

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No.: 500-11-057679-199

SUPERIOR COURT
Commercial Division

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

INVESTISSEMENT QUÉBEC

Applicant / Secured Creditor

- and -

FIERA PRIVATE DEBT INC.

Impleaded Party

- and -

FORTRESS GLOBAL ENTERPRISES INC.

- and -

FORTRESS SPECIALTY CELLULOSE INC.

- and -

FORTRESS BIOENERGY LTD.

- and -

FORTRESS XYLITOL INC.

- and -

9217-6536 QUÉBEC INC.

Debtors

- and -

DELOITTE RESTRUCTURING INC.

Monitor

APPLICATION FOR THE ISSUANCE OF AN ORDER
EXTENDING THE STAY PERIOD &
APPROVING A SIXTH AMENDING AGREEMENT TO THE INTERIM FINANCING
AGREEMENT
(Sections 11.02(2) & 11.2 of the *Companies' Creditors Arrangement Act*)

TO THE HONOURABLE MARIE-ANNE PAQUETTE OF THE SUPERIOR COURT, SITTING IN COMMERCIAL DIVISION, IN AND FOR THE JUDICIAL DISTRICT OF MONTREAL, THE APPLICANT, INVESTISSEMENT QUÉBEC, RESPECTFULLY SUBMITS THE FOLLOWING:

1. ORDER SOUGHT

1. The Applicant, Investissement Québec ("**IQ**") in its capacity as interim lender and secured creditor of the Debtors, hereby seeks the issuance of an order substantially in the form of the draft order communicated herewith as **Exhibit R-1**:
 - (a) extending the Stay Period (as defined below) until April 28, 2023;
 - (b) approving a Sixth Amending Agreement (the "**Sixth Amending Agreement**") to the Interim Financing Agreement (as defined below) previously approved by this court, a copy of which is communicated herewith as **Exhibit R-2**, and increasing the total amount of the Interim Lender Charge (as defined below) accordingly; and
 - (c) approving the activities of the Monitor (as defined below) as described in its Eighteenth report to this Court.

2. PROCEDURAL BACKGROUND

2. On December 13, 2019, IQ and Fiera Private Debt Inc. ("**Fiera**"), in their capacity as principal secured creditors of the Debtors, filed a joint application in respect of the Debtors pursuant to the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the "**CCAA**"), entitled *Application for the Issuance of a First Day Initial Order, an Amended and Restated Initial Order, a Receivership Order and a Claims Process Order* (the "**Initial Application**").
3. On December 16, 2019, the Initial Application filed by IQ and Fiera was partially granted by the Honourable Marie-Anne Paquette, j.c.s., who rendered, on the same day, a first day initial order (the "**First Day Order**"), pursuant to which, *inter alia*:
 - (a) Deloitte Restructuring Inc. ("**Deloitte**") was appointed as monitor of the Debtors (in such capacity, the "**Monitor**");
 - (b) all claims against the Debtors, their properties and their directors and officers were stayed (the "**Stay**") until December 26, 2019 (the "**Stay Period**"); and
 - (c) the Debtors were authorized to borrow from IQ an amount of up to \$1,000,000 on the terms and conditions of the Interim Financing Term Sheet (the "**Interim Financing Term Sheet**"), which was to be secured by a super-priority charge and security over all of the assets of each of the Debtors in the aggregate amount of \$1,200,000 (the "**Interim Lender Charge**").

4. On December 16, 2019, the Court also rendered an order appointing Deloitte as receiver to the Debtors for the sole purpose of allowing their respective employees from benefiting from those payments provided under the *Wage Earner Protection Program Act* (S.C. 2005, c. 47, s. 1).
5. On December 19, 2020, IQ and Fiera filed a motion requesting the issuance of an Amended First Day Order which was granted on December 26, 2020, as appears from the Court record, and which provided for, *inter alia*:
 - (a) an extension of the Stay Period until January 10, 2020;
 - (b) the authorization for the Debtors to borrow from IQ an amount of up to \$1,500,000 under the terms and conditions set forth in the Interim Financing Agreement, to be secured by an Interim Lender Charge of \$1,800,000; and
 - (c) the authorization for the Debtors (with the prior approval of the Monitor), or the Monitor (on behalf of the Debtors), to pay amounts owing for goods or services actually supplied to the Debtors either prior to or after the date of this Order up to a maximum of \$250,000, to the extent that, in the opinion of the Monitor, the supplier was essential to the business and ongoing operations of the Debtors.
6. On January 10, 2020, the Court granted the Initial Application filed by IQ and Fiera in its entirety, and rendered, as appears from the Court record:
 - (a) an Amended and Restated Initial Order which provided, *inter alia*:
 - (i) an extension of the Stay Period until May 2, 2020; and
 - (ii) the authorization for the Debtors to borrow from IQ an amount of up to \$6,000,000 under the terms and conditions set forth in the Interim Financing Agreement, to be secured by an Interim Lender Charge of \$7,200,000; and
 - (iii) an increase in the Monitor's powers, including the powers to conduct and control the financial affairs and operations of the Debtors, and carry on the business of the Debtors;
 - (b) a Claims Procedure Order which established a "*Claims Bar Date*" of March 16, 2020 (except for restructuring claims).
7. Since then, the Court has rendered several other orders, including:
 - a) orders extending the Stay Period (which is currently set to expire on November 25, 2022); and
 - b) orders approving a First Amending Agreement, a Second Amending Agreement, a Third Amending Agreement, a Fourth Amending Agreement and a Fifth Amending Agreement to the Interim Financing Term Sheet, providing for an increase to the Facility Amount (as defined in the Interim Financing Agreement) to

a total amount of \$30,800,000, and a corresponding increase to the Interim Lender Charge to a total amount of \$36,960,000.

3. SUMMARY OF THE DEBTORS' RESTRUCTURING EFFORTS TO DATE

B. The Pre-Filing Solicitation Efforts

8. As previously discussed in IQ and Fiera's Initial Application, between August and November 2019 (i.e. prior to the issuance of the Initial Order), a sale and investment solicitation process had been conducted by the Debtors with the assistance of its then financial advisor (and in consultation with IQ and Deloitte).
9. Despite these efforts, no offer or indication of interest or other proposal had been submitted to the Debtors at that time.

C. The Post-Filing Solicitation Efforts

10. Since the commencement of these CCAA proceedings, the Debtors and the Monitor, in consultation with IQ and Fiera, have had discussions with various parties on an informal basis regarding a potential transaction which could allow the continuation of the Debtors' operations.
11. On September 3, 2020, the Monitor received an offer from one of these parties for the acquisition of the Cogeneration Facility which was shared with IQ and Fiera and subsequently refused. The Monitor has also received a draft letter of intention for the same facility, which was also shared with IQ and Fiera, and subsequently refused.
12. In 2021, the Debtors and the Monitor continued to have active discussions with various interested parties with a view of securing a binding offer with a party willing to continue the operations of the Debtors as a going concern.
13. Despite these continued efforts, no such binding offer was agreed upon.

D. The August 2021 SISP

14. In late July of 2021, the Monitor met with the respective representatives and counsel of IQ and Fiera to discuss the status of this file as well as the next steps.
15. During such meeting and in the discussions which followed such meeting, it was agreed that given the advantageous market price of dissolving pulp, it would be appropriate at that time to establish a formal deadline for the submission of letters of intent as well as the terms and conditions in connection with the process for the acquisition of the Debtors' business and assets (the "**SISP**").
16. As part of the SISP, the Monitor would communicate with a variety of potentially interested parties, including parties that had previously manifested some interest in acquiring the Debtors' business and assets, parties potentially interested in a going concern transaction and parties potentially interested in submitting liquidation offers whereby the Debtors' assets would be decommissioned and dismantled.

17. Accordingly, the Monitor, in consultation with IQ and Fiera, prepared a list of twenty-two (22) potentially interested parties to whom the Monitor would reach out to.
18. On August 4, 2021, the Monitor sent to the above parties solicitation materials and advised them that offers should be submitted to the Monitor by no later than September 15, 2021 (the “**Bid Deadline**”).
19. Several offers (the “**Offers**”) from various parties (collectively, the “**Bidders**”) were received by the Bid Deadline. These included going concern offers from strategic parties as well as liquidation bids.
20. On September 17, 2021, the Monitor presented a summary of the Offers to IQ and Fiera.
21. Since several of the Offers contained conditions relating to IQ and the Québec government (including requests for financial support), IQ, together with the Monitor, proceeded with a detailed review of each and every one of these Offers in order to assess their respective viability and to evaluate and quantify the various conditions set out thereunder, in order to ultimately determine whether or not a transaction could be successfully negotiated and implemented.
22. At that time, given the nature of these conditions, IQ expected that the completion of such transaction (if possible) could take several months.
23. In late 2021, IQ and the Monitor determined that it would be appropriate to focus their discussions with one of the Bidders (the “**Original Potential Purchaser**”) and to evaluate such Original Potential Purchaser’s ability to implement a project involving the restart of Fortress’ Pulp Mill and Cogeneration Facility (the “**Original Proposed Project**”).
24. As such, discussions and meetings have been held between, *inter alia*, this Original Potential Purchaser, the Monitor, IQ as well as other governmental entities to clarify its offer, negotiate certain improvements to same and ultimately discuss the path going forward in order to properly assess the Original Potential Purchaser’s Original Proposed Project and determine how such project could be implemented.
25. In this context, the parties namely discussed the terms and conditions which would be required to be met in order to complete a transaction and implement the Original Proposed Project.
26. In addition to discussing the financial terms of such transaction and the manner in which the Original Proposed Project could be implemented, the Original Potential Purchaser, IQ and the Monitor have also discussed the engagement by the Monitor of a third-party consultant which would proceed with an in-depth review of such the Original Proposed Project and conduct feasibility studies relating to same (in order to validate the viability and the technical and financial feasibility of the Original Proposed Project), identify the areas of risks relating to same and obtain such third-party consultant’s recommendations. All parties agreed at that time that the preparation of a feasibility report by such third-party consultant constituted a critical step in moving forward with any transaction with the Original Potential Purchaser.

27. Unfortunately, and despite the significant efforts from all parties involved, it became clear that certain conditions relating to the Original Proposed Project and the required participation from the Quebec government in such project would not be met.
28. Accordingly, by the end of March 2022, the Quebec government notified the Original Potential Purchaser that it would not be in a position to pursue a transaction with such party in connection with the Original Proposed Project.

E. The Current Discussions With Potential Purchasers

29. Despite the above set-back, Fortress, together with the support of the Quebec government, and the assistance of the Monitor, has continued to discuss with other parties other potential transactions and projects involving the acquisition of Fortress' assets.
30. In this context, discussions and meetings have continued to be held between, on the one hand, Fortress, the Monitor and the Quebec government, and, on the other hand, certain parties that had previously shown interest in potentially implementing a transaction in connection with Fortress' assets, as well as additional new parties.
31. On September 30, 2022, Fortress and the Monitor received a non-binding letter of intent, together with a business plan, from a party potentially interested in acquiring the business and assets of Fortress.
32. IQ, together with the various branches of the Quebec government, are continuing to analyze the aforementioned letter of intent, as well as other projects proposed by other potentially interested parties.
33. Such analysis remains ongoing, due to the complexity of the proposals submitted to IQ and the Quebec government, and the need to consult with various branches of the Quebec government, such as the *Ministère de l'Économie, de l'Innovation et de l'Énergie*, the *Ministère des Affaires municipales et de l'Habitation*, the *Ministère des Forêts, de la Faune et des Parcs du Québec* and the Municipality of Thurso.
34. In the meantime, the Monitor intends to maintain Fortress' activities to a minimum, until a decision is taken by IQ and the Quebec government with respect to Fortress' operations and assets.

F. The Implementation of the "Cold Idle Plus Scenario"

35. Since the issuance of the Amended and Restated Initial Order, the Monitor, in accordance with the powers granted to it by the Court, worked with the Debtors, in consultation with IQ, to reduce their operations to a bare minimum in order to minimize their operating costs, until the demand for pulp and related products increased in the global market.
36. In this context, it was decided that:
 - (a) Fortress Specialty Cellulose Inc.'s ("**Fortress Specialty**") specialty cellulose mill located in Thurso, Québec (the "**Pulp Mill**") would be idled indefinitely so as to minimize operating costs while market conditions improved; and

- (b) Fortress Bioenergy Ltd.'s ("**Fortress Bioenergy**", together with Fortress Specialty, "**Fortress**") cogeneration facility (the "**Cogeneration Facility**") would continue to operate, but at a substantially reduced production rate.
37. On March 24, 2020, the Quebec Government issued a decree ordering the closure of all non-essential businesses in Quebec which prompted the temporary shutdown of the Cogeneration Facility, which was intended to take place, in any event, a few weeks later given low demand for electricity and the fact that the Pulp Mill would not require to be heated during the spring and summer months.
38. As non-essential businesses gradually reopened and the market price for dissolving pulp increased, Fortress, under the supervision and oversight of the Monitor, proceeded to restart its Cogeneration Facility between the fall of 2020 until the spring of 2021, with a view to preserve the value of Fortress' assets and maximize its revenues.
39. As the market price for dissolving pulp continued to remain robust,¹ Fortress, under the supervision and oversight of the Monitor, proceeded to restart the Cogeneration Facility during the fall of 2021 until the spring of 2022, once again with a view to preserve the value of Fortress' assets, maximize its revenues and, ultimately, increase its chances of closing a transaction with a purchaser willing to acquire Fortress' assets, including its Cogeneration Facility.
40. However, as it has been the case from the beginning, given that there was no certainty as to whether or not a viable transaction or project could be implemented, despite the continued efforts of all parties involved in this matter, a decision was taken to gradually implement a "Cold Idle Plus Scenario", as further described in the Monitor's Sixteenth and Seventeenth Report.
41. The purpose of gradually implementing such Cold Idle Plus Scenario was to allow Fortress to significantly reduce its operating costs and expenses, while it continued to work with the Quebec government to determine the eventual path forward, and, at the same time, allow it to protect and preserve any remaining value for its assets for any future transaction or project, as the case may be.
42. In addition, as part of the Cold Idle Plus Scenario, Fortress would provide some assistance to the City of Thurso for the treatment of its wastewater and plan for environmental remediation of the site, which has remained on-going over the course of the past few months.
43. For the past several months, Fortress, the Monitor and IQ have worked towards implementing such "Cold Idle Plus Scenario", as described in the Eighteenth Report.
44. In order to continue to implement the Cold Idle Plus Scenario, Fortress will require limited funding on the part of IQ.

¹ In December 2019, dissolving pulp was sold at market price of US\$640 per metric ton, whereas in the first half of 2021, the market price for dissolving pulp went up to US\$1,100 per metric ton. Today, the market price for dissolving pulp now ranges between US\$900 to \$US925 per metric ton.

H. Fortress' Claim Against Les Pompes Goulds

45. As previously discussed in prior applications to the Court, Fortress is party to certain litigation proceedings involving Les Pompes Gould Inc. ("**Pompes Gould**") in which Fortress claims from the latter damages in an amount of approximately \$17 million.
46. On February 11, 2022, this Court rendered an order essentially approving a Litigation Funding Agreement entered into between Fortress, the Monitor and Omni Bridgeway (Fund 5) Canada Investments Limited.
47. IQ understands that in light of the above order, Fortress has taken the necessary steps to pursue its damage claim against Pompes Gould.

4. RELIEF SOUGHT

A. EXTENSION OF THE STAY PERIOD

48. As previously mentioned, the Stay Period is currently set to expire on November 25, 2022.
49. Given the above, it is hereby requested that the Stay Period be extended up to and including April 28, 2023.
50. While the restructuring and/or sale of Fortress has proven to be lengthier and much more challenging than initially contemplated, IQ requests a 5 month extension of the Stay Period in order to allow IQ, together with the Quebec government, to assess all remaining options available in the circumstances and the next steps related thereto, while Fortress and the Monitor implement the Cold Idle Plus Scenario.
51. At this stage, the only other potential alternatives are to "*transform*" or "*transfer*" these CCAA proceedings into proceedings under the Bankruptcy and Insolvency Act (either receivership proceedings or bankruptcy proceedings), which would not change the current situation and challenges which Fortress and its stakeholders are currently facing, but would, however, require additional filing of court materials, reports and associated costs and expenses.
52. IQ understands that both Fortress and the Monitor also believe that the maintenance of these CCAA proceedings remains appropriate in the circumstances.
53. IQ submits that itself, the Debtors and the Monitor have each acted in good faith over the course of these CCAA proceedings, and that no creditor of the Debtors will be materially prejudiced by the relief sought herein.
54. IQ understand that the Monitor will confirm its support to such relief in its Eighteenth Report to the Court.

C. AMENDMENT TO THE INTERIM FINANCING AGREEMENT AND INCREASE IN THE INTERIM LENDER CHARGE

55. As previously mentioned, in December 2019, IQ entered into an Interim Financing Agreement which was approved by this Court as part of the Initial Order filed by IQ and Fiera, and which allowed for an interim financing to be provided to Fortress, up to an amount of \$6,000,000, to be secured by an Interim Lender Charge in the amount of \$7,200,000 (i.e. the total amount of the interim financing, plus twenty percent (20%)).
56. In June 2020, the Québec government announced its continued commitment to fund the (limited) operations of Fortress in the hopes of finding an investor and/or purchaser able to restart its operations as a going concern, all for the benefit of Fortress, its creditors and other stakeholders.
57. In August 2020, IQ agreed with Fortress on the terms and conditions of an amendment to the Interim Financing Agreement (the “**First Amending Agreement**”) providing for an increase in the amount of interim financing which could be advanced to and borrowed by Fortress up to a total of \$8,000,000, to be secured by an increased Interim Lender Charge in the amount of \$9,600,000 (i.e. the total amount of the interim financing, plus twenty percent (20%)). The First Amending Agreement, together with the aforementioned increase in the Interim Lender Charge, were approved by this Court on August 10, 2020.
58. In October 2020, IQ agreed with Fortress on the terms and conditions of a second amendment to the Interim Financing Agreement (the “**Second Amending Agreement**”) providing for an increase in the amount of interim financing which could be advanced to and borrowed by Fortress up to a total of \$17,000,000, to be secured by an increased Interim Lender Charge in the amount of \$20,400,000 (i.e. the total amount of the interim financing, plus twenty percent (20%)). The Second Amending Agreement, together with the aforementioned increase in the Interim Lender Charge, were approved by this Court on October 23, 2020.
59. In October 2021, IQ agreed with Fortress on the terms and conditions of a third amendment to the Interim Financing Agreement (the “**Third Amending Agreement**”) providing for an increase in the amount of interim financing which could be advanced to and borrowed by Fortress up to a total of \$24,000,000, to be secured by an increased Interim Lender Charge in the amount of \$28,800,000 (i.e. the total amount of the interim financing, plus twenty percent (20%)). The Third Amending Agreement, together with the aforementioned increase in the Interim Lender Charge, were approved by this Court on October 8, 2021.
60. In March 2022, IQ agreed with Fortress on the terms and conditions of a fourth amendment to the Interim Financing Agreement (the “**Fourth Amending Agreement**”) providing for an increase in the amount of interim financing which could be advanced to and borrowed by Fortress up to a total of \$27,000,000, to be secured by an increased Interim Lender Charge in the amount of \$32,400,000 (i.e. the total amount of the interim financing, plus twenty percent (20%)). The Fourth Amending Agreement, together with the aforementioned increase in the Interim Lender Charge, were approved by this Court on March 3, 2022.
61. In May 2022, IQ agreed with Fortress on the terms and conditions of a fifth amendment to the Interim Financing Agreement (the “**Fifth Amending Agreement**”) providing for an

increase in the amount of interim financing which could be advanced to and borrowed by Fortress up to a total of \$30,800,000, to be secured by an increased Interim Lender Charge in the amount of \$36,960,000 (i.e. the total amount of the interim financing, plus twenty percent (20%)). The Fifth Amending Agreement, together with the aforementioned increase in the Interim Lender Charge, were approved by this Court on May 27, 2022

62. Over the course of the past few weeks, IQ, together with Fortress and the Monitor, have worked on a revised budget to the Interim Financing Agreement (i.e. the Revised DIP Budget). According to this Revised DIP Budget which will be appended to the Monitor's Eighteenth Report, Fortress will require additional funding over the course of the next few months.
63. Based on these recent discussions, it appears that Fortress will require **additional** interim financing in an amount of approximately **\$3 million**, over and above the interim financing which IQ has already funded to Fortress, for a total interim financing of **\$33,800,000**.
64. As things currently stand, IQ is working with a view of obtaining the necessary governmental authorizations to be able to advance to Fortress such **additional** interim funding.
65. In this context, IQ has prepared a draft sixth amendment to the Interim Financing Agreement (i.e. the Sixth Amending Agreement), a copy of which is communicated herewith as **Exhibit R-2**.
66. The Sixth Amending Agreement, provides that, subject to the conditions set out thereunder, IQ is prepared to increase the interim financing to be provided to Fortress by an **additional** amount of **\$3 million** - for **total amount of \$33.8 million** to be secured by an increased Interim Lender Charge in the **total amount of \$40,560,000** (representing, once again, the total amount of the interim financing which has and will be provided by IQ to Fortress, plus twenty percent (20%)).
67. Since the beginning of these proceedings, IQ has been and remains the only party willing to finance the restructuring of Fortress (other than Omni in connection with the Pompes Goulds Litigation).
68. Despite the significant amounts already funded by IQ to Fortress both prior to and during these CCAA proceedings (which amounts to more than \$100 million in pre-filing funding and more than \$30 million in post-filing interim financing), IQ continues to be willing to financially support Fortress in the hopes of eventually reaching a positive outcome for Fortress, its employees and the city of Thurso.
69. As previously mentioned, the only other foreseeable option is a bankruptcy of Fortress or the appointment of a receiver to its assets pursuant to the BIA. However, in either of those cases, additional funding will be required by Fortress' estate to ensure that the appropriate steps are taken to preserve the site, including as part of a Cold Idle Scenario.
70. IQ submits that itself, the Debtors and the Monitor have each acted in good faith over the course of these CCAA proceedings, and that no creditor of the Debtors will be materially prejudiced by the relief sought herein.

71. IQ understand that the Monitor will confirm its support to such relief in its Sixteenth Report to the Court.

WHEREFORE, MAY THIS COURT:

GRANT this *Application for the Issuance of an Order Extending the Stay Period and Approving a Sixth Amending Agreement to the Interim Financing Agreement* (the "**Application**");

ISSUE an order substantially in the form of the draft Order communicated in support of the Application as Exhibit R-1;

WITHOUT COSTS, save and except in case of contestation.

MONTRÉAL, November 21, 2022



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INVESTISSEMENT QUÉBEC**

SWORN STATEMENT

I, the undersigned, Éric Pelletier, having my principal place of business at 1001, boul. Robert-Bourassa, suite 1000, in the city of Montreal, Province of Quebec, solemnly declare the following:

1. I am a Senior Director of Investissement Québec;
2. All the facts alleged in the *Application for the Issuance of an Order Extending the Stay Period and Approving a Sixth Amending Agreement to the Interim Financing Agreement* are, to the best of my knowledge, true.

AND I HAVE SIGNED



ÉRIC PELLETIER

Solemnly declared before me at Montreal,
on the 21th day of November 2022



**Commissionner for taking oaths in the
Province of Québec**

NOTICE OF PRESENTATION

TO: the Service List

TAKE NOTICE that the *Application for the Issuance of an Order Extending the Stay Period and Approving a Fifth Amending Agreement to the Interim Financing Agreement* will be presented for adjudication before the Honourable Marie-Anne Paquette of the Superior Court of Quebec, Commercial Division by videoconference, on **November 25, 2022**, at a time to be determined by the Court and announced to the parties on the Service List. The instructions to attend such hearing by videoconference, if permitted, will be subsequently provided to the parties on the Service List.

Best regards.

MONTRÉAL, November 21, 2022



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**Attorneys for the Applicant
INVESTISSEMENT QUÉBEC**

R-1

CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL

File: No: 500-11-057679-199

SUPERIOR COURT
Commercial Division

Montreal, November 25, 2022

Present: The Honourable Marie-Anne Paquette,
J.S.C.

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

INVESTISSEMENT QUÉBEC

Applicant / Secured Creditor

- and -

FIERA PRIVATE DEBT INC.

Impleaded Party

- and -

FORTRESS GLOBAL ENTERPRISES INC.

- and -

FORTRESS SPECIALTY CELLULOSE INC.

- and -

FORTRESS BIOENERGY LTD.

- and -

FORTRESS XYLITOL INC.

- and -

9217-6536 QUÉBEC INC.

Debtors

- and -

DELOITTE RESTRUCTURING INC.

Monitor

ORDER

ON READING Investissement Québec (“**IQ**” or the “**Applicant**”)’s *Application for the Issuance of an Order Extending the Stay Period and Approving a Sixth Amending Agreement to the Interim Financing Agreement* (the “**Application**”), the affidavit of Mr. Eric Pelletier filed in support thereof and the Eighteenth Report (the “**Eighteenth Report**”) of Deloitte Restructuring Inc., in its capacity as monitor of the Debtors (the “**Monitor**”), and relying upon the submissions of counsel and being advised that the parties listed on the service list prepared by the Applicant were given prior notice of the presentation of the Application;

GIVEN the initial order rendered by this Court in the present matter on December 16, 2019 (as amended, restated or otherwise modified, from time to time, including pursuant to orders rendered by this Court on December 26, 2019 and on January 10, 2020, the “**Initial Order**”);

GIVEN the orders rendered by this Court in the present matter on March 23, 2019, May 1, 2020, August 10, 2020, October 23, 2020, October 8, 2021, March 3, 2022 and May 27, 2022;

GIVEN the provisions of the the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, C-36 (as amended the “**CCAA**”);

WHEREFORE, THE COURT:

1. **GRANTS** the Application.
2. **ORDERS** that the Stay Period (as defined in the Initial Order) shall be extended to and including April 28, 2023.
3. **APPROVES** the Sixth Amending Agreement (the “**Sixth Amending Agreement**”) (Exhibit R-2 to the Application) to the Interim Financing Term Sheet dated January 9, 2020 (the “**Interim Financing Term Sheet**”) and **AUTHORIZES** the Debtors to borrow from IQ such amounts as the Debtors may consider necessary or desirable, from time to time, in consultation with the Monitor, up to an aggregate maximum amount of \$33,800,000, outstanding at any time, on terms and conditions as set forth in the Interim Term Sheet, as amended by the First Amending Agreement dated September 1, 2020 (the “**First Amending Agreement**”), by the Second Amending Agreement dated

October 23, 2020 (the “**Second Amending Agreement**”), by the Third Amending Agreement dated October 8, 2021 (the “**Third Amending Agreement**”), by the Fourth Amending Agreement dated March 3, 2022 (the “**Fourth Amending Agreement**”), by the Fifth Amending Agreement dated May 27, 2022 (the “**Fifth Amending Agreement**”) and by the Sixth Amending Agreement dated as of November 25, 2022 (the “**Sixth Amending Agreement**”, collectively with the Interim Financing Term Sheet, the First Amending Agreement, the Second Amending Agreement, the Third Amending Agreement, the Fourth Amending Agreement and the Fifth Amending Agreement, the “**Interim Financing Agreement**”), to fund the ongoing expenditures of the Debtors and to pay such other amounts as are permitted by the terms of this Order, the Interim Financing Agreement and the Revised DIP Budget (as defined in the Application) attached as an appendix to the Eighteenth Report, which Revised DIP Budget is hereby approved.

4. **ORDERS** that paragraph 24 of the Initial Order shall be further amended and restated as follows:

***DECLARES** that all of the Property is hereby subject to a charge and security for an aggregate amount of \$40,560,000 (such charge and security is referred to herein as the “Interim Lender Charge”) in favour of the Interim Lender as security for all obligations of the Debtors to the Interim Lender with respect to all amounts owing (including principal, interest and the Interim Lender Expenses) under or in connection with the Interim Financing Term Sheet (as amended, from time to time, including pursuant to the First Amending Agreement, the Second Amending Agreement, the Third Amending Agreement, the Fourth Amending Agreement the Fifth Amending Agreement and the Sixth Amending Agreement thereto) and the Interim Financing Documents (collectively, the “Debtors’ Obligations”). The Interim Lender Charge shall have the priority established in paragraphs 55 and 56 of this Order.*

5. **APPROVES** the activities of the Monitor, up to the date of this Order as described in the Eighteenth Report of the Monitor and in his testimony at the hearing.
6. **ORDERS** that Appendix [●] to the Eighteenth Report of the Monitor are confidential and are filed under seal until further order from this Court.

7. **ORDERS** the provisional execution of this Order notwithstanding any appeal and without the requirement to provide any security or provision for costs whatsoever.

WITHOUT COSTS.

Montreal, November 25, 2022

The Honourable Marie-Anne Paquette, j.s.c.

R-2

SIXTH AMENDING AGREEMENT

This amending agreement (the "**Sixth Amending Agreement**") is made effective as of May 27, 2022 (the "**Effective Date**") among Fortress Specialty Cellulose Inc. ("**Fortress Cellulose**"), a corporation continued under the laws of Canada, and Fortress Bioenergy Ltd., a corporation continued under the laws of Canada ("**Fortress Bioenergy**"; together with Fortress Cellulose collectively the "**Borrowers**" and each a "**Borrower**"), Fortress Global Enterprises Inc., Fortress Advanced Bioproducts Inc., Fortress Xylitol Inc., S2G Biochemicals Inc. and 9217-6536 Québec Inc. (collectively, the "**Guarantors**", and together with the Borrowers, the "**Credit Parties**") and Investissement Québec (the "**DIP Lender**" and, together with the Credit Parties, the "**Parties**").

RECITALS:

- (a) The Parties have entered into that certain DIP Financing Term Sheet dated as of January 9, 2020 (as the same has been and may hereafter be amended, modified, restated or otherwise supplemented from time to time, the "**DIP Agreement**") whereby the DIP Lender agreed to advance to the Borrowers a senior secured superpriority debtor-in-possession, interim, non-revolving, multiple draw credit facility of up to an initial maximum principal amount of \$6,000,000, which amount has been fully drawn as of the date hereof;
- (b) The Parties have entered into that certain Amending Agreement dated as of September 1, 2020 (the "**First Amending Agreement**") amending the terms of the DIP Agreement whereby the DIP Lender agreed to advance to the Borrowers a senior secured superpriority debtor-in-possession, interim, non-revolving, multiple draw credit facility of up to an increased maximum principal amount of \$8,000,000, which amount has been fully drawn as of the date hereof;
- (c) The Parties have entered into that certain Second Amending Agreement dated as of October 23, 2020 (the "**Second Amending Agreement**") amending the terms of the DIP Agreement whereby the DIP Lender agreed to advance to the Borrowers a senior secured superpriority debtor-in-possession, interim, non-revolving, multiple draw credit facility of up to an increased maximum principal amount of \$17,000,000, which amount has been fully drawn as of the date hereof;
- (d) The Parties have entered into that certain Third Amending Agreement dated as of October 8, 2021 (the "**Third Amending Agreement**") amending the terms of the DIP Agreement whereby the DIP Lender agreed to advance to the DIP Lender agreed to advance to the Borrowers a senior secured superpriority debtor-in-possession, interim, non-revolving, multiple draw credit facility of up to an increased maximum principal amount of \$24,000,000, has been fully drawn as of the date hereof;
- (e) The Parties have entered into that certain Fourth Amending Agreement dated as of March 3, 2022 (the "**Fourth Amending Agreement**") amending the terms of the DIP Agreement whereby the DIP Lender agreed to advance to the DIP Lender agreed to advance to the Borrowers a senior secured superpriority debtor-in-possession, interim, non-revolving, multiple draw credit facility of up to an increased maximum principal amount of \$27,000,000, which amount has been fully drawn as of the date hereof;
- (f) The Parties have entered into that certain Fifth Amending Agreement dated as of May 27, 2022 (the "**Fifth Amending Agreement**") amending the terms of the DIP Agreement whereby the DIP Lender agreed to advance to the DIP Lender agreed to advance to the Borrowers a senior secured superpriority debtor-in-possession, interim, non-revolving, multiple draw credit facility of up to an increased maximum principal amount of

\$30,800,000, which amount is expected to be fully drawn as of the date of the execution of this Sixth Amending Agreement;

- (g) The Parties desire to once more amend the DIP Agreement, on the terms set forth herein.

In consideration of the foregoing and the mutual agreements contained herein (the receipt and adequacy of which are acknowledged), the parties hereto hereby agree as follows:

Section 1 Defined Terms.

Capitalized terms used in this Sixth Amending Agreement and not defined herein have the meanings ascribed thereto in the DIP Agreement.

Section 2 Preamble and Headings.

The preamble forms an integral part of this Sixth Amending Agreement. The division of this Sixth Amending Agreement into sections and the insertion of headings are for convenient reference only and shall not affect the interpretation of this Sixth Amending Agreement.

Section 3 Amendment to the DIP Agreement.

- (1) The first paragraph Section 5 of the DIP Agreement, as amended by the First Amending Agreement, by the Second Amending Agreement, by the Third Amending Agreement, by the Fourth Amending Agreement and by the Fifth Amending Agreement, is deleted in its entirety and replaced with the following:

"A senior secured superpriority debtor-in-possession, interim, nonrevolving multiple draw credit facility (the "**DIP Facility**") up to a maximum principal amount of \$33,800,000 (the "**Facility Amount**"), subject to the terms and conditions contained herein."

- (2) Section 13 of the DIP Agreement, as amended by the First Amending Agreement, by the Second Amending Agreement, by the Third Amending Agreement, by the Fourth Amending Agreement and by the Fifth Amending Agreement, is deleted in its entirety and replaced with the following:

"The DIP Financing Obligations shall be repayable in full on the earlier of: (i) the occurrence of any Event of Default hereunder which is continuing and has not been cured or waived; (ii) the conversion of the CCAA Proceedings into a proceeding under the *Bankruptcy and Insolvency Act* (Canada); (iii) the implementation of a Restructuring Process or a plan of compromise or arrangement under the CCAA; (iv) the sale of any portion of the Collateral; (v) April 28, 2023; or (vi) the issuance of a written demand by the DIP Lender (the earliest of such dates being the "**Maturity Date**"). The Maturity Date may be extended from time to time at the request of the Borrowers and with the prior written consent of the DIP Lender in its sole discretion for such period and on such terms and conditions as the Borrowers and the DIP Lender may agree. Each Credit Party shall be solidarily (jointly and severally), unconditionally and irrevocably liable, as primary obligor, to the full payment and performance when due, whether upon maturity, acceleration or otherwise, of all of the DIP Financing Obligations."

Section 4 Conditions.

The effectiveness of this Sixth Amending Agreement is subject to the following conditions precedent:

- (a) each Credit Party shall have executed and delivered this Sixth Amending Agreement to the DIP Lender;
- (b) the Court shall have issued and entered an order in form acceptable to the DIP Lender approving, *inter alia*: (i) this Sixth Amending Agreement (including the increase in the Facility Amount as set out in this Sixth Amending Agreement), (ii) an increase to the DIP Lender Charge (initially ordered by the Court as part of the Initial Order rendered on December 16, 2019, and subsequently increased by orders of the Court rendered on December 26, 2019, January 10, 2020, August 10, 2020, October 23, 2020, October 8, 2021, March 3, 2022 and May 27, 2022) to a total amount of \$40,560,000, which DIP Lender Charge shall fully secure, on a super-priority basis, all indebtedness, obligations, covenants or liabilities owing by the Credit Parties to the DIP Lender under the DIP Agreement (as amended from time to time, including by this Sixth Amending Agreement) and (iii) the Revised DIP Budget (as defined below);
- (c) the Borrowers shall have delivered a Drawdown Certificate in respect of a Subsequent Advance to be made in accordance with the terms of the DIP Agreement, as amended by the First Amending Agreement, the Second Amending Agreement, the Third Amending Agreement, the Fourth Amending Agreement, the Fifth Amending Agreement and the terms hereof;
- (d) the Facility Amount, as increased pursuant to this Sixth Amending Agreement, shall be utilized by the Borrowers to fund those costs and expenses specifically approved in writing by the DIP Lender, from time to time, as contemplated in a budget agreed upon by the DIP Lender (the "**Revised DIP Budget**");
- (e) no Default or Event of Default shall exist; and
- (f) all governmental authorization deemed necessary by the DIP Lender to increase and advance to the Borrowers the total Facility Amount, as contemplated herein, shall have been obtained by the DIP Lender, including by way of final decree, to the DIP Lender's full satisfaction.

Section 5 Representations and Warranties.

Each Credit Party represents and warrants to the DIP Lender that:

- (a) as of the date hereof, the representations and warranties of the Credit Parties contained in the DIP Agreement are (i) in the case of representations and warranties qualified by "materiality" or similar language, true and correct in all respects and (ii) in the case of all other representations and warranties, true and correct in all material respects, in each case on and as of the date hereof, except to the extent that any such representation or warranty relates to a specific date, in which case such representation and warranty is true and correct in all respects or all material respects, as applicable, as of such earlier date;
- (b) all necessary action has been taken by it to authorize the execution, delivery and performance of this Sixth Amending Agreement;
- (c) the execution and delivery by it and the performance by it of its obligations under this Sixth Amending Agreement will not conflict with or result in a breach of any of the terms or conditions of its constating documents or by-laws or any applicable laws;

- (d) this Sixth Amending Agreement has been duly executed and delivered by it and constitutes legal, valid and binding obligations of it enforceable against it in accordance with its terms; and
- (e) except as otherwise disclosed to the DIP Lender in writing prior to the date hereof, no Event of Default has occurred and is continuing.

Section 6 Reference to and Effect on the DIP Agreement.

Upon this Sixth Amending Agreement becoming effective, each reference in the DIP Agreement to "*this DIP Facility*" (or any similar expression contained in the DIP Agreement) and each reference to the DIP Agreement in any and all other agreements, documents and instruments delivered by the Parties or any other person, shall mean and be a reference to the DIP Agreement, as amended by the First Amending Agreement, the Second Amending Agreement, the Third Amending Agreement, the Fourth Amending Agreement, the Fifth Amending Agreement and this Sixth Amending Agreement. Other than the amendment specifically contemplated herein, all terms and conditions of the DIP Agreement shall remain in full force and effect, unamended.

Section 7 Effectiveness.

As of the Effective Date, this Sixth Amending Agreement will be binding upon and enure to the benefit of the parties hereto and their respective successors, administrators, legal representatives and permitted assigns.

Section 8 Governing Law.

This Sixth Amending Agreement shall be governed by, and construed in accordance with, the laws of the Province of Québec and the federal laws of Canada applicable therein.

Section 9 Time is of the Essence.

Time is of the essence in this Amending Agreement.

Section 10 Counterparts.

This Sixth Amending Agreement may be executed in any number of counterparts and by facsimile, e-mail or other electronic means of transmission, each of which when executed and delivered shall be deemed to be an original, and all such counterparts taken together shall be deemed to constitute one and the same instrument. Any party may execute this Sixth Amending Agreement by signing any counterpart of it.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto hereby execute this Sixth Amending Agreement as at the date first written above.

INVESTISSEMENT QUÉBEC

By:

Name:

Title:

FORTRESS SPECIALTY CELLULOSE INC.

By:

Name:

Title:

FORTRESS BIOENERGY LTD.

By:

Name:

Title:

FORTRESS GLOBAL ENTERPRISES INC.

By:

Name:

Title:

FORTRESS ADVANCED BIOPRODUCTS INC.

By:

Name:

Title:

FORTRESS XYLITOL INC.

By:

Name:

Title:

S2G BIOCHEMICALS INC.

By:

Name:

Title:

9217-6536 QUÉBEC INC.

By:

Name:

Title: