thereof as may be granted from time to time by the Ontario Court) shall be granted comity and is hereby given full force and effect in the United States to the same extent that it is given effect in Canada.

5. The Monitor is hereby recognized as the "foreign representative" in these bankruptcy proceedings, and may exercise the rights and powers of a trustee under and to the extent provided by section 1520 of the Bankruptcy Code.

6. The Monitor, the members of the Valle Foam Group, and each of their successors, agents, representatives, advisors or counsel shall be entitled to the protections contained in sections 306 and 1510 of the Bankruptcy Code.

7. A copy of this Order, conformed to be true and correct, shall be served, within three business days of the entry of this Order, by facsimile, electronic mail or overnight express delivery, upon all persons or bodies authorized to administer foreign proceedings of the Valle Foam Group, all

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<sup>2</sup> Capitalized terms not defined herein shall have the meanings given to them in the Declaration in Support of the Chapter 15 Petitions [Dkt. No. 2].

entities against whom provisional relief was granted under section 1519 of the Bankruptcy Code, all parties to litigation pending in the United States in which any member of the Valle Foam Group was a party at the time of the filing of the Chapter 15 Petitions, the United States Trustee, and such other entities as the Court may direct. Such service shall be good and sufficient service and adequate notice for present purposes.

8. The Chapter 15 Petitions and any supporting papers shall be made available by the Monitor through its website at <http://www.deloitte.com/ca/Vallefoam> or upon request at the offices of Kohrman Jackson & Krantz P.L.L., One Cleveland Center, 20<sup>th</sup> Floor, 1375 East 9<sup>th</sup> St., Cleveland, Ohio, 44114, to the attention of Mary K. Whitmer or James W. Ehrman, (216) 686-8700, [mkw@kjk.com](mailto:mkw@kjk.com) or [jwe@kjk.com](mailto:jwe@kjk.com).

9. This Court shall have continuing jurisdiction to the fullest extent permitted by law with respect to: (i) the enforcement, amendment or modification of this Order; (ii) any requests for further or additional relief or any adversary proceeding filed by the Monitor or any other party in interest; and (iii) any request by a person or entity for relief from the provisions of this Order, for cause shown.

10. This Order shall be immediately effective and enforceable upon its entry, and upon its entry shall become final and appealable, notwithstanding Bankruptcy Rule 7062 made applicable to chapter 15 cases by Bankruptcy Rule 1018.



###

Prepared and Submitted by:

KOHRMAN JACKSON & KRANTZ P.L.L.

/s/ Mary K. Whitmer

Mary K. Whitmer (0018213)

James W. Ehrman (0011006)

One Cleveland Center, 20<sup>th</sup> Floor

1375 East 9<sup>th</sup> Street

Cleveland, OH 44114-1793

Telephone: (216) 696-8700

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Email: [mkw@kjk.com](mailto:mkw@kjk.com)

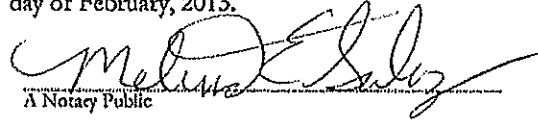
[jwe@kjk.com](mailto:jwe@kjk.com)

*Counsel for Deloitte & Touche Inc.,  
the Foreign Representative of Valle  
Foam Industries (1995) Inc.,  
Domfoam International Inc., and  
A-Z Sponge & Foam Products Ltd.*

TAB C

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This is Exhibit "C" referred to  
in the Affidavit of Tony Vallecoccia  
Sworn this 22nd  
day of February, 2013.

  
A Notary Public



**ASSIGNMENT AND ASSUMPTION AGREEMENT**

Made as of January 10, 2012

Between

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

(the "Domfoam Defendants")

**"HI NEIGHBOR" FLOOR COVERING CO. LIMITED,  
MAJESTIC MATTRESS MFG. LTD.,  
TRILLIUM PROJECT MANAGEMENT LTD.,  
OPTION CONSOMMATEURS and KARINE ROBILLARD**

(the "Plaintiffs")

### ASSIGNMENT AND ASSUMPTION AGREEMENT

1. **Definitions.** The definitions and recitals set out in the Settlement Agreement apply to and are incorporated into this Assignment and Assumption Agreement.
2. **Assignment.** The Domfoam Defendants hereby absolutely and unconditionally grant, assign, convey and set over unto the Plaintiffs, in trust for the Settlement Class, as of the date of this Assignment and Assumption Agreement, any potential rights, interests and title that the Domfoam Defendants, or any one or more of them, may have in respect of the potential distribution proceeds arising from the U.S. Urethane Settlement as a result of a claim or claims that any Domfoam Defendant have filed or may file as part of the U.S. Urethane Settlement that has been approved by the U.S. Courts as of the Execution Date, provided that any such assignment shall be strictly limited to a maximum amount or sum of the first two hundred thousand Canadian dollars (CAD \$200,000) that any Domfoam Defendant may receive as distribution proceeds as part of the U.S. Urethane Settlement.
3. **Severability.** Any provision of this Assignment and Assumption Agreement that is prohibited or unenforceable in any jurisdiction will, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and will be severed from the balance of this Assignment and Assumption Agreement, all without affecting the remaining provisions of this Assignment and Assumption Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.
4. **Governing Law.** This Assignment and Assumption Agreement will be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable in Ontario.
5. **Successors and Assigns.** This Assignment and Assumption Agreement enures to the benefit of, and is binding on, the Plaintiffs and their successors and assigns, and enures to the benefit of, and is binding on, the Domfoam Defendants and their successors and assigns.

-ii-

6. **Execution.** This Assignment and Assumption Agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same document, and a facsimile signature shall be deemed an original signature for purposes of this agreement.

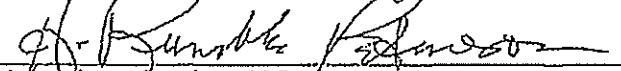
The Parties have executed this Assignment and Assumption Agreement as of the date on the cover page.

"HI! NEIGHBOR" FLOOR COVERING CO.  
LIMITED, MAJESTIC MATTRESS MFG. LTD,  
TRILLIUM PROJECT MANAGEMENT LTD. and  
KARINE ROBILLARD, by their counsel



Name: Branch MacMaster LLP

Title: Counsel in the B.C. Proceedings



Name: Suits, Strosberg LLP

Title: Counsel in the Ontario Proceedings

Name: Camp Fiorante Matthews Mogerma

Title: Counsel in the B.C. Proceedings

Name: Belleau Lapointe

Title: Counsel in the Quebec Proceeding

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 LIMITED, MAJESTIC MATTRESS MFG. LTD,  
 TRILLIUM PROJECT MANAGEMENT LTD. and  
 KARINE ROBILLARD, by their counsel

---

Name: Branch MacMaster LLP  
 Title: Counsel in the B.C. Proceedings

---

Name: Sutts, Strosberg LLP  
 Title: Counsel in the Ontario Proceedings

---

Name: Campbell Fiorante Matthews Medgerman  
 Title: Counsel in the B.C. Proceedings

---

Name: Belleau Lapointe  
 Title: Counsel in the Quebec Proceeding

-ii-

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LIMITED, MAJESTIC MATTRESS MFG. LTD,  
TRILLIUM PROJECT MANAGEMENT LTD. and  
KARINE ROBILLARD, by their counsel**

---

Name: Branch MacMaster LLP  
Title: Counsel in the B.C. Proceedings

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Name: Suits, Strosberg LLP  
Title: Counsel in the Ontario Proceedings

---

Name: Camp Fiorante Matthews Mogeran  
Title: Counsel in the B.C. Proceedings

*Belleau Lapointe*  
\_\_\_\_\_  
Name: Belleau Lapointe  
Title: Counsel in the Quebec Proceeding



-ii-

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LIMITED, MAJESTIC MATTRESS MFG. LTD.,  
TRILLIUM PROJECT MANAGEMENT LTD.,  
OPTION CONSOMMATEURS and KARINE  
ROBILLARD, by their counsel**

By:

\_\_\_\_\_  
Name: Branch MacMaster LLP  
Title: Counsel in the B.C. Proceedings

By:

\_\_\_\_\_  
Name: Sutts, Strosberg LLP  
Title: Counsel in the Ontario Proceedings

By:

\_\_\_\_\_  
Name: Camp Fiorante Matthews Mogeran  
Title: Counsel in the B.C. Proceedings

By:

\_\_\_\_\_  
Name: Belleau Lapointe  
Title: Counsel in the Quebec Proceeding

By:

*Andrew Morganti*  
\_\_\_\_\_  
Name: Andrew Morganti  
Title: Counsel in the Ontario Proceedings

DOMFOAM INTERNATIONAL, INC., by its counsel

By: *L.P. Plauder*  
Name: Osler, Hoskin & Harcourt LLP  
Title: Canadian Counsel

VALLE FOAM INDUSTRIES (1995) INC., by its counsel

By: *L.P. Plauder*  
Name: Osler, Hoskin & Harcourt LLP  
Title: Canadian Counsel

A-Z SPONGE & FOAM PRODUCTS LTD., by its counsel

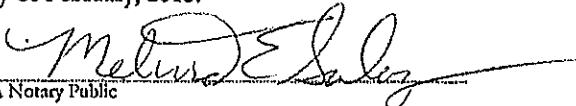
By: *L.P. Plauder*  
Name: Osler, Hoskin & Harcourt LLP  
Title: Canadian Counsel

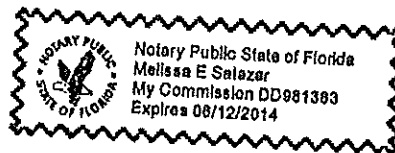
# TAB D

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This is Exhibit "D" referred to  
in the Affidavit of Tony Vallecoccia

Sworn this 22nd  
day of February, 2013.

  
A Notary Public



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

\_\_\_\_\_  
IN RE: URETHANE ANTITRUST  
LITIGATION  
\_\_\_\_\_

)  
) MDL No. 1616  
) No. 04-md-01616-JWL-JPO  
)

)  
) This Document Relates To:  
) The Polyether Polyol Cases  
)  
\_\_\_\_\_

ORDER APPROVING CLASS PLAINTIFFS'  
PLAN OF ALLOCATION AND DISTRIBUTION FOR  
THE HUNTSMAN AND BASF SETTLEMENT FUNDS

Upon consideration of *Class Plaintiffs' Motion For Approval of Their Plan of Allocation and Distribution for the Huntsman and BASF Settlement Funds and Authorizing Class Counsel to Carry Out All Steps Necessary to Effectuate the Plan* ("Motion") (Doc. # 2139), and all papers submitted in support of or in opposition thereto, and after a December 12, 2011 hearing thereon, it is hereby ORDERED that the Motion is GRANTED. It is specifically ORDERED that:

1. The Notice of Partial Class Action Settlement and Fairness Hearing ("Notice") mailed to the Litigation Class and posted on the settlement website in October 2011 complied with this Court's September 28, 2011 Order Preliminarily Approving the Settlement With BASF and Authorizing Dissemination of Notice (Doc. 2080). The Notice informed members of the Class that by November 2, 2011, Plaintiffs would submit a proposed plan for allocating and distributing the proceeds of the settlements with BASF Corp. ("BASF") and Huntsman International, LLC ("Huntsman"); that any Class Members who objected to the plan could submit written objections by November 23, 2011; and that the Court would conduct a Fairness Hearing as to the plan and other matters on December 12, 2011. The notice meets the

requirements of Rule 23 of the Federal Rules of Civil Procedure and due process, was the best notice practicable under the circumstances, and constitutes due and sufficient notice to all persons entitled thereto.

2. The Court approves Class Plaintiffs' Plan of Allocation and Distribution for the Huntsman and BASF Settlement Funds ("Plan"), attached as Exhibit A to the Motion, as a fair, reasonable and adequate method of allocating the monies that (a) Huntsman has deposited and will deposit in the Huntsman Escrow Account, as defined in the Settlement Agreement dated May 27, 2011 between Huntsman and Plaintiffs (the "Huntsman Settlement Agreement"), and (b) BASF has deposited and will deposit in the BASF Escrow Account, as defined in the Settlement Agreement dated September 21, 2011 between BASF and Plaintiffs (the "BASF Settlement Agreement").

3. A Proof of Claim Form, substantially in the form attached as Appendix A to the Plan, shall be distributed to the members of the Class in accordance with the Plan.

4. Class Counsel are authorized to direct the Huntsman Escrow Agent (as defined in the Huntsman Settlement Agreement) and the BASF Escrow Agent (as defined in the BASF Settlement Agreement) to pay invoices submitted by the Claims Administrator Rust Consulting, LLC ("Rust") for reasonable and necessary fees and expenses incurred in administering the Huntsman and BASF Settlements.

5. Class Counsel are authorized to carry out all steps necessary to effectuate the Plan up to and including filing a Recommended Schedule of Distribution when they are prepared to do so and requesting that a Distribution Hearing be scheduled.

6. Upon receiving a Distribution Hearing date, Class Counsel shall file the Recommended Schedule of Distribution. At least twenty-one (21) days before the Distribution

Hearing date, Rust shall send written notice to all claimants whose claims are recommended for rejection or reduction informing such claimants of the rejection or reduction of their claims, the procedure and deadline for filing objections to their individual claim determinations, and the time, date and location of the Distribution Hearing. Any such objections to individual claim determinations must be filed with the Court and served upon Class Counsel postmarked no later than ten (10) days before the Distribution Hearing date, and any response thereto must be filed with the Court no later than five (5) days before the Distribution Hearing date.

ENTERED THIS 12th day of December, 2011.

s/ John W. Lungstrum  
Honorable John W. Lungstrum  
United States District Judge

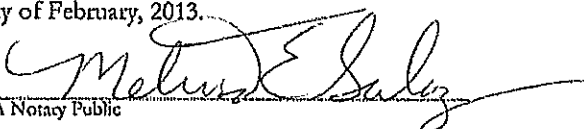
# TAB E

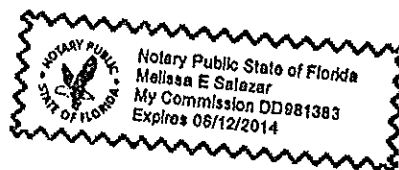


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This is Exhibit "E" referred to  
in the Affidavit of Tony Vallecoccia

Sworn this 22nd  
day of February, 2013.

  
A Notary Public



This Services Agreement (this "Agreement") is effective \_\_\_\_\_, 2008, by and between Refund Recovery Services, LLC ("RRS") and \_\_\_\_\_ (the "Claimant"). This Agreement will confirm the Claimant's appointment of RRS as its exclusive agent to assist it with filing a claim to participate in the Urethane Polyether Polyols Antitrust Settlement (the "Urethane Settlement").

- 1. **Services.** The Claimant may be entitled to receive a payment as the result of Claimant's purchase of urethane polyether polyols (the "Reimbursement"). RRS' services will include assisting the Claimant in completing and filing an approved Proof of Claim Form(s) (the "Services"); however, this Agreement does not impose a duty on RRS to file a claim(s) if the Claimant does not qualify or if inadequate information is provided to RRS by the Claimant.
- 2. **Powers Granted to RRS by Claimant.** In addition to the powers granted to RRS in the Limited Power of Attorney, RRS will have all powers to: act as the Contact Person for all correspondence and other contacts regarding Claimant's claim; submit and file Claimant's properly signed Claim Form to the Claims Administrator ("CA"); communicate and correspond with the CA regarding the claim; gather proof-of-purchase documentation; the right and authority to sign forms; and, all other pertinent powers necessary to process and finalize the payment on Claimant's claim. RRS has full power and authority to do, take, and perform each and every act and/or thing that is required, proper, or necessary in the exercise of the rights and powers herein granted as fully as Claimant might or could do if personally present, ratifying and confirming each and every other act and thing that RRS shall lawfully do and cause to be done on Claimant's behalf. This Agreement authorizes, but does not require, RRS to act for Claimant. Claimant directs any third party who receives a copy of this document to act in reliance on it.
- 3. **Compensation.** In exchange for the Services, the Claimant agrees to pay RRS 25% of the face value of the Reimbursement. **THERE WILL BE NO COMPENSATION DUE TO RRS IN THE EVENT THE CLAIMANT DOES NOT RECOVER A REIMBURSEMENT.** RRS makes no guarantees as to the amount of the Reimbursement, if any.
- 4. **Entire Agreement.** This Agreement and the attached Limited Power of Attorney constitute the only Agreements relating to the subject matter discussed herein between the parties hereto and supersedes any and all other previous Agreements relating to this subject matter. This Agreement cannot be modified or changed by any party unless the modification is done in writing and signed by all parties hereto.
- 5. **Disclaimer.** RRS is a private company and is not affiliated with the Claims Administrator or any other parties associated with the Urethane Settlement. As stated in Paragraph 3 above, RRS charges a fee for its services. The Services include assisting the Claimant in filing a claim. The Claimant is not required to use the services of RRS in filing such claim but has voluntarily chosen to do so. There will be no fee or expense to the Claimant if Claimant does not recover. There is no guarantee the Claimant will recover any money. RRS is not a law firm and it does not give legal advice.

THE ABOVE TERMS ARE ACCEPTED AND AGREED TO BY:  
VALLE FOAM INDUSTRIES (1995) INC. 4 WEST DR. BRAMPTON ONT. L6T 2H7  
DOMFOAM INTERNATIONAL INC. 8785 LANGLER BLVD MONTREAL QUE H1P 1G9  
A-2 SPONGE REAM PRODUCTS LTD. BILAWANGYAWA BUNAGIS ISLAND TARKA B.C. V3M 5P6

John C. Howard  
(Signature of Authorized Representative)

(City, State, Zip)  
VALLE FOAM (T) 905-453-8054 (F) 905-453-6348  
DOMFOAM (T) 514-325-8120 (F) 514-325-6477  
A-2 (T) 604-525-1065 (F) 604-525-1081  
(Telephone and Fax Numbers)

JOHN CHALMERS HOWARD  
(Print Full Legal Name of Person Signing)

jhoward@domfoam.com  
(E-mail Address)

GENERAL MANAGER  
(Capacity of Person Signing, e.g., President, VP, CEO, Manager, etc.)

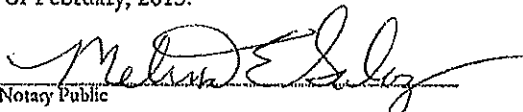
REFUND RECOVERY SERVICES, LLC

By: [Signature]  
Its: President

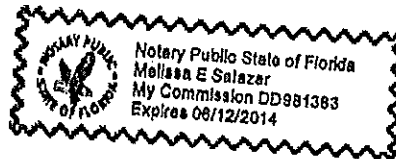
# TAB F

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This is Exhibit "F" referred to  
in the Affidavit of Tony Vallecoccia  
Sworn this 22nd  
day of February, 2013.



A Notary Public



# Deloitte.

Deloitte & Touche Inc.  
Brookfield Place  
181 Bay Street  
Suite 1400  
Toronto ON M5J 2V1  
Canada

Tel: 416-776-8031  
Fax: 416-601-6690  
www.deloitte.ca

November 1, 2012

Via email: Normand.Berube@revenuquebec.ca

Revenu Quebec  
3, Complex Desjardins, secteur D221LC  
C.P. 5000  
Succ. Desjardins  
Montreal, Quebec, H5B 1A2

Attention: Normand Berube

Re: 3113736 Canada Ltd. (formerly Valle Foam Industries (1995) Inc.), 4362063 Canada Ltd. (formerly Domfoam International Inc.) and A-Z Foam Sponge & Foam Products Ltd. (collectively, the "Companies")

We refer to the Order of the Ontario Superior Court of Justice (the "Court") dated June 15, 2012 (the "Claims Solicitation Procedure Order") pursuant to which the Court authorized and approved the procedure to identify and determine the validity of creditor claims against the Companies both as at and subsequent to the date of the Initial Order. Unless otherwise specified, capitalized terms used herein have the meanings ascribed thereto in the Claims Solicitation Procedure Order.

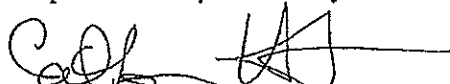
We acknowledge receipt of your Notice of Dispute filed in respect of the Notice of Revision or Disallowance delivered by the Monitor to you in respect of your Proof of Claim against the Companies. Pursuant to paragraph 20 of the Claims Solicitation Procedure Order, you are required, unless otherwise agreed by the Monitor in writing, to serve on the Monitor and the Companies a notice of motion in the Court returnable not less than 30 days after the service of your Notice of Dispute upon the Monitor for determination of your Claim, failing which the value of your Claim shall be deemed to be as set out in the Monitor's Notice of Revision or Disallowance.

In accordance with the Claims Solicitation Procedure Order, we confirm again that you are not required to bring the foregoing motion within the 30 day time period referred to above. The Monitor is presently reviewing your Notice of Dispute and will contact you to discuss same.

In the event that we are unable to resolve the Notice of Dispute, we will contact you to schedule the foregoing motion.

Yours truly,

DELOITTE & TOUCHE INC.,  
solely in its capacity as the Monitor  
of the Companies (as defined herein),  
and without personal or corporate liability

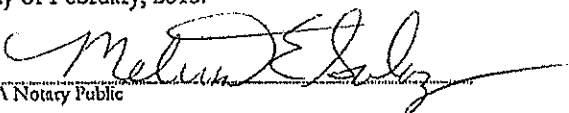
Per:   
Catherine Hristow  
Vice President

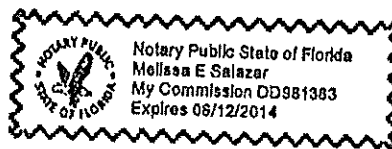
TAB G

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This is Exhibit "G" referred to  
in the Affidavit of Tony Vallecoccia

Sworn this 22nd  
day of February, 2013.

  
A Notary Public



## Notice of Objection

Use this form to file an objection to

- a notice of assessment, a notice of determination or a decision made by Revenu Québec respecting an application for a property tax refund; or
- a refund application under the International Fuel Tax Agreement (IFTA) or under a fiscal law other than the *Taxation Act* or the *Act respecting municipal taxation*, where the person received no reply within the 180-day period following the mailing date of the application.

Before filing a notice of objection, you should contact an office of Revenu Québec to try to resolve the matter. If this proves impossible and you decide to file a notice of objection, you must do so within the prescribed time limit.

A single form may be used for several objections. Please attach a copy of the notice or the refund application to which the objection applies. In Part 1, enter your address (if it differs from the address indicated on the notice or refund application to which the objection applies) and your telephone and fax numbers. Then complete Part 3 and, where applicable, Part 4.

If you cannot attach a copy of the notice or the refund application to which the objection applies, complete Parts 1, 2 and 3 and, where applicable, Part 4.

In Part 3, you must state the relevant facts and the reasons for the objection. You must also specify the issues and the amounts in dispute, where the objection relates to

- an assessment made under the *Taxation Act* for a corporation covered under paragraph (a) or (c) of section 1132 of the *Taxation Act* or a mining corporation that has not reached the production stage, an insurance corporation or a cooperative, provided the corporation's paid-up capital determined in accordance with the *Taxation Act* is at least \$10 million for the taxation year;

- an assessment of amounts payable under the *Act respecting the Québec sales tax* regarding
  - a listed financial institution, or
  - a person, other than a charity during the period in dispute, whose threshold amount determined in accordance with section 462 of the *Act* exceeds \$6 million for both the fiscal year that includes the period in dispute and the preceding fiscal year.

File this form with the Director of the Direction des oppositions, at the address given below or at any other office of Revenu Québec. You may also fax this form to 418 652-7080 or 1 866 374-7286.

The deadlines for filing the notice of objection are as follows:

- in the case of an individual or a testamentary trust,\*
  - within one year after the individual's or trust's filing due date (within the meaning of section 1 of the *Taxation Act*) for the taxation year, or
  - within 90 days after the mailing date of the notice to which the objection applies (if this deadline is more advantageous);
- in all other cases, within 90 days after the mailing date of the notice to which the objection applies.

\* The objection must be filed for a taxation year, by an individual or a testamentary trust, with regard to an assessment or a determination made under the *Taxation Act*; an assessment of an amount payable under section 34.1.1 or 37.6 of the *Act respecting the Régie de l'assurance maladie du Québec*; an assessment relating to earnings from self-employment, issued pursuant to the *Act respecting the Québec Pension Plan*; a decision made by Revenu Québec respecting a property tax refund; or an assessment issued pursuant to sections 220.2 to 220.13 of the *Act respecting municipal taxation* or sections 358 to 360 of the *Act respecting the Québec sales tax*.

### 1 Mailing address and identification of the person filing the objection

Send this notice to	Person filing the objection			
Direction des oppositions Revenu Québec 3800, rue de Marly, secteur 5-1-8 Québec (Québec) G1X 4A5	Name 4362063 Canada Ltd. (Ikkal Domfoam International Inc.)			
	Address 8785 Boul. Langelier, Saint-Leonard, Quebec			
	Postal code H 1 P 2 C 9			
	Area code Telephone (home)	Area code Telephone (work)	Area code Fax	
			5 1 4 3 2 5 8 1 2 0	5 1 4 3 2 5 6 4 7 7
Québec enterprise number (NEQ) 1143116961	Social Insurance number or identification number 1010413083			
Check this box if the paid-up capital for the taxation year, determined in accordance with the <i>Taxation Act</i> , is at least \$10 million for a corporation covered under paragraph (a) or (c) of section 1132 of the <i>Taxation Act</i> , a mining corporation that has not reached the production stage, an insurance corporation or a cooperative.			<input checked="" type="checkbox"/>	

(continued)



2 Information concerning the notice or the refund application to which the objection applies, and titles of pertinent laws

Notice number	Date of notice or application	Amount	Taxation year or period
1.			
2.			
3.			

List the laws to which the notice of objection applies.

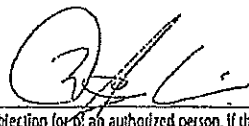
3 Relevant facts and reasons for the objection (if there is insufficient space, attach a separate sheet)

See attached.

4 Identification of the representative – Power of attorney and authorization (if applicable)

Name of representative Minden Gross LLP, Attention: David T. Ullmann			
Address 145 King Street West, Suite 2200, Toronto, Ontario			
	Postal code M, 5, H, 4, G, 2	Area code Telephone 4, 1, 6   3, 6, 9   4, 1, 4, 8	Area code Fax 4, 1, 6   8, 6, 4   9, 2, 2, 3
I authorize the person named above to represent me with respect to this notice of objection. This person will have access to all information concerning the notice and may discuss any matter relevant to it. For the purposes of the objection, I authorize Revenu Québec to provide my representative with any information I have supplied with respect to the taxation years or periods concerned.			

Certification



Nov 8, 2012

Signature of the person filing the objection (or of an authorized person, if the objection is filed by a legal person or a trust)

Date

Canada Revenue Agency / Agence du revenu du Canada



NOTICE OF OBJECTION (GST/HST) - AVIS D'OPPOSITION (TPS/TVH)

Before completing this form, read the instructions on the back. - Avant de compléter ce formulaire, lisez les instructions au verso.

Name - Nom: 4362063 Canada Ltd. (f/k/a Domfoam International Inc.)  
 Telephone No. - N° de téléphone: (514) 325-8120  
 Billing address - Adresse postale: 8785 Boul. Langelier, Saint-Leonard (Quebec)

If possible, attach a copy of the notice of assessment or notice of reassessment that you are objecting to, otherwise, give the following information.  
 Si possible, joindre une copie de l'avis de taxation ou de l'avis de réévaluation que vous contestez. Sinon, fournir les renseignements suivants.

Check here if notice is attached. - Cochez ici si l'avis est joint.

Notice No. / N° de l'avis: [Blank]  
 Amount in dispute / Montant contesté: 2,912,679.00  
 Date the notice was sent / Date de l'avis: June 28, 2012  
 Social Insurance Number or Business Number / Numéro d'assurance sociale ou numéro d'entreprise: 123485039 RT0001

Please state the facts and reasons for your objection (if you need more room, use a separate sheet). / Indiquez les faits et les motifs de votre opposition (si vous n'avez pas de place, utilisez une feuille distincte).

Please see attached.

Check here if separate sheet is attached. - Cochez ici si votre avis est sur une feuille distincte.

Name and address of solicitor or preparer (if applicable) / Nom et adresse de l'avocat ou du préparateur (s'il y a lieu):  
 Minden Gross LLP  
 145 King Street West, Suite 2200  
 Toronto, Ontario M5H 4G2  
 Attention: David T. Ullmann  
 Telephone No. - N° de téléphone: (416) 369-4148

*[Signature]* President / Position or Office - Poste ou fonction  
 November 7, 2012 / Date

## Instructions

If you disagree with an assessment or a reassessment, you should contact your tax services office in an attempt to resolve any disagreement before filing a formal notice of objection.

Complete this form if you want to object under Part IX of the Excise Tax Act (GST/HST), to your notice of assessment or notice of reassessment.

Do not use this form to object to any Excise Tax Act assessment other than GST/HST. Instead, use form E413 Notice of Objection (Excise Tax Act), or E414 Notice of Objection (Purchaser), as applicable.

Your notice of objection must be mailed or delivered within 90 days of the date shown on the notice of assessment you are disputing.

## Where to send your objection

Residents with a postal code starting with A to P and non-residents may send their objection to:

Eastern Intake Centre  
Sudbury TSO/TC  
1050 Notre-Dame Avenue  
Sudbury ON P3A 5C1

Residents with a postal code starting with R to Y may send their objection to:

Western Intake Centre  
Burnaby-Fraser TSO  
9737 King George Boulevard  
PO Box 9070, Station Main  
Surrey BC V3T 5W6

Rebate Program for Tour Packages, Foreign Conventions, and Non-Resident Exhibitor Purchases -- Send your notice of objection to:

Eastern Intake Centre  
Sudbury TSO/TC  
1050 Notre-Dame Avenue  
Sudbury ON P3A 5C1

File a separate form for each notice in dispute.

Specified person\* -- In addition to giving facts and reasons for objecting, a specified person has to describe each issue and specify the relief the person wants for each one.

For more information, you can contact the Appeals Division at your tax services office.

\* Generally a specified person is a listed financial institution or a person whose annual taxable supplies in each of the two preceding fiscal years were more than \$6 million. For more information see subsection 301(1) of the Excise Tax Act.

## Instructions

Si vous n'acceptez pas une cotisation ou une nouvelle cotisation, vous devez communiquer avec votre bureau des services fiscaux pour tenter de régler le différend avant de produire un avis d'opposition formel.

Remplissez ce formulaire si vous désirez contester, selon la partie IX de la Loi sur la taxe d'accise (TPS/TVH), votre avis de cotisation ou de nouvelle cotisation.

N'utilisez pas ce formulaire pour contester une cotisation selon la Loi sur la taxe d'accise autre que pour la TPS/TVH; remplissez plutôt le formulaire E413 Avis d'opposition (Loi sur la taxe d'accise), ou E414 Avis d'opposition (acheteur), selon le cas.

Votre avis d'opposition doit être envoyé ou présenté dans les 90 jours qui suivent la date indiquée sur l'avis de cotisation que vous contestez.

## Où envoyer votre opposition

Les résidents dont le code postal débute par les lettres A à P et les non-résidents enverront leur opposition au :

Centre d'arrivage de l'Est  
BSF/CF de Sudbury  
1050, avenue Notre-Dame  
Sudbury ON P3A 5C1

Les résidents dont le code postal débute par les lettres R à Y enverront leur opposition au :

Centre d'arrivage de l'Ouest  
BSF de Burnaby-Fraser  
9737, boulevard King George  
C.P. 9070 succ. Main  
Surrey BC V3T 5W6

Programme de remboursements pour les voyageurs organisés, les congrès étrangers et les achats des exposants non résidents -- Faites parvenir votre avis d'opposition au :

Centre d'arrivage de l'Est  
BSF/CF de Sudbury  
1050, avenue Notre-Dame  
Sudbury ON P3A 5C1

Produisez un formulaire distinct pour chaque avis que vous contestez.

Personne déterminée\* -- En plus de fournir les faits et motifs de l'opposition, une personne déterminée doit décrire les points contestés et préciser, pour chacun, le montant du redressement demandé.

Pour en savoir plus, communiquez avec la Division des appels de votre bureau des services fiscaux.

\* En général, une personne déterminée est une institution financière désignée ou une personne dont la valeur des fournitures taxables a dépassé 6 millions de dollars au cours de chacun des deux exercices précédents. Pour en savoir plus, consultez le paragraphe 301(1) de la Loi sur la taxe d'accise.

DOMFOAM INTERNATIONAL INC.  
NOTICE OF OBJECTION

Reporting periods:

2008/04/01 to 2008/04/30

2009/04/01 to 2009/04/30

2010/04/01 to 2010/04/30

2011/04/01 to 2011/04/30

2011/10/01 to 2011/10/31

2011/11/01 to 2011/11/30

2012/12/01 to 2012/12/31

(collectively, the "Reporting Periods")

STATEMENT OF FACTS

1. Domfoam International Inc. (the "Taxpayer") is a corporation incorporated under the laws of Canada with its head office located at 8785 Langelier Boulevard, Montreal, Quebec H1P 2C9. The Taxpayer changed its name to 4362063 Canada Ltd. by Articles of Amendment dated March 23, 2012. During the reporting periods in issue, the Taxpayer carried on business in the Province of Quebec at 8785 Boul. Langelier, Saint-Leonard, Quebec.
2. During the Reporting Periods, the Taxpayer purchased goods and/or services from the following suppliers for consumption, use or supply exclusively in the course of the Taxpayer's commercial activities:
  - (a) 3113736 Canada Ltd. (formerly Valle Foam Industries (1995) Inc. ("3113736"))
  - (b) A-Z Sponge & Foam Products Ltd. ("AZ")
  - (c) Various temporary employment agencies (Temp")
3. The Taxpayer did not pay GST and Harmonized Sales Tax (collectively "GST") on its purchases of goods and services from Vallefoam and AZ during the Reporting Periods.
4. The Taxpayer did pay GST and QST on its purchases of services from Temp.
5. During the reporting period, the Taxpayer submitted monthly returns with respect to GST in accordance with its usual practice. Refunds were due and paid to the Taxpayer in connection with goods supplied to the Taxpayer in respect of which HST was charged as detailed in those returns.
6. On January 12, 2012, the Taxpayer, along with Valle Foam and AZ, filed for protection from its creditors under the *Companies Creditors Arrangement Act* (the "CCAA").

7. As a consequence of the terms of the Order of Justice Newbould of the Ontario Superior Court of Justice dated January 12, 2012 (the "Initial Order"), the Taxpayer was prohibited from making payment for goods supplied to the Taxpayer prior to that date ("Pre-filing Goods"), some of which were accounted for in the refund.
  8. Valle Foam and the Taxpayer are corporations under the Canada Business Corporations Act. AZ is incorporated under the Business Corporations Act of British Columbia. The Taxpayer is the 100% shareholder of Valle Foam and AZ.
  9. By notices of assessment, each dated June 28, 2012 (the "Assessment"), Revenu Quebec assessed the Taxpayer in respect of the Reporting Periods for Net Tax of \$2,912,679.00 for GST and QST. Copies of the Notices of Assessment are attached hereto as Appendix "1".
  10. This Notice of Objection is filed to jointly address issues raised in respect of both assessments.
  11. On June 15, 2012 pursuant to an Order Justice Brown of the Ontario Superior Court of Justice in the ongoing CCAA proceedings of the Taxpayer, the court instituted an exclusive process, pursuant to the terms of the CCAA, whereby all parties, including the Crown, were required to file any claim which such party may have against the Taxpayer. Claims were to be filed with the Court appointed Monitor on or before August 31, 2012. Failure to participate in the process would result in the claim of any party to be permanently extinguished. Attached hereto as Appendix "2" is a copy of that Order.
  12. The Attorney General of Canada, care of the Department of Justice, was served with the Taxpayer's motion with respect to this proposed claims process. There was no objection to the proposed process.
  13. The Order instituting a claims process was issued prior to the date of the Assessment.
  14. Revenu Quebec filed a proof of claim dated July 20, 2012 in that process in an amount equal to the amount of the Assessment and participated in the claims solicitation process.
  15. Attached hereto as Appendix "3" is a copy of that proof of claim (minus the Appendices).
  16. On September 21, 2012, the Monitor after consultation with the Applicants legal counsel, disallowed the claim in its entirety.
  17. Attached hereto as Appendix "4" is a copy of that disallowance.
-

18. On October 5, 2012, the Minister filed a dispute in the CCAA process. The principal ground of the dispute was that the Taxpayer had not filed a notice of objection to the Assessment.
19. Attached hereto as Appendix "5" is a copy of that dispute.
20. The Taxpayer hereby objects to the Assessment.

#### ISSUES TO BE DECIDED

21. The issues to be decided are:

- (a) Intercompany Accounts: Whether GST was exigible in respect of the Taxpayer's purchases of goods and services from Vallefoam and AZ as described in paragraph 2 above;

Taxpayer position: The Taxpayer was exempt pursuant to the ETA.

- (b) Temp Services: Whether the Taxpayer should have been assessed for GST in respect of the purchases of goods and services from Temp as described in paragraph 2 above; and

Taxpayer position: All GST properly due in respect of the purchase of these services was paid at that time of supply

- (c) Pre-Filing Goods: Whether any amount of the refund applied for and received with respect to pre-filing goods delivered to the Taxpayer is to be repaid.

Taxpayer Position: The amount of this claim, if any, cannot be determined at this time pending the conclusion of the Taxpayer's restructuring.

#### REASONS FOR OBJECTION

22. The Taxpayer relies, inter alia, upon sections 128 and 156 of the ETA.
23. Further, the Taxpayer relies upon the disallowance provided by the Monitor in the CCAA process, attached as Appendix "4", which states:

"43262063 Canada Ltd. (the "Company) and its legal counsel have reviewed the claim of Revenu Quebec. The Company has provided the Monitor with a copy of an executed Closely Related Corporations and Canadian Partnerships, a copy of which is attached. Therefore, the entire amount of the intercompany claim for GST is disallowed which we understand is in the amount of \$1,664,824.52.

The Monitor has been advised by the Company that all of the necessary records for review of taxes on temporary labour, and tax

credits claimed for invoices not paid, are available for review by Revenu Quebec. The balance of the claim of Revenu Quebec is disallowed and needs to be quantified through the completion of a thorough audit.”

#### Intercompany Accounts

24. At all relevant times during the Reporting Periods, the Taxpayer, Vallefoam and AZ were “closely related” as defined in section 128 of the ETA.
25. The Taxpayer, Vallefoam and AZ have elected jointed pursuant to subsection 156(2) of the ETA with effect as of September 1, 1999. As subsection 156(2) of the ETA provides that “every taxable supply made between them at a time when the election is in effect is deemed to have been made for no consideration”, the Taxpayer submits that GST was not exigible in respect of its purchases of goods and services from Vallefoam and AZ during the Reporting Periods
26. A copy of the Joint Election is attached hereto as Appendix “6”.
27. At all relevant times the parties have conducted themselves as if an election were in place and all conditions for making the election were met during the period since the effective date.
28. The Taxpayer's practice is in keeping with its previous practices for the sale of goods among the Taxpayer, AZ and Valle Foam. The Taxpayer has previously been audited by CRA for GST compliance, as recently as 2007, at which time these practices were presumably reviewed and approved by the Minister, given that no Assessment in respect of this practice was issued

#### Temp Services

29. The Taxpayer was invoiced by Temp for its purchases of goods and services during the Reporting Periods. Copies of samples of such invoices, with the names of the individuals who provided the temps services redacted, are attached hereto as Appendix “7”.
30. The Taxpayer duly paid such invoices and GST and QST to Temp.
31. No further amount is owing by the Taxpayer in respect of this claim.

#### Pre-filing Goods

32. The Taxpayer filed its monthly GST returns in keeping with its usual practice. A copy of a return filed on December 31, 2011 is attached hereto as Appendix “8”.
33. But for the intervention of the Initial Order and the prohibition against payment of pre-filing amounts contained therein, payments of GST would have been made in the ordinary course and no objection would arise.

- 34. The CCAA process is ongoing. It is impossible to determine at this time whether or not there may yet be payments made or credits applied to which would eliminate any possible claim in this category.
- 35. No distribution has, as yet, been made to creditors from the proceeds of sale or other realization collected during the CCAA process. There may yet be a plan for distribution filed in the CCAA proceeding which may compromise and otherwise satisfy any amount ultimately found to be owing by the Taxpayer.
- 36. Pursuant to section 5(d) of the Initial Order, certain pre-filing claims for goods supplied after November 30, 2012 which were unpaid after January 12, 2012, were to be paid. Amounts which may yet be payable, which may include amounts in respect of which the Assessment has been issued, has not yet been determined.
- 37. Pursuant to section 7(b) of the Initial Order, the Taxpayer is to remit any amounts accrued at the time of the Initial Order but not yet due at January 12, 2012 for goods and services taxes. A reconciliation of such amounts which may yet be payable pursuant to this section, which may include amounts in respect of which the Assessment has been issued, has not yet been completed.
- 38. As a result of the foregoing, the exact amount owing by the Taxpayer, if any, cannot be quantified at this time.

**RELIEF SOUGHT**

- 39. The Taxpayer requests that the Assessment be vacated.

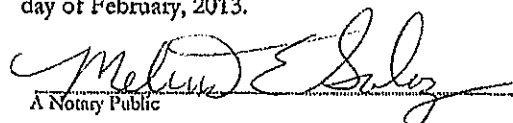
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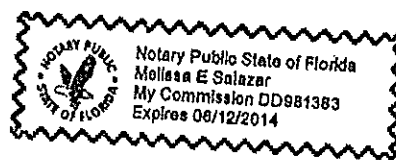


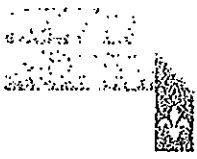
TAB H

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This is Exhibit "H" referred to  
in the Affidavit of Tony Vallecoccia  
Sworn this 22nd  
day of February, 2013.

  
A Notary Public





Direction des oppositions

December 20, 2012

Mr. David T. Ullman  
MINDEN GROSS LLP  
145, King Street West, suite 2200  
Toronto (Ontario) M5H 4G2

Québec enterprise number (NEQ): 1143116961  
Identification and file numbers: 1010413083 TQ0001  
Reference number: 315244  
Act respecting the Quebec sales tax

Subject: Copy of a letter

Dear Mr. Ullman:

Please find enclosed a copy of the letter that was sent to DOMFOAM INTERNATIONAL INC. The letter concerns the following period:

from 2007-05-01 to 2011-12-31

Yours truly,

Jacques Duperron  
Service de l'enregistrement et  
du soutien opérationnel

JD/sb

Encl.

3800, rue de Marly, secteur 5-1-8  
Québec (Québec) G1X 4A5  
Téléphone : 418 652-6292  
Sans frais : 1 888 630-7747, poste 6526192  
Télécopieur : 1 866 374-7286  
www.revenuquebec.ca



Direction des oppositions

Québec, le 20 décembre 2012

Monsieur Lior Simantov  
DOMFOAM INTERNATIONAL INC.  
8785, Boul. Langeller  
Saint-Léonard (Québec) H1P 2C9

Numéro d'entreprise du Québec (NEQ) : 1143116961  
Numéros d'identification et de dossier : 1010413083 TQ0001  
Numéro de référence: 315244

**Objet : Réponse à votre avis d'opposition**

Monsieur,

Nous avons pris connaissance de l'avis d'opposition que vous avez présenté relativement à la Loi sur la taxe de vente du Québec pour la période suivante :

du 2007-05-01 au 2011-12-31

Nous désirons vous informer que votre document ne peut être accepté à titre d'avis d'opposition, car il n'a pas été notifié dans le délai prévu par la loi.


Toutefois, s'il y a des raisons sérieuses pour lesquelles vous n'avez pas pu présenter votre avis d'opposition à temps, vous pouvez demander une prorogation du délai d'opposition. Pour ce faire, vous devez nous envoyer une lettre dans laquelle ces raisons sont exposées et où il est démontré que vous présentez votre demande dès que les circonstances vous le permettent. Vous devez nous transmettre celle-ci au plus tard le 21 janvier 2013 à l'adresse figurant au bas de la première page.

Si vous présentez une telle demande, nous l'étudierons et vous ferons part de notre décision par écrit.

Pour obtenir plus de renseignements à ce sujet, vous pouvez communiquer avec nous au 418 652-6292 ou, sans frais, au 1 888 830-7747, poste 6526292.

Nous vous prions d'agréer, Monsieur, nos salutations distinguées.

JD/sb

  
Jacques Duperron  
Service de l'enregistrement et  
du soutien opérationnel

c.c. M. David T. Ullman  
MINDEN GROSS LLP



Goods and Services Tax  
and Harmonized Sales Tax

Canada Revenue Agency / Agence du revenu du Canada

December 20, 2012

Mr. David T. Ullman  
MINDEN GROSS LLP  
145, King Street West, suite 2200  
Toronto (Ontario) M5H 4G2

GST account number: 12348 5039 RT0001  
Québec enterprise number (NEQ): 1143116961  
Reference number: 315238  
Excise Tax Act

Subject: Notice(s) of objection

Dear Mr. Ullman:

Please find enclosed a copy of the letter that was sent to DOMFOAM INTERNATIONAL INC. The letter concerns the following periods:

- from 2008-04-01 to 2008-04-30
- from 2009-04-01 to 2009-04-30
- from 2010-04-01 to 2010-04-30
- from 2011-04-01 to 2011-04-30
- from 2011-10-01 to 2011-10-31
- from 2011-11-01 to 2011-11-30
- from 2011-12-01 to 2011-12-31

Yours truly,

Jacques Duperron  
Service de l'enregistrement et  
du soutien opérationnel

JD/sb

Encl.

3800, rue de Marly, secteur 5-1-8  
Québec (Québec) G1X 4A5  
Téléphone : 418 652-6292  
Sans frais : 1 888 830-7747, poste 6526292  
Télécopieur : 1 866 374-7266  
www.revenuquebec.ca



Goods and Services Tax  
and Harmonized Sales Tax

Canada Revenue Agency / Agence du revenu du Canada

December 20, 2012

Mr. Lior Simantov  
DOMFOAM INTERNATIONAL INC.  
8785, Boul. Langelier  
Saint-Léonard (Québec) H1P 2C9

GST account number: 12348 5039 RT0001  
Québec enterprise number (NEQ): 1143116961  
Reference number: 315238

Subject: Your notice of objection

Dear Mr. Simantov:

We have examined the notice of objection you filed with respect to the *Excise Tax Act* for the periods below:

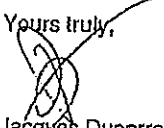
- from 2008-04-01 to 2008-04-30
- from 2009-04-01 to 2009-04-30
- from 2010-04-01 to 2010-04-30
- from 2011-04-01 to 2011-04-30
- from 2011-10-01 to 2011-10-31
- from 2011-11-01 to 2011-11-30
- from 2011-12-01 to 2011-12-31

We cannot consider the objection because it was not filed within the time period prescribed by law.

However, if serious reasons prevented you from filing the objection on time, you may apply for an extension. Send us a letter setting out your reasons and showing that you are applying for the extension as soon as possible under the circumstances. Send the letter to the address shown at the bottom of the first page by January 21, 2013, at the latest.

If you file such an application, we will study it and inform you of our decision in writing.

If you require additional information about applying for an extension, you can contact us at 418 652-6292 or, toll-free, at 1 888 830-7747, extension 6526292.

Yours truly,  
  
Jacques Duperron  
Service de l'enregistrement et  
du soutien opérationnel

JD/sb

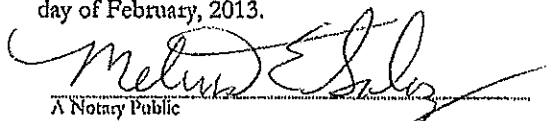
cc: Mr. David T. Ullman  
MINDEN GROSS LLP

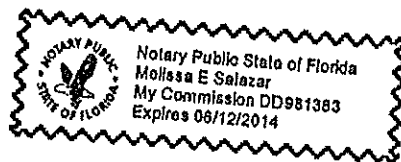
# TAB I

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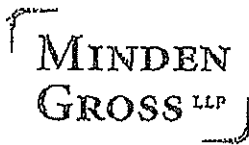
This is Exhibit "I" referred to  
in the Affidavit of Tony Vallecocchia

Sworn this 22nd  
day of February, 2013.

  
A Notary Public







MINDEN GROSS LLP  
 BARRISTERS & SOLICITORS  
 145 KING STREET WEST, SUITE 2200  
 TORONTO, ON, CANADA M5H 4G2  
 TEL 416.362.3711 FAX 416.864.9223  
 www.mindengross.com

DIRECT DIAL (416) 369-4148  
 E-MAIL dullmann@mindengross.com  
 FILE NUMBER 4079509

January 18, 2013

VIA FACSIMILE 1-866-374-7286

Mr. Jacques Duperron  
 Revenu Quebec  
 3800, rue de Marly, secteur 5-1-8  
 Québec  
 G1X 4A5

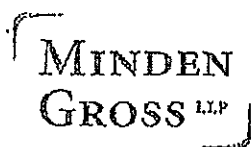
Dear Mr. Duperron:

Re: 4362063 Canada Ltd. (f/k/a Domifoam International Inc.) (the "Company")

We are in receipt of your letters dated December 20, 2012 with respect to the Assessments of Revenu Quebec and Canada Revenue Agency against the Company dated June 28, 2012 (collectively, the "Assessment"). Further, we confirm as per our telephone conversation this morning your advice that no formal form of application is required in order to respond to your letter or seek any extension in connection therewith.

As you are aware, the Company is subject to an outstanding proceeding under the *Companies' Creditors Arrangement Act* (the "CCAA"). That proceeding was commenced on January 12, 2012 pursuant to the Order of Justice Newbould of that date, a copy of which is attached as Appendix "1" (the "Initial Order"). At all times from that date forward, the Crown and in particular the Department of Justice has been on notice of those proceedings.

The Initial Order provides in paragraphs 13 and 14, that each of Revenu Quebec and Canada Revenue Agency are stayed from taking any action or proceeding against the Company or its property, without leave of the Court or the permission of the Monitor, which was not provided in this instance. The act of issuing the Assessment was the commencement of a "proceeding" against the Company, which act was undertaken after the commencement of the CCAA proceeding and in violation of the stay of proceedings. If the Assessment was issued in violation of the Initial Order, of which the Crown had notice and to which process it had attorned, as further discussed below, then it is of no effect. Certainly it is not now available for the Crown to take the position that by the Company failing to file a Notice of Objection within the time period set out in that Assessment (if that is in fact what is found to be the case, which is disputed below) the Company has consented to the amount of the Assessment or the right of the Crown to take steps to collect those amounts from the Company.



It is also submitted that the provisions of the CCAA, being federal law, are paramount to the provisions of the Quebec *Tax Administration Act*, pursuant to which the Assessment was issued. Pursuant to section 40 of the CCAA, the provisions of the CCAA bind Her Majesty in right of Canada or a province. Therefore, the provisions of the CCAA govern this situation.

Given the foregoing, the Company hereby expressly reserves its right to argue that the Assessment is invalid and that no Notice of Objection can lawfully be required of the Company at this time.

Without limiting the foregoing, and out of an abundance of caution only, we do hereby apply on behalf of the Company, in accordance with Section 303 of the *Excise Tax Act* and articles 93.1.3 and 93.1.4 of the *Tax Administration Act* (collectively, the "Acts"), for an extension of time to file the Notice of Objection to which your letters refer (the "Notice of Objection"). Copies of section 303(7) and articles 93.1.3 (the request) and 93.1.4 are attached as Appendix "2". The Notice of Objection was issued on November 8, 2012, with respect to the Assessment.

On June 15, 2012 pursuant to an Order Justice Brown of the Ontario Superior Court of Justice in the ongoing CCAA proceedings of the Company, the court instituted an exclusive process, pursuant to the terms of the CCAA, whereby all parties, including Canada Revenue Agency and Revenu Quebec, were required to file any claim which such party may have against the Company (the "Claims Process"). Claims were to be filed with the Court appointed Monitor on or before August 31, 2012. Failure to participate in the process would result in the claim of any party to be permanently extinguished. Attached hereto as Appendix "3" is a copy of that Order.

The Attorney General of Canada, care of the Department of Justice, was served with the Company's motion with respect to this Claims Process. There was no objection to the Claims Process.

The Order instituting the Claims Process was issued prior to the date of the Assessment.

Revenu Quebec filed a proof of claim dated July 20, 2012 in the Claims Process in an amount equal to the amount of the Assessment and participated in the Claims Process. There was no notice of which I am aware accompanying the proof of claim advising the Company that, notwithstanding the participation of Revenu Quebec in the Claim Process, that a separate Notice of Objection was required from the Company.

Attached hereto as Appendix "4" is a copy of that proof of claim (in minus the Appendices).

On September 21, 2012, the Monitor, on behalf of the Company, disallowed the claim in its entirety (the "Notice of Disallowance"). The Notice of Disallowance, which constituted the Company's objection to the Assessment, was provided within the time period for filing a Notice of Objection to the Assessment, which time period would, but for the outstanding CCAA process, have expired on September 28, 2012. Attached hereto as Appendix "5" is a copy of the Notice of Disallowance.



On October 5, 2012, Revenu Quebec filed a dispute in the CCAA process (the "Notice of Dispute"). The principal ground of the dispute was that the Company had not filed a notice of objection to the Assessment. Attached hereto as Appendix "6" is a copy of the Notice of Dispute.

The Company submits that, until the receipt of the Notice of Dispute, the Company was unaware that, notwithstanding the Claims Process, it was required to file a Notice of Objection. The Company operated under the assumption that the CCAA process was to govern. It would have been, in these circumstances, impossible for the Company to file a Notice of Objection within the time period provided, since it is impossible to meet a requirement which you do not know applies to you.

It is clear that the Company had a bona fide intention to object to the Assessment. The Notice of Disallowance contains the Company's objection to the claim made in the Assessment.

Once the position of the Revenu Quebec and Canada Revenue Agency became known to the Company, the Company promptly filed a Notice of Objection.

We also submit that the vast majority of the Assessment will be dispensed with summarily, based on the information provided in the Notice of Objection. In particular we repeat the following provision from the Notice of Disallowance, which argument was also submitted in the Notice of Objection:

43262063 Canada Ltd. (the "Company") and its legal counsel have reviewed the claim of Revenu Quebec. The Company has provided the Monitor with a copy of an executed Closely Related Corporations and Canadian Partnerships, a copy of which is attached. Therefore, the entire amount of the intercompany claim for GST is disallowed which we understand is in the amount of \$1,664,824.52.

Therefore, it would not be equitable to require that Assessment to proceed in the face of this strong *prima facie* evidence in contradiction to the majority of the amount claimed in the Assessment.

It would also be inequitable to deny an extension in a situation where the Company had a genuine basis for confusion with respect to the appropriate method to assert its objection, when that confusion was caused in large part by the willing and informed participation of Revenu Quebec and Canada Revenue Agency in a process which they now seek to hold as inapplicable.

It is also inequitable to deny the Company the opportunity to dispute this claim, when the Company is in the process of reviewing the claims of all of its other similarly situated creditors. This would provide for an unfair advantage to the claim of Revenu Quebec and Canada Revenue Agency, to the disadvantage of those other creditors who are participating in the Claims Process. There is a finite pool of money out of which claims are to be paid.

Accordingly, it is submitted that the Company should be granted an extension to allow for the proper consideration of its Notice of Objection.



In addition, please be advised that the Company reserves its right to submit that no extension is required for the following reasons:

- 1) It is submitted that a form of Notice of Objection was filed with Revenu Quebec and Canada Revenue Agency within the time period required by the Acts and therefore no extension is required. The Notice of Disallowance provided by the Monitor constituted an objection by the Company to the Assessment. The Notice of Disallowance was filed within the time period for filing a Notice of Objection.
- 2) It is submitted that in filing its proof of claim appending its Assessment, Revenu Quebec and Canada Revenue Agency had submitted to the jurisdiction of the *Companies' Creditors Arrangement Act* proceeding to adjudicate the Assessment. By participating in this process without objection, Canada Revenue Agency and Revenu Quebec had indicated that the Companies were expected to respond to the Assessment through the CCAA process, and the Company did do. It is noted that when it received the Notice of Disallowance, Revenu Quebec and Canada Revenue Agency responded by submitting a Notice of Dispute, further attorning to the CCAA jurisdiction.

Yours truly,

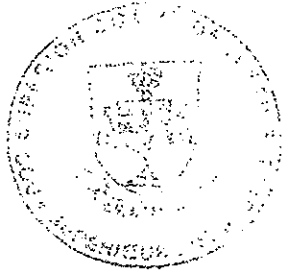
MINDEN GROSS LLP

David T. Ullmann  
DTU:

cc: Normand Bérubé - Counsel for Revenu Quebec  
Catherine Hristow - Monitor

#1985433

# TAB 3



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

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR. ) THURSDAY, THE 12<sup>th</sup>  
JUSTICE NEWBOULD )  
DAY OF JANUARY, 2012

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")

**INITIAL ORDER**

**THIS APPLICATION**, made by Valle Foam Industries (1995) Inc., Domfoam International Inc., and A-Z Sponge & Foam Products Ltd. (hereinafter, collectively referred to as the "Applicants"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the affidavit of Tony Vallecoccia sworn January 11, 2012 and the exhibits thereto (the "Vallecoccia Affidavit"), and on hearing the submissions of counsel for the Applicants, no one else appearing although duly served as appears from the affidavit of service of Victoria Stewart sworn January

11, 2012, and on reading the consent of Deloitte & Touche Inc. to act as the Monitor,

### **SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

### **APPLICATION**

2. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies.

### **PLAN OF ARRANGEMENT**

3. **THIS COURT ORDERS** that one or more of the Applicants, individually or collectively, shall have the sole authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "Plan").

### **POSSESSION OF PROPERTY AND OPERATIONS**

4. **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (collectively, the "Property"). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of their respective businesses (collectively, the "Business") and

Property. The Applicants shall each be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, appraisers, accountants, counsel and such other persons (collectively, "Assistants") currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. **THIS COURT ORDERS** that, the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to, on or after the date of this Order:

- (a) all outstanding and future wages, compensation, salaries, employee and pension benefits, vacation pay and expenses (including, but not limited to, employee medical, dental, disability, life insurance and similar benefit plans or arrangements, incentive plans, share compensation plans, and employee assistance programs and employee or employer contributions in respect of pension and other benefits), and similar pension and/or retirement benefit payments, commissions, bonuses and other incentive payments, payments under collective bargaining agreements, and employee and director expenses and reimbursements, payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;
- (b) compensation to employees in respect of any payments made to employees prior to the date of this Order by way of the issuance of cheques or electronic transfers are subsequently dishonoured due to the commencement of these proceedings; and



- (c) the reasonable fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges, including any payments made to Assistants prior to the date of this Order by way of the issuance of cheques or electronic transfers that are subsequently dishonoured due to the commencement of these proceedings; and
- (d) amounts owing for goods and services actually supplied to the Applicants, or to obtain the release of goods contracted for prior to the date of this Order by other suppliers, solely where such goods were ordered by the Applicants or any of them after November 30, 2011 on the express understanding that such goods or services were to be paid for on a cash on delivery basis and in respect of which such payment has not been made by the Applicants or any of them.

6. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course after the date of this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and

- (b) payment, including the posting of letters of credit, for goods or services actually supplied or to be supplied to the Applicants following the date of this Order;

7. **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "Sales Taxes") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicants.

8. **THIS COURT ORDERS** that until a real property lease is disclaimed, terminated, repudiated or resiliated in accordance with the CCAA, the Applicants

shall pay all amounts constituting rent or payable as rent under their respective real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicants and the landlord from time to time ("Rent"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

9. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicants are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of their creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

### **RESTRUCTURING**

10. **THIS COURT ORDERS** that the Applicants shall, subject to such requirements as are imposed by the CCAA have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of their respective businesses or operations, and to dispose of non-profitable, redundant or non-material assets and operations, and to dispose and sell such assets or operations not exceeding \$100,000.00 in any one transaction or \$1 million in the aggregate;

- (b) terminate the employment of such of their employees or lay off or temporarily or indefinitely lay off such of their employees as the relevant Applicant deems appropriate on such terms as may be agreed upon between the relevant Applicant and such employee, or failing such agreement, to deal with the consequences thereof in the Plan
- (c) in accordance with paragraphs 10 (a) and (d), vacate, abandon, resiliate, or quit any leased premises and/or disclaim, cancel, terminate or repudiate any real property lease and any ancillary agreements relating to any leased premises, on not less than seven (7) days notice in writing to the relevant landlord on such terms as may be agreed upon between the Applicants and such landlord, or failing such agreement, to deal with the consequences thereof in the Plan;
- (d) disclaim, terminate, repudiate or resiliate, in whole or in part, with the prior consent of the Monitor or further Order of the Court, such of their arrangements, agreements or contracts of any nature whatsoever with whomsoever, whether oral or written, as the Applicants deem appropriate, in accordance with Section 32 of the CCAA, with such disclaimers, repudiation, termination, or resiliations to be on such terms as may be agreed upon between the relevant Applicants and such counter-parties, or failing such agreements, to deal with the consequences thereof in the Plan; and
- (e) pursue all avenues of refinancing of the Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing;

all of the foregoing to permit the Applicants to proceed with an orderly restructuring or winding down of some or all of the respective Business (the "Restructuring").

11. **THIS COURT ORDERS** that the Applicants shall each provide each of the relevant landlords with notice of the relevant Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the relevant Applicant, or by further Order of this Court upon application by the relevant Applicant on at least two (2) days notice to such landlord and any such secured creditors. If an Applicant disclaims, resiliates, repudiates or terminates the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer, termination or resiliation of the lease shall be without prejudice to the Applicant's claim to the fixtures in dispute.

12. **THIS COURT ORDERS** that if a lease is repudiated or if a notice of disclaimer or termination or resiliation is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, termination, repudiation or resiliation, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the relevant Applicant's and the Monitor 24 hours' prior written notice, and

(b) at the effective time of the disclaimer or termination or resiliation, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicants in respect of such lease or leased premises and such landlord shall be entitled to notify the Applicants of the basis on which it is taking possession and to gain possession of and re-lease such leased premises to any third party or parties on such terms as such landlord considers advisable, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

**NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY**

13. **THIS COURT ORDERS** that until and including February 10, 2012, or such later date as this Court may order (the "Stay Period"), no proceeding or enforcement process in any court or tribunal (each, a "Proceeding") shall be commenced or continued against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

**NO EXERCISE OF RIGHTS OR REMEDIES**

14. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "Persons" and each being a "Person") against or in respect of the Applicants or the Monitor, or affecting the

Business or the Property, are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicants to carry on any business which the Applicants are not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

#### **NO INTERFERENCE WITH RIGHTS**

15. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, authorization, licence or permit in favour of or held by the Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Court.

#### **CONTINUATION OF SERVICES**

16. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicants or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all waste disposal service providers, all computer software, information technology services, communication and other data services, programming supply, computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Applicants, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicants, and that the Applicants shall be

entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicants in accordance with normal payment practices of the Applicants or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

### **NON-DEROGATION OF RIGHTS**

17. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

### **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

18. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers (or their estates) of the Applicants with respect to any claim against such directors or officers that arose before the date hereof and that relates to any obligations of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment, performance or breach of such obligations, acts, or actions until a compromise or arrangement in respect of



the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

**DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE**

19. **THIS COURT ORDERS** that the Applicants shall jointly indemnify their directors and officers from and against all claims, costs, charges, expenses, obligations and liabilities that they may incur as directors or officers of the Applicants, after the date hereof except to the extent that, with respect to any officer or director, such claim, cost, charge, expense, obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

20. **THIS COURT ORDERS** that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "Directors' Charge") on the Property, which charge shall not exceed an aggregate amount of \$1 million as security for the indemnity provided in paragraph 19 of this Order. The Directors' Charge shall have the priority set out in paragraph 32 herein.

21. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicants' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 19 of this Order.

## **APPOINTMENT OF MONITOR**

22. **THIS COURT ORDERS** that Deloitte & Touche Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

23. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicants' receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist and advise the Applicants in their development of the Plan or winding down, downsizing and any amendments to the Plan, any restructuring steps taken pursuant to paragraphs 5 and 10 hereof, and the implementation of the Plan;
- (d) advise the Applicants in the preparation of their cash flow statements;

- (e) assist and advise the Applicants, to the extent required by the Applicants, with the negotiations with creditors and the holding and administering of creditors' (or shareholders' meetings) for voting on the Plan;
- (f) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;
- (g) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
- (h) consider, and if deemed advisable by the Monitor, prepare a report as an assessment of the Plan;
- (i) assist the Applicants with their continuing restructuring activities, including the assessment and analysis of any proposed sale of assets or closure of facilities;
- (j) advise and assist the Applicants, as requested, in their negotiations with suppliers, customers and other stakeholders; and
- (k) perform such other duties as are required by this Order or by this Court from time to time.

24. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder,

be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

25. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

26. **THIS COURT ORDERS** that that the Monitor shall provide any creditor of the Applicants with information provided by the Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicants is confidential,

the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.

27. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

28. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Applicants as part of the costs of these proceedings, including completing and implementation of the settlements with the class action plaintiffs. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicants on an hourly basis and, in addition, the Applicants are hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Applicants, retainers in the amounts of \$150,000.00 and \$50,000.00, respectively, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

29. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

30. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, if any, and the Applicants' counsel shall be entitled to the benefit of and are hereby granted a charge (the "Administration Charge") on the Property, which charge shall not exceed an aggregate amount of \$500,000.00, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings, including completing the settlements with the class action plaintiffs. The Administration Charge shall have the priority set out in paragraph 32 hereof.

31. **THIS COURT ORDERS** that Valle Foam Industries (1995) Inc. ("Valle Foam") shall be authorized to advance funds up to, but not exceeding \$1 million to either of A-Z Sponge & Foam Products Ltd. ("A-Z") or Domfoam International Inc. ("Domfoam") to be used for operating purposes of Domfoam or A-Z, as the case may be, provided that i) no such loan shall be advanced without the prior written consent of the Monitor, ii) that any such loan shall be properly documented and subject to such terms, including rates of interest, if any, which the Monitor deems reasonable in the circumstances, and iii) that any such loan shall be secured by way of a general security agreement which shall provide a first in priority charge on the assets of Domfoam subject only to the priority of the charges granted hereunder. The Applicants may, prior to the advance of any funds, attend to seek a further order of this court to grant a specific charge if the Applicants or the Monitor deem it appropriate or necessary to do so.

**VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

32. **THIS COURT ORDERS** that the priorities of the Directors' Charge and the Administration Charge as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$●); 500,000 ✓

Second – Directors’ Charge (to the maximum amount of \$●). 1,000,000 ✓

mt ✓

33. **THIS COURT ORDERS** that the filing, registration or perfection of the Directors’ Charge or the Administration Charge, (collectively, the “Charges”) shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

34. **THIS COURT ORDERS** that each of the Directors’ Charge or the Administration Charge, (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, “Encumbrances”) in favour of any Person.

35. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Directors’ Charge or Administration Charge, unless the Applicants also obtains the prior written consent of the Monitor, and the beneficiaries of the Directors’ Charge and the Administration Charge, or further Order of this Court.

36. **THIS COURT ORDERS** that the Directors’ Charge and the Administration Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the “Chargees”) shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s)

for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "Agreement") which binds any of the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Charges shall not be deemed to constitute a breach by any of the Applicants of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of the creation of the Charges; and
- (c) the payments made by the Applicants pursuant to this Order, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers, settlements at undervalue, oppressive conduct, or other challengeable or void or voidable transactions or reviewable transactions under any applicable law.

37. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicants' interest in such real property leases.

#### **SERVICE AND NOTICE**

38. **THIS COURT ORDERS** that the Monitor shall (i) without delay, publish in ~~the newspapers specified by the Court~~ *the Standard* a notice containing the information



prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicants of more than \$1000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

39. **THIS COURT ORDERS** that the Applicants and the Monitor be at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

40. **THIS COURT ORDERS** that the Applicants, the Monitor, and any party who has filed a Notice of Appearance may serve any court materials in these proceedings by e-mailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, and the Monitor may post a copy of any or all such materials on its website at [www.deloitte.com/ca/vallefoam](http://www.deloitte.com/ca/vallefoam).

**GENERAL**

41. **THIS COURT ORDERS** that the Applicants or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

42. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicants, the Business or the Property.

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

44. **THIS COURT ORDERS** that the Monitor is hereby authorized, as the foreign representative of the Applicants, to apply for recognition of these proceedings as "Foreign Main Proceedings" in the United States pursuant to Chapter 15 of the *U.S. Bankruptcy Code*.


45. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and is 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, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

46. **THIS COURT ORDERS** that any interested party (including the Applicants and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

47. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.

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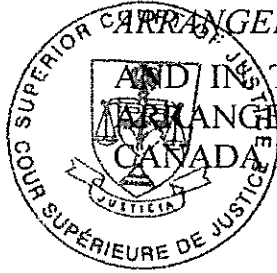
# TAB 4

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

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR. ) FRIDAY, THE 15<sup>th</sup> DAY  
 )  
 JUSTICE BROWN ) OF JUNE, 2012

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  
 (Claims Solicitation Procedure)**

**THIS MOTION**, made by 3113736 Canada Ltd. (formerly Valle Foam Industries (1995) Inc.), 4362063 Canada Ltd. (formerly Domfoam International Inc.) and A-Z Sponge & Foam Products Ltd. (collectively, the “**Applicants**”) for an order approving a procedure for the solicitation of claims against any or all of the Applicants, was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the affidavit of Tony Vallecoccia sworn June 12, 2012, and the Fourth Report of Deloitte & Touche Inc., the Court-appointed monitor (the “**Monitor**”), and on hearing the submissions of counsel to the Applicants, the Monitor, no one appearing for any other person on the service list, although properly served as appears from the affidavit of service, filed:

**SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and Motion Record herein be and is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

**DEFINITIONS**

1. **THIS COURT ORDERS** that for purposes of this Order, in addition to the terms defined elsewhere herein, the following terms shall have the following meanings:

- (a) **“Applicants”** means 3113736 Canada Ltd. (formerly Valle Foam Industries (1995) Inc.), 4362063 Canada Ltd. (formerly Domfoam International Inc.) and A-Z Sponge & Foam Products Ltd.;
- (b) **“Business Day”** means a day, other than a Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Toronto, Ontario;
- (c) **“CCAA”** means the Companies’ Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended;
- (d) **“CCAA Proceeding”** means the proceeding commenced by the Applicants in the Court at Toronto under Court File No. CV-12-9545-00CL;
- (e) **“Claim”** means any Prefiling Claim or Postfiling Claim;
- (f) **“Claims Bar Date”** means 5:00 p.m. (Eastern Standard time) on August 31, 2012, or any later date ordered by the Court;

- (g) **“Claims Solicitation Procedure”** means the procedures outlined in this Order, as they may be amended by further order of the Court, including the Schedules hereto;
- (h) **“Court”** means the Ontario Superior Court of Justice (Commercial List);
- (i) **“Creditor”** means any Person asserting a Claim or a D&O Claim;
- (j) **“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 or before June 15, 2012, and whether enforceable in any civil, administrative or criminal proceedings;
- (k) **“DIP Loan”** means the loan by 3113736 Canada Ltd. (formerly known as Valle Foam Industries (1995) Inc.) to either A-Z Sponge & Foam Products Ltd. or 4362063 Canada Ltd. (formerly known as Domfoam International Inc.) in an amount not exceeding \$1,000,000 as authorized by the Court in the CCAA Proceeding;
- (l) **“Directors and Officers”** means
  - (i) the current and former directors of any of the Applicants; and
  - (ii) the current and former officers of any of the Applicants;
- (m) **“Distribution”** means any distribution within the CCAA Proceeding of the proceeds of the Applicants’ assets;

- (n) **“Excluded Claim”** means (i) any claim secured by any of the Charges as defined in the Initial Order (as defined below); (ii) the DIP Loan; and (iii) any Intercompany Claim (as defined below);
- (o) **“Filing Date”** means January 12, 2012;
- (p) **“Initial Order”** means the Initial Order of the Honourable Mr. Justice Newbould dated January 12, 2012 in the CCAA Proceeding;
- (q) **“Intercompany Claim”** means any claim by any of the Applicants against one or more of the Applicants, whether secured or unsecured but not including the DIP Loan;
- (r) **“Known Creditor”** means any Person, based on the financial or other records of an Applicant as of the Filing Date, who had or may be entitled to assert, a Claim, where monies in respect of such Claim remain unpaid in full or in part, without acknowledging in any respect the validity or existence of any such Claim;
- (s) **“Monitor’s Website”** means <http://www.deloitte.com/ca/vallefoam>;
- (t) **“Notice to Creditors of Claims Bar Date”** means the notice for publication substantially in the form attached as Schedule “A”;
- (u) **“Notice of Dispute”** means a form substantially in accordance with the form attached as Schedule “E”;
- (v) **“Notice of Revision or Disallowance”** means a form substantially in accordance with the form attached as Schedule “D”;
- (w) **“Person”** means any individual, partnership, firm, joint venture, trust, entity, corporation, unincorporated organization, trade union, pension



plan administrator, pension plan regulator, governmental authority or agency, employee or other association, or similar entity, howsoever designated or constituted;

- (x) **“Postfiling Claim”** means any right or claim of any Person, or class of Persons or representative Person, against one or more of the Applicants whether or not asserted, in connection with any indebtedness, liability or obligation of any kind whatsoever of one or more of the Applicants which came into existence after the Filing Date but before the Claims Bar Date, any accrued interest thereon and costs payable in respect thereof, 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;
  
- (y) **“Prefiling Claim”** means any right or claim of any Person, or class of Persons or representative Person, against one or more of the Applicants whether or not asserted, in connection with any indebtedness, liability or obligation of any kind whatsoever of one or more of the Applicants in existence on 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 Applicants become bankrupt on the Filing Date;

- (z) **“Proof of Claim”** means the aggregate of the documentation submitted by a Creditor pursuant to the Claims Solicitation Procedure to evidence its Claim which shall include the Proof of Claim form attached hereto as Schedule “B”;
- (aa) **“Proof of D&O Claim”** means the aggregate of the documentation submitted by a Creditor pursuant to the Claims Solicitation Procedure to evidence its D&O Claim which shall include the Proof of D&O Claim form attached hereto as Schedule “C”;
- (bb) **“Proven Claim”** means a Claim filed by the Claims Bar Date in respect of which the Monitor has not sent a Notice of Revision or Disallowance to the Creditor asserting the Claim and which the Monitor accepts or is deemed to accept for distribution purposes pursuant to the Claims Solicitation Procedure;
- (cc) **“Surviving Claim”** means a Claim to which CCAA subsection 19(2) applies; and
- (dd) **“Surviving D&O Claim”** means a D&O Claim to which CCAA subsection 5.1(2) applies.

### **ADMINISTRATION OF THE CLAIMS SOLICITATION PROCEDURE**

2. **THIS COURT ORDERS** that the Claims Solicitation Procedure shall govern the solicitation of Claims against the Applicants and the D&O Claims against the Directors and Officers of the Applicants and shall be conducted and

administered by the Monitor with the assistance of the Applicants except as otherwise provided for in this Order. No Creditor may participate in the Distribution if such Claim has not been reviewed, accepted and valued in accordance with this Claims Solicitation Process, subject to any further Order of this Court.

3. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA and under the Initial Order, is hereby directed and empowered to administer and implement the Claims Solicitation Procedure on the terms set out in this Order and the Monitor may take any steps and fulfill such other roles as are contemplated by this Order or which it believes are incidental or necessary for the implementation of the Claims Solicitation Procedure. The Monitor may seek advice and directions from the Court in respect of any aspect of the Claims Solicitation Procedure, including any of the Monitor's obligations provided for in this Order.

4. **THIS COURT ORDERS** that the Monitor is authorized and directed to use reasonable discretion as to adequacy of compliance with the Claims Solicitation Procedure and the terms of this Order including, without limitation, with respect to the manner in which a Proof of Claim, Proof of D&O Claim, Notice of Dispute or any other notices or documents are completed and executed and may, where it is satisfied that a Claim or D&O Claim has been adequately filed or, in the case of a Claim, proven, waive strict compliance with the requirements of this Order as to completion, execution and delivery of Proofs of Claim, Proofs of D&O Claim, Notices of Dispute or any other notice or document contemplated by the Claims Solicitation Procedure and request any further documentation the Monitor may require in order to enable it to determine the validity of a Claim; provided that nothing in this Order shall confer upon the Monitor or the Applicants the discretion

or authority to amend or to extend the Claims Bar Date without a further Order of this Court.

5. **THIS COURT ORDERS** that the Monitor shall not have any responsibility or liability with respect to any information, confidential or otherwise, including without limitation, a Proof of Claim, a Proof of D&O Claim, a Notice of Dispute or otherwise, distributed, circulated, or released, whether intentionally or unintentionally, by the Monitor relating to the exercise of its powers and discharge of its obligations under this Order. The Monitor shall be entitled to rely upon the Applicants' advice and the Applicants' books and records for all purposes including establishing the names and addresses of Known Creditors. In addition to the rights and protections afforded to the Monitor under the CCAA and the Initial Order or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the fulfillment of its duties in the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part.

6. **THIS COURT ORDERS** that the Applicants shall advise the Monitor of all Known Creditors, including the amounts owed to all Known Creditors and their last known address pursuant to the Applicants' books and records, and that the Monitor shall be entitled to rely upon the accuracy and completeness of the information provided by the Applicants regarding the Known Creditors. For greater certainty, the Monitor shall have no liability in respect of the information provided to it regarding the Known Creditors and shall not be required to conduct any independent inquiry and/or investigation with respect to such information.

**SOLICITATION OF CLAIMS**

**7. THIS COURT ORDERS that:**

- (a) the Monitor shall cause the Notice to Creditors of Claims Bar Date to be published in each of The Globe and Mail (national edition) and La Presse as soon as practicable after the date of this Order;
- (b) the Monitor shall cause the Notice to Creditors of Claims Bar Date to be posted on the Monitor's Website as soon as practicable after the date of this Order and cause it to remain posted until its discharge as Monitor of the Applicants;
- (c) the Monitor shall, as soon as practicable after the date of this Order, mail to all Known Creditors at the last known address for such Known Creditor on the Applicants' books and records a Notice to Creditors of Claims Bar Date, a Proof of Claim form, a Proof of D&O Claim form substantially in the form attached as Schedules "B" and "C" to this Order and an instruction letter regarding the completion of the Proof of Claim and Proof of D&O Claim forms by a Creditor; and
- (d) the Monitor shall, as soon as practicable following receipt of a request therefor and provided such request is received prior to the Claims Bar Date, deliver a copy of the Proof of Claim or Proof of D&O Claim form as applicable to any Person claiming to be a Creditor and requesting such material, or in the alternative, notify such Person that it may obtain an electronic copy of the Proof of Claim and Proof of D&O Claim forms on the Monitor's Website.

8. **THIS COURT ORDERS** that service and delivery of the Notice to Creditors of Claims Bar Date, Proof of Claim form, Proof of D&O Claim form, the Dispute Notice and any other correspondence or document from the Monitor to any Creditor or any other Person pursuant to the Claims Solicitation Procedure shall be by ordinary mail, prepaid registered mail, courier, personal delivery, electronic communication or facsimile transmission. Any such service and delivery by the Monitor for all purposes under this Order shall be deemed to have been received: (i) if sent by ordinary mail, on the third Business Day after mailing within Ontario, the fifth Business Day after mailing within Canada (other than within Ontario), and the tenth Business Day after mailing internationally; (ii) if sent by prepaid registered mail, on the third Business Day after mailing within Ontario, the fifth Business Day after mailing within Canada (other than within Ontario), and the tenth Business Day after mailing internationally; (iii) if by courier, on the next following Business Day for courier deliveries within Canada, and on the third following Business Day for courier deliveries outside of Canada; (iv) if sent by personal delivery, on the same date as delivery; (v) if sent by electronic communication, on the same date as the electronic communication is sent or, if sent on a day that is not a Business Day or after 5:00 p.m. (Eastern Standard Time) on a Business Day, the following Business Day; and (vi) if sent by fax, on the date on which the Monitor receives a successful facsimile transmission report or, if sent on a day that is not a Business Day or after 5:00 p.m. (Eastern Standard Time) on a Business Day, the following Business Day

9. **THIS COURT ORDERS** that service by the Monitor of the Proof of Claim and Proof of D&O Claim forms on Creditors and publication of the Notice to Creditors of Claims Bar Date in the manner set forth in this Order shall constitute good and sufficient service upon the Creditors of notice of this proceeding, this Order, the Claims Bar Date and the related deadlines and procedures set forth

herein and that no other form of service or notice need be made by the Applicants or the Monitor to any Person, and no other document or material need be served on any Person in respect of the Claims Solicitation Procedure.

10. **THIS COURT ORDERS** that the form and substance of each of the Notice to Creditors of Claims Bar Date, Proof of Claim, Proof of D&O Claim, Notice of Revision or Disallowance and Notice of Dispute, substantially in the forms attached as schedules hereto, are hereby approved. Despite the foregoing, the Applicants and the Monitor may, from time to time, make minor changes to such forms as the Monitor considers necessary or desirable.

11. **THIS COURT ORDERS** that any Person asserting a Claim against one or more of the Applicants or a D&O Claim against one or more of the Directors or Officers shall file a Proof of Claim or a Proof of D&O Claim, as applicable (including all supporting documentation), with the Monitor by no later than the Claims Bar Date.

12. **THIS COURT ORDERS** that any Creditor with a Claim or a D&O Claim who does not deliver a completed Proof of Claim or Proof of D&O Claim, as applicable, to the Monitor in accordance with the Claims Solicitation Procedure by the Claims Bar Date, or such later date as this Court may otherwise order:

- (a) shall be forever barred from asserting or enforcing any Claim (other than a Surviving Claim) against any of the Applicants or a D&O Claim (other than a Surviving D&O Claim) against any of the Director or Officers, and the Applicants or any of them, and the Directors and Officers, or any of them, shall not have any liability whatsoever in respect of such Claim (other than a Surviving Claim) or D&O Claim (other than a Surviving D&O Claim), and any such

Claim (other than a Surviving Claim) or D&O Claim (other than a Surviving D&O Claim) shall be forever barred and extinguished;

- (b) shall not be entitled to any further notice of any Orders made or steps taken in the CCAA Proceeding; and
- (c) shall not be entitled to participate as a Creditor in the CCAA Proceeding and shall not be entitled to receive any funds pursuant to the Distribution.

13. **THIS COURT ORDERS** that Creditors with Excluded Claims shall not be required to file a Proof of Claim in this process, unless required to do so by further Order of this Court.

#### **ADJUDICATION OF CLAIMS**

14. **THIS COURT ORDERS** that there shall be no adjudication of the D&O Claims by the Applicants or the Monitor, pursuant to the Claims Solicitation Procedure Order, pending a further Order of this Court.

15. **THIS COURT ORDERS** the Monitor shall, with the assistance of the Applicants, review all Proofs of Claim (but not any Proofs of D&O Claim) delivered to the Monitor by the Claims Bar Date and shall accept, revise or reject each Claim as submitted therein. If the Monitor disputes a Claim in whole or in part, the Monitor shall by no later than 11:59 p.m. (Eastern Standard Time) on September 21, 2012, send to the Creditor who has submitted the disputed Claim a Notice of Revision or Disallowance indicating the reasons for the revision or disallowance.



16. **THIS COURT ORDERS** that the Monitor may attempt to resolve any disputed Claim with the Creditor prior to accepting, revising or disallowing such Claim.

17. **THIS COURT ORDERS** that any Claim received by the Claims Bar Date in respect of which the Monitor does not send a Notice of Revision or Disallowance by the deadline date referenced above shall be deemed a Proven Claim.

### **DISPUTE NOTICES**

18. **THIS COURT ORDERS** that any Creditor who receives a Notice of Revision or Disallowance and who objects to the amount of the Claim set out in or any other provision of the Notice of Revision or Disallowance shall deliver to the Monitor on or before 5:00 p.m. (Eastern Standard Time) on October 5, 2012 a Notice of Dispute by registered mail, courier service or facsimile.

19. **THIS COURT ORDERS** that if a Creditor receives a Notice of Revision or Disallowance and does not file a Notice of Dispute by the time set out in paragraph 18 above, then the value of such Creditor's Claim shall be deemed to be as set out in the Notice of Revision or Disallowance.

20. **THIS COURT ORDERS** that any Creditor who delivers a Notice of Dispute to the Monitor by the time set out in paragraph 18 above shall, unless otherwise agreed by the Monitor in writing, thereafter serve on the Monitor and the Applicants a notice of motion in the Court returnable not less 30 days after the service of the Notice of Dispute for determination of the Claim in dispute, failing which the value of such Creditor's Claim shall be deemed to be as set out in the applicable Notice of Revision or Disallowance.

**SET-OFF**

21. **THIS COURT ORDERS** that the Applicants may set-off (whether by way of legal, equitable or contractual set-off) against payments or other distributions to be made to any Creditor in respect of its Proven Claim, any claims of any nature whatsoever that any of the Applicants may have against such Creditor, however, neither the failure to do so nor the allowance of any Claim as a Proven Claim hereunder shall constitute a waiver or release by the Applicants of any such claim that the Applicants may have against such Creditor.

**DISTRIBUTIONS**

22. **THIS COURT ORDERS** that the Monitor and the Applicants shall not distribute any funds to Creditors holding Proven Claims prior to the approval by this Court of a distribution methodology to be proposed by the Monitor and/or the Applicants in a subsequent motion to this Court.

**NOTICE OF TRANSFEREES**

23. **THIS COURT ORDERS** that if, after the Filing Date, the holder of a Claim or D&O Claim transfers or assigns the whole of such Claim or D&O Claim to another Person, neither the Monitor nor the relevant Applicant shall be obligated to give notice or otherwise deal with the transferee or assignee of such Claim or D&O Claim in respect thereof unless and until actual notice of transfer or assignment, together with satisfactory evidence of such transfer or assignment, shall have been received and acknowledged by the relevant Applicant and the Monitor in writing and thereafter such transferee or assignee shall for the purposes hereof constitute the "Creditor" in respect of such Claim or D&O Claim. Any such transferee or assignee of a Claim or D&O Claim shall be bound by any notices given or steps taken in respect of such Claim or D&O Claim in accordance with

this Order prior to receipt and acknowledgment by the relevant Applicant and the Monitor of satisfactory evidence of such transfer or assignment. A transferee or assignee of a Claim or D&O Claim takes the Claim or D&O Claim subject to any rights of set-off to which the Applicants or the Directors and Officers may be entitled with respect to such Claim or D&O Claim respectively. For greater certainty, a transferee or assignee of a Claim or D&O Claim is not entitled to set-off, apply, merge, consolidate or combine any Claims or D&O Claims assigned or transferred to it against or on account or in reduction of any amounts owing by such Person to any of the Applicants or the Directors and Officers. Reference to transfer in this Order includes a transfer or assignment whether absolute or intended as security.

#### **GENERAL PROVISIONS**

24. **THIS COURT ORDERS** that any Creditor who submits a Proof of Claim or Proof of D&O Claim authorizes the Monitor to post the information contained therein to the Monitor's Website and that the Monitor shall have no liability for the information submitted other than as a result of gross negligence or wilful misconduct.

25. **THIS COURT ORDERS** that for the purposes of the Claims Solicitation Procedure, all Claims or D&O Claims which are denominated in United States dollars shall (i) in the case of Prefiling Claims or D&O Claims, be converted to Canadian dollars at the rate of 1.0198%, being the Bank of Canada noon spot rate of exchange for exchanging US dollars to Canadian dollars on the Filing Date; and (ii) in the case of Postfiling Claims, be converted to Canadian dollars at the Bank of Canada noon spot rate of exchange for exchanging US dollars to Canadian dollars on the date of the applicable Proof of Claim.

26. **THIS COURT ORDERS** that any document, notice or communication required to be filed with the Monitor by a Creditor pursuant to the terms of this Order must be delivered by facsimile, email or electronic transmission, personal delivery, courier or prepaid mail to:

**Deloitte & Touche Inc.**

181 Bay Street West  
Suite 1400  
Toronto, Ontario  
M5J 2V1

**Attention: Catherine Hristow**

Telephone: (416) 775-8831  
Facsimile: (416) 601-6690  
E-mail: [christow@deloitte.ca](mailto:christow@deloitte.ca)

27. **THIS COURT ORDERS** that in the event that the day on which any notice or communication required to be delivered pursuant to the Claims Solicitation Procedure is not a Business Day then such notice or communication shall be required to be delivered on the next Business Day.

28. **THIS COURT ORDERS** that references to the singular include the plural and to the plural include the singular.

29. **THIS COURT ORDERS** that in the event of any strike, lock-out or other event which interrupts postal service in any part of Canada, all notices and communications during such interruption may only be delivered by email, facsimile transmission, personal delivery or courier and any notice or other communication given or made by prepaid mail within the seven (7) Business Day period immediately preceding the commencement of such interruption, unless actually received, shall be deemed not to have been delivered. All such notices and communications shall be deemed to have been received, in the case of notice

by email, facsimile transmission, personal delivery or courier prior to 5:00 p.m. (Eastern standard Time) on a Business Day, when received, if received after 5:00 p.m. (Eastern Standard Time) on a Business Day or at any time on a non-Business Day, on the next following Business Day, and in the case of a notice mailed as aforesaid, on the fourth Business Day following the date on which such notice or other communication is mailed.

30. **THIS COURT ORDERS AND REQUESTS** the aid and recognition of any court or any judicial, regulatory or administrative body in any province or territory of Canada and the Federal Court of Canada and any judicial, regulatory or administrative tribunal or other court or any judicial, regulatory or administrative body of the United States and the States or other subdivisions of the United States and of any nation or state to act in aid of and be complimentary to this Court in carrying out the terms of this Claims Solicitation Procedure Order.

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ON / BOOK NO:  
LE / DANS LE REGISTRE NO..



JUN 15 2012

## SCHEDULE "A"

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")

NOTICE OF CLAIMS SOLICITATION PROCEDURE AND

CLAIMS BAR DATE REGARDING:

3113736 CANADA LTD. (FORMERLY VALLE FOAM  
INDUSTRIES (1995) INC.,  
4362063 CANADA LTD. (FORMERLY DOMFOAM  
INTERNATIONAL INC.) AND  
A-Z SPONGE & FOAM PRODUCTS LTD.

By Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated January 12, 2012 (the "Initial Order"), the Applicants listed above filed for and obtained relief from their creditors under the *Companies Creditors' Arrangement Act* (the "CCAA"). Pursuant to the Initial Order, Deloitte & Touche Inc. was appointed by the Court as monitor in the Applicants' CCAA proceeding (the "Monitor").

By Order of the Court dated June 15, 2012 (the "Claims Solicitation Procedure Order"), a process was established for creditors to prove claims against the Applicants in existence as at the date of the Initial Order or with respect to Postfiling Claims (as defined below) or with respect to claims against the current or former Directors and Officers of the Applicants which arose on or before June 15, 2012. Capitalized terms in this notice are as defined in the Claims Solicitation

Procedure Order, a copy of which can be found on the Monitor's Website: <http://www.deloitte.com/ca/vallefoam>.

In accordance with the Claims Solicitation Procedure Order, the Monitor shall mail to all known creditors ("**Known Creditors**") of the Applicants a Proof of Claim form together with this notice. Any Creditor who does not receive a Proof of Claim form may obtain this form on the Monitor's Website, <http://www.deloitte.com/ca/vallefoam> or by contacting the Monitor directly as follows: (i) by email: [christow@deloitte.ca](mailto:christow@deloitte.ca); (ii) by mail at Deloitte & Touche Inc., 181 Bay Street West, Suite 1400, Toronto, Ontario, M5J 2V1, attention: Catherine Hristow; or (iii) by facsimile at (416) 601-6690.

In accordance with the Claims Solicitation Procedure Order, any Person or representative class of Persons who wishes to assert a claim against one of more of the Applicants (each, a "**Claim**") which arose (i) at any time up to January 12, 2012; (ii) at any time after January 12, 2012 (a "**Postfiling Claim**") must complete and deliver the Proof of Claim form to the Monitor by mail, fax, e-mail, courier or hand delivery by **no later than 5:00 p.m. (Eastern Standard Time) on August 31, 2012** or such other date as ordered by the Court (the "**Claims Bar Date**").

In accordance with the Claims Solicitation Procedure, any Person or representative class of Persons who wishes to assert a claim against one of more of the current or former Directors and Officers of the Applicants which arose on or before June 15, 2012 (each, a "**D&O Claim**") must complete and deliver the Proof of D&O Claim form to the Monitor by mail, fax, e-mail, courier or hand delivery by **no later than the Claims Bar Date**.

**IF YOUR PROOF OF CLAIM OR PROOF OF D&O CLAIM IS NOT RECEIVED BY THE MONITOR BY THE CLAIMS BAR DATE, YOUR CLAIM AGAINST THE APPLICANTS OR THE OFFICERS AND DIRECTORS WILL BE BARRED AND EXTINGUISHED FOREVER.**

A Proof of Claim which is disputed by the Monitor will be addressed in the manner set out in the Claims Solicitation Procedure Order.

**Address of the Monitor:**

**Deloitte & Touche Inc.**  
181 Bay Street West  
Suite 1400  
Toronto, Ontario  
M5J 2V1

**Attention: Catherine Hristow**  
Telephone: (416) 775-8831  
Facsimile: (416) 601-6690  
E-mail: [christow@deloitte.ca](mailto:christow@deloitte.ca)

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

#1900657



**SCHEDULE "B"**

<b>DELOITTE &amp; TOUCHE INC., solely in its capacity as the Court-appointed Monitor of the Applicants, and without personal or corporate liability</b> • • • Telephone: (416) 775-8831 Telecopier: (416) 601-6690 Email: christow@deloitte.ca		OFFICE USE ONLY
		_____
		_____
		Date Received _____

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")

**PROOF OF CLAIM**

**I. DESCRIPTION OF DEBTOR, CREDITOR AND NATURE OF CLAIM**

Name of entity against which claim is being made: *(Check appropriate box in following list. If claims are being made against more than one entity, use a separate Proof of Claim form for each entity.)*

- 3113736 Canada Ltd. (formerly known as Valle Foam Industries (1995) Inc.)
- 4362063 Canada Ltd. (formerly known as Domfoam International Inc.)
- A-Z Sponge & Foam Products Ltd.

(hereinafter the "**Debtor**")

Name of person asserting a claim against the Debtor: \_\_\_\_\_  
(hereinafter the "**Creditor**")

Individual:  Corporation:  Other:  Specify: \_\_\_\_\_

If individual, Creditor's Social Insurance Number: \_\_\_\_\_

If corporation, Business Identification Number: \_\_\_\_\_

Address of Creditor: \_\_\_\_\_

Telephone number of Creditor:

E-mail address of Creditor:

Fax number of Creditor:

I, \_\_\_\_\_, of \_\_\_\_\_, do hereby certify:  
 \_\_\_\_\_  
 (Name) (City and province)

1. That I am a Creditor of the Debtor

or that I am \_\_\_\_\_ of \_\_\_\_\_  
 (State position or title) (Name of Creditor)

a Creditor of the Debtor.

2. That I have knowledge of all the circumstances connected with the claim referred to in this form.

3. (Check and complete appropriate category:)

That, as at January 12, 2012, the Creditor had and still has an **unsecured claim** against the Debtor in the sum of CAD\$ \_\_\_\_\_, as shown by the statement (or affidavit or solemn declaration) attached hereto and marked **Annex "A"**, after deducting any counterclaims to which the Debtor may be entitled. (Claims in US dollars should be converted to Canadian dollars at the rate of [insert], being the Bank of Canada noon spot rate of exchange for exchanging US dollars to Canadian dollars on January 12, 2012. The attached statement, affidavit or solemn declaration must specify and attach the evidence in support of the claim.) (Give full particulars of the claim with all necessary supporting documentation.)

That, as at the date hereof, the Creditor has an **unsecured claim** against the Debtor which arose after January 12, 2012 in the sum of CAD\$ \_\_\_\_\_, as shown by the statement (or affidavit or solemn declaration) attached hereto and marked **Annex "A"**, after deducting any counterclaims to which the Debtor may be entitled. (Claims in US dollars should be converted to Canadian dollars at the Bank of Canada noon spot rate of exchange for exchanging US dollars to Canadian dollars as of the date hereof. The attached statement, affidavit or solemn declaration must specify and attach the evidence in support of the claim.) (Give full particulars of the claim with all necessary supporting documentation.)

-or-

That, as at January 12, 2012, the Creditor had and still has a **secured claim** against the Debtor in the sum of CAD\$ \_\_\_\_\_, as shown by the statement (or affidavit or solemn

declaration) attached hereto and marked **Annex "A"**, after deducting any counterclaims to which the Debtor may be entitled. *(The attached statement, affidavit or solemn declaration must specify and attach the evidence in support of the claim and the security held in respect of the claim, including copies of all security.) (Give full particulars of the claim and security with all necessary supporting documentation.)*

- 4. That to the best of my knowledge and belief, I am (or the above-named Creditor is) (or am not or is not) related to the Debtor within the meaning of section 4 of the *Bankruptcy and Insolvency Act*.

**II. ATTESTATION**

I hereby attest that, to the best of my knowledge, the information in this document is and any and all annexes hereto are truthful and accurate in all material respects.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
*(Signature of Creditor)*

\_\_\_\_\_  
*(Signature of witness)*

\_\_\_\_\_  
*(Name of Creditor in block letters)*

\_\_\_\_\_  
*(Name of witness in block letters)*

\_\_\_\_\_  
*(Address of witness in block letters)*

**ANNEX "A"**  
**DETAILS OF CLAIM**

**SCHEDULE "C"**

<b>DELOITTE &amp; TOUCHE INC., solely in its capacity as the Court-appointed Monitor of the Applicants, and without personal or corporate liability</b> ● ● ● Telephone: (416) 775-8831 Telecopier: (416) 601-6690 Email: christow@deloitte.ca		<b>OFFICE USE ONLY</b>
		_____
		_____
		Date Received _____

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")

**PROOF OF D&O CLAIM**

**III. DESCRIPTION OF DEBTOR, CREDITOR AND NATURE OF D&O CLAIM**

Name of entity against which claim is being made: *(Check appropriate box in following list. If claims are being made against more than one entity, use a separate Proof of Claim form for each entity.)*

- Director or Officer of 3113736 Canada Ltd. (formerly known as Valle Foam Industries (1995) Inc.)
- Director or Officer of 4362063 Canada Ltd. (formerly known as Domfoam International Inc.)
- Director or Officer of A-Z Sponge & Foam Products Ltd.

(hereinafter the "**Debtor**")

Name of person asserting a claim against the Debtor: \_\_\_\_\_  
(hereinafter the "**Creditor**")

Individual:  Corporation:  Other:  Specify: \_\_\_\_\_

If individual, Creditor's Social Insurance Number: \_\_\_\_\_

If corporation, Business Identification Number: \_\_\_\_\_

Address of Creditor: \_\_\_\_\_

Telephone number of Creditor: \_\_\_\_\_  
 E-mail address of Creditor: \_\_\_\_\_  
 Fax number of Creditor: \_\_\_\_\_

I, \_\_\_\_\_, of \_\_\_\_\_, do hereby certify:  
 \_\_\_\_\_  
 (Name) (City and province)

1. That I am a Creditor of the Debtor  
 or that I am \_\_\_\_\_ of \_\_\_\_\_  
 (State position or title) (Name of Creditor)  
 a Creditor of the Debtor.

2. That I have knowledge of all the circumstances connected with the claim referred to in this form.

3. (Check and complete appropriate category:)  
 That, as at June 15, 2012, the Creditor had and still has an **unsecured claim** against the Debtor in the sum of CAD\$ \_\_\_\_\_, as shown by the statement (or affidavit or solemn declaration) attached hereto and marked **Annex "A"**, after deducting any counterclaims to which the Debtor may be entitled. (Claims in US dollars should be converted to Canadian dollars at the rate of 1.0198%, being the Bank of Canada noon spot rate of exchange for exchanging US dollars to Canadian dollars on January 12, 2012. The attached statement, affidavit or solemn declaration must specify and attach the evidence in support of the claim.) (Give full particulars of the claim with all necessary supporting documentation.)

4. That to the best of my knowledge and belief, I am (or the above-named Creditor is) (or am not or is not) related to the Debtor within the meaning of section 4 of the *Bankruptcy and Insolvency Act*.

**IV. ATTESTATION**

I hereby attest that, to the best of my knowledge, the information in this document is and any and all annexes hereto are truthful and accurate in all material respects.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
*(Signature of Creditor)*

\_\_\_\_\_  
*(Name of Creditor in block letters)*

\_\_\_\_\_  
*(Signature of witness)*

\_\_\_\_\_  
*(Name of witness in block letters)*

\_\_\_\_\_  
*(Address of witness in block letters)*

**ANNEX "A"**  
**DETAILS OF CLAIM**



**SCHEDULE "D"**

**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")**

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**NOTICE OF REVISION OR DISALLOWANCE**

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**TO: [INSERT NAME AND ADDRESS OF CREDITOR]**

The Monitor has disallowed in full or in part your Claim as set out in your Proof of Claim, as set out below:

**Prefiling Claim:**

<b>Claim Against</b>	<b>Claim per Proof of Claim</b>	<b>Allowed Amount</b>	<b>Disallowed Amount</b>
	\$	\$	\$
<b>Total</b>	\$	\$	\$

**Postfiling Claim:**

<b>Claim Against</b>	<b>Claim per Proof of Claim</b>	<b>Allowed Amount</b>	<b>Disallowed Amount</b>
	\$	\$	\$
<b>Total</b>	\$	\$	\$

**REASONS FOR DISALLOWANCE:**


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**IF YOU INTEND TO DISPUTE THIS NOTICE OF REVISION OR DISALLOWANCE:**

You must, no later than **5:00 p.m. (Toronto Time)** on **September 21, 2012**, deliver to the Monitor a Notice of Dispute of Revision or Disallowance (a copy of which can be found on the Monitor's Website at <http://www.deloitte.com/ca/vallefoam>) in accordance with the Claims Solicitation Procedure Order to the following address, email, or facsimile:

**Deloitte & Touche Inc.**

181 Bay Street West

Suite 1400

Toronto, Ontario

M5J 2V1

**Attention: Catherine Hristow**

Telephone: (416) 775-8831

Facsimile: (416) 601-6690

E-mail: [christow@deloitte.ca](mailto:christow@deloitte.ca)

DATE:

#1900657

**SCHEDULE "E"**

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")

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**NOTICE OF DISPUTE OF REVISION OR DISALLOWANCE**


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**1. PARTICULARS OF CREDITOR:**

(a) Full Legal Name of Creditor: \_\_\_\_\_

(b) Full Mailing Address of Creditor: \_\_\_\_\_

(c) \*Telephone Number of Creditor: \_\_\_\_\_

(d) \*Facsimile Number of Creditor: \_\_\_\_\_

(e) \*E-mail Address of Creditor: \_\_\_\_\_

(f) Attention (Contact Person): \_\_\_\_\_

**\*In order to ensure that all Claims are processed in an expedited manner you must provide one (1) or more of your telephone number, fax number or e-mail address.**

**2. PARTICULARS OF ORIGINAL CREDITOR FROM WHOM YOU ACQUIRED CLAIM, IF APPLICABLE:**

(a) Have you acquired this Claim by Assignment? Yes  No   
(if yes, attach document evidencing assignment)

(b) Full Legal Name of original Creditor(s): \_\_\_\_\_

**3. DISPUTE OF REVISION OR DISALLOWANCE OF CLAIM FOR VOTING AND/OR DISTRIBUTION PURPOSES:**

We hereby disagree with the value of our Claim set out in the Notice of Revision or Disallowance dated \_\_\_\_\_, as set out below:

**Claim:**

<b>Claim Against</b>	<b>Claim per Proof of Claim</b>	<b>Allowed Amount</b>	<b>Disallowed Amount</b>
	\$	\$	\$
<b>Total Claims</b>			

**REASONS FOR DISPUTE:**

*(Provide full particulars of the Claim and supporting documentation, including amount, description of transaction (s) or agreement(s) giving rise to the Claim, name of any guarantor(s) that has guaranteed the Claim, and amount of Claim allocated thereto, date and number of all invoices, particulars of all credits, discounts, etc. claimed.)*

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If you intend to dispute a Notice of Revision or Disallowance, you must, no later than **5:00 p.m. (Toronto Time) on October 5, 2012** deliver to the Monitor a Notice of Dispute of Revision or Disallowance in accordance with the Claims Solicitation Procedure Order to the following address, email or facsimile:

**Deloitte & Touche Inc.**  
181 Bay Street West  
Suite 1400  
Toronto, Ontario  
M5J 2V1

**Attention: Catherine Hristow**  
Telephone: (416) 775-8831  
Facsimile: (416) 601-6690  
E-mail: christow@deloitte.ca

If you do not deliver a Notice of Dispute of Revision or Disallowance by the time and date set out above, as applicable, the value of your Claim shall be deemed to be as set out in the Monitor's Notice of Revision or Disallowance.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Per: \_\_\_\_\_

#1900657

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.

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

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**  
Proceeding commenced at TORONTO

**ORDER**  
**(Claims Solicitation Procedure)**

**MINDEN GROSS LLP**  
145 King Street West, Suite 2200  
Toronto ON M5H 4G2

**Raymond M. Slattery** (LSUC #20479L)  
416-369-4149  
[rslattery@mindengross.com](mailto:rslattery@mindengross.com)

**David T. Ullmann** (LSUC #423571)  
416-369-4148  
[dullmann@mindengross.com](mailto:dullmann@mindengross.com)

**Sepideh Nassabi** (LSUC #60139B)  
416-369-4323  
[snassabi@mindengross.com](mailto:snassabi@mindengross.com)  
416-864-9223 fax

Lawyers for the Applicants



# TAB 5

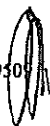


5. **THIS COURT ORDERS** that the Applicants are hereby authorized and directed to pay the fees and disbursements of the Monitor and of its legal counsel and agents in the amounts set out in the Report.

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 to 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 be 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.

ENTERED AT / INSCRIT A TORONTO  
ON / BOOK NO.  
LE / DANS LE REGISTRE NO.:



OCT 25 2012

#1953361 | 4079309



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.

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

**ONTARIO**

**SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at TORONTO

**ORDER  
(Extension Order)**

**MINDEN GROSS LLP**

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

**Raymond M. Slattery** (LSUC #20479L)

416-369-4149

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416-864-9223 fax

Lawyers for the Applicants

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED  
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Court File No. CV-12-9545-00CL

**ONTARIO**

**SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at TORONTO

**MOTION RECORD OF THE APPLICANTS  
(returnable February 28, 2013)  
(re Extension of Stay Period)**

**MINDEN GROSS LLP**

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

**Raymond M. Slattery** (LSUC #20479L)  
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