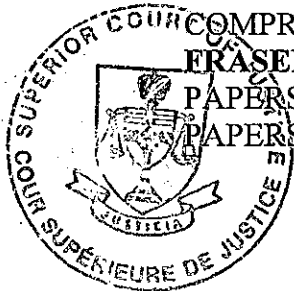


**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**THE HONOURABLE MADAM ) THURSDAY, THE 10<sup>TH</sup> DAY**  
**JUSTICE PEPALL ) OF DECEMBER, 2009**

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

AND IN THE MATTER OF A PROPOSED PLAN OF  
COMPROMISE OR ARRANGEMENT WITH RESPECT TO  
**FRASER PAPERS INC., FPS CANADA INC., FRASER  
PAPERS HOLDINGS INC., FRASER TIMBER LTD., FRASER  
PAPERS LIMITED and FRASER N.H. LLC**



Applicants

**ORDER**  
(Approval of Sale Agreement, Bid Process)  
*the Bid Process*

*STP*

**THIS MOTION** made by the Applicants for the relief sought in the Notice of Motion herein dated December 3, 2009, was heard this day at 330 University Avenue, in the City of Toronto, Ontario.

**ON READING** the affidavit of J. Peter Gordon sworn December 3, 2009 (the "**Gordon Affidavit**"), the 6<sup>th</sup> Report of PricewaterhouseCoopers Inc., in its capacity as court-appointed Monitor, and on hearing the submissions of counsel for the Applicants and counsel for CIT Business Credit Canada Inc. ("**CIT**"), Brookfield Asset Management Inc. ("**BAM**"), the Government of New Brunswick as represented by Business New Brunswick ("**GNB**"), Davies

Ward Philips & Vineberg LLP as court-appointed representative counsel for certain current and former employees of the Applicants ("**Rep Counsel**"), the Communications, Energy and Paperworkers Union of Canada ("**CEP**") on behalf of its current and former members, the United Steelworkers of America ("**USW**") on behalf of its current and former members, <sup>the FP Director</sup> and <sup>+ Monitor</sup> various other counsel appearing:

### Stay Period

1. **THIS COURT ORDERS** that the Stay Period as described in the Order of this Honourable Court dated June 18, 2009, as amended (the "**Initial Order**") be and is hereby extended to and including February 26, 2010.

### Approval of Sale Agreement

2. **THIS COURT ORDERS** that the Applicants are hereby authorized <sup>and directed</sup> ~~and directed~~ to enter into and to execute an asset purchase agreement (the "**Sale Agreement**") with BAM or its designate substantially in the form annexed as Exhibit "A" to the Gordon Affidavit, together with all Schedules, and Ancillary Agreements (as those terms are defined in the Sale Agreement) and to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction (as defined in the Sale Agreement) and for the conveyance of the Purchased Assets (as defined in the Sale Agreement) and to the performance of the Applicants' obligations under the Sale Agreement or in furtherance of this or any other Order of this Honourable Court.
3. **THIS COURT ORDERS** that this Order is without prejudice to the right of CIT to apply to this Honourable Court for an Order varying or amending this Order prior to completion of the Sale Agreement, if CIT, the Applicants and BAM as purchaser under the Sale

Agreement do not reach agreement on the terms of repayment of the Applicants' indebtedness to CIT and on the terms of the proposed CIT exit facility.

4. **THIS COURT ORDERS AND DECLARES** that this Court has been advised of the formal valuation and minority approval requirements of Multilateral Instrument 61-101 "Protection of Minority Security Holders in Special Transactions" and the exemptions from such requirements contained in Sections 5.5(f) and 5.7(d) respectively thereof, and that compliance with the provisions of such Multilateral Instrument is hereby dispensed with.

#### **Process for Soliciting Offers**

5. **THIS COURT ORDERS AND DIRECTS** that the Applicants and the Monitor are authorized and directed to implement the terms outlined in Schedule "A" to this Order (the "**Bid Terms**"), to effect the process for soliciting any other offers for the sale of the Purchased Assets (as defined in the Sale Agreement) and the Bid Terms are hereby approved.
6. **THIS COURT ORDERS** that the Applicants are hereby authorized and directed to use the Sale Agreement as the basis upon which to solicit any other potential offers from prospective purchasers of the Applicants' property that is subject to the Sale Agreement in accordance with the Bid Terms.
7. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada (including the Court of Queen's Bench of New Brunswick) 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 (including the Court of Queen's Bench of New Brunswick) are hereby respectfully requested to make such Orders and to provide such assistance to the Applicants and the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

7. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

  
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## **SCHEDULE "A"**

### **BID TERMS**

**for the Sale of the Specialty Papers Business of  
Fraser Papers Inc., FPS Canada Inc., Fraser Papers Holdings Inc., Fraser Timber Ltd.,  
Fraser Papers Limited and Fraser N.H. LLC (the "Applicants")**

#### **Objectives**

1. To obtain offers to purchase, on a going concern basis, the business, the assets and the liabilities relating to the specialty papers business ("SPB") of the Applicants, which, for greater certainty, means the business of manufacturing and selling specialty paper products and related activities carried on by the Applicants at or relating to the Locations (as defined herein);
2. To ensure that the process is fair and effective for all parties, and is undertaken in a cost-effective and timely manner recognizing the limited financial resources of the Applicants;
3. To preserve the continuity of the operations during the sales process; and
4. To maximize value for the creditors of the Applicants from the sale of the SPB.

#### **Assets To Be Sold**

- The assets to be offered for sale pursuant to this sale process shall comprise property and assets, and any liabilities required to be assumed in connection with the purchase of the SPB as a going concern at the following locations (collectively, the "Locations"):
  - Plaster Rock, New Brunswick
  - Juniper, New Brunswick
  - Edmundston, New Brunswick
  - Madawaska, Maine
  - Portland, Maine(collectively, the "Assets").
- The Assets are as described in section 2.1 of the Asset Purchase Agreement between the Applicants and Brookfield Asset Management Inc. ("Brookfield") and/or such other person or persons as it may designate (the "Existing Offer") annexed as an exhibit to the Affidavit of Peter Gordon sworn on December 3, 2009 (the "Gordon Affidavit") and filed in connection with the Applicants' sale process motion in the CCAA proceedings.

- For greater certainty, the Assets do not comprise any of the other assets of the Applicants including the Gorham paper mill, the Thurso pulp mill, the Masardis lumber mill, the Ashland lumber mill and the Toronto head office assets.

### **Role of the Monitor and the Applicants**

- The Monitor will seek to utilize, to the greatest extent possible, the knowledge and resources of the Applicants in all aspects of the sales process, other than in communicating directly with prospective purchasers. For greater certainty, this will include the Applicants' preparation and maintenance of an electronic data room, drafting of an initial offering summary ("Teaser Letter"), confidentiality agreement ("CA"), and confidential information memorandum ("CIM"), all of which shall be reviewed by the Monitor prior to their circulation.
- The Monitor will have responsibility for managing the process of dealing with prospective purchasers at all times prior to receipt of a letter of intent ("LOI"). This shall include facilitating the delivery of all mailings, contacting prospective purchasers and providing them with the teaser letter and CIM, coordinating the execution of CAs, soliciting and tracking all expressions of interest, facilitating any requests for tours of the facilities, managing the process of answering all inquiries from Interested Parties (as defined herein) and coordinating any presentations that may be requested by prospective purchasers.
- If requested, the Monitor will provide each of the DIP lenders to the Applicants ("DIP Lenders") with periodic updates as to the status of expressions of interest received/progress made, subject to any confidentiality restrictions considered appropriate by the Monitor.

### **Identification of Potential Interested Parties**

- The Monitor and the Applicants will develop a list of strategic and financial parties who might be interested in acquiring the SPB (the "Interested Parties").
- As soon as possible upon an Order being issued commencing the sales process, the Monitor will begin to contact the Interested Parties to determine if they are interested in acquiring the SPB. The Monitor will distribute the Teaser Letter to all Interested Parties and any other party who requests same.

### **Bid Process**

- Parties who wish to commence due diligence will be required to sign a CA, in a form acceptable to the Applicants and the Monitor.
- Upon execution of a CA, the Monitor will provide each Interested Party (now a "Potential Bidder") with:
  - a CIM;
  - a copy of this Bid Process;

- a copy of the template Asset Purchase Agreement (“APA”); and
- access to an electronic data room, where preliminary data will be available.
- Within twelve days of commencement of the sales process the Monitor will coordinate a presentation call for all Potential Bidders, hosted by management of the Applicants, where an overview of the SPB and Assets offered for sale will be provided. A Q&A session will also be held.
- All requests for additional information will be made through the Monitor, who will coordinate responses to such requests with the Applicants.
- Each Potential Bidder will be required to submit a non-binding letter of intent (“LOI”) to the Monitor on or before 12:00 noon EST on January 22, 2010, outlining:
  - the price to be paid and form of consideration
  - overview of remaining due diligence activities
  - the assets to be purchased
  - the liabilities to be assumed
  - conditions precedent
  - any other material terms of the offer
- All LOI’s will be reviewed by the Applicants, the Monitor and, subject to such confidentiality restrictions as the Monitor deems appropriate, the DIP Lenders.
- If no LOI acceptable to the Applicants and the Monitor has been received by 12:00 noon EST on January 22, 2010, then the Applicants shall terminate the sales process and conclude the transaction contemplated and described in the Existing Offer as soon as practicable.
- If any LOI is determined by the Applicants, in consultation with the Monitor, to be worth pursuing (“Qualifying LOIs”) those bidders (“Qualifying Bidders”) will be provided with access to additional information to complete their due diligence, which process shall be coordinated by the Monitor.
- Site visits and in depth meetings with management of the Applicants will only be permitted once a Qualifying LOI has been received from a Qualifying Bidder.
- Qualifying Bidders shall have until 12:00 noon EST on February 10, 2010 to submit binding offers in the form of the template APA (the “Qualifying Offer”) for the purchase of the Assets.

- Each Qualifying Offer must be accompanied by:
  - A non-refundable (in the event of acceptance) 10% cash deposit or letter of credit
  - A projected timeline for closing the transaction
  - A detailed list of all conditions precedent to closing.
- Any Qualifying Offer must result in an increase in the net proceeds to be received by the Applicants after taking into account assumed liabilities and deducting the termination fee and expenses payable under the Existing Offer in the event any other Qualifying Offer is accepted.
- All Qualifying Offers must provide for a cash payment sufficient to repay the Applicants' existing pre-filing secured creditors and the DIP Lenders or must provide proof that such parties have agreed to the terms and structure of the Qualifying Offer.
- Any Qualifying Offer with conditional financing will be rejected.
- Notwithstanding anything to the contrary contained herein, for greater certainty, a Qualifying Offer, as such term is used herein, should be an offer for all or substantially all of the Purchased Assets (as such term is defined in the Existing Offer), and, without limitation:
  - (a) should offer to purchase all or substantially all of the Purchased Assets (as defined in the Existing Offer) under a duly executed APA that is substantially similar to the Existing Offer;
  - (b) should not include any material conditions other than are already included in the template APA;
  - (c) should be, in the reasonable opinion of the Monitor and the Applicants, likely to close on or prior to February 26, 2010; and
  - (d) should not request or entitle the Qualifying Bidder to any break-fee, termination fee, expense reimbursement or other type of payment.
- The Applicants, in consultation with and working through the Monitor, may seek clarifications with respect to any or all Qualifying Offers.
- After such clarification as may be required, if any, the Applicants, in consultation with the Monitor, shall determine whether any Qualifying Offers would result in a superior transaction to the Existing Offer.
- If it is determined that no Qualifying Offer is superior to the Existing Offer, the Applicants, in consultation with the Monitor, shall terminate the sales process and conclude the transaction contemplated and described in the Existing Offer as soon as practicable.

- If it is determined that one or more Qualifying Offers would likely result in a superior transaction, then, by 6:00 pm EST on February 11, 2010, the Qualifying Bidders submitting those Qualifying Offers and Brookfield will be advised of the following:
  - they will be invited to submit final and best offers (each a "Final Offer") by 6:00 pm EST on February 12, 2010; and
  - they will be given a copy of each Qualifying Offer made by a bidder who has been invited to submit a Final Offer.

#### **Offer Acceptance and Negotiation Process**

- Each Final Offer will be considered by the Applicants and the Monitor.
- The Applicants will submit the Final Offers to the board of directors of Fraser Papers Inc. ("FPI") and the Monitor will provide its recommendation thereto. The board of directors of FPI shall determine whether to accept or reject each Final Offer.
- All Final Offers must be capable of acceptance and must be irrevocable until 11:59 pm EST on February 16, 2010.
- The Applicants shall notify the successful bidder if any Final Offer is accepted. The Applicants or the Monitor shall promptly advise all unsuccessful bidders and shall return all deposits to them.
- The Applicants, in consultation with the Monitor, shall take such steps as may be necessary to facilitate a closing of the transaction contemplated by the Final Offer, as accepted, as soon as possible, including, without limitation, by seeking such Court approvals as may be necessary.
- The Applicants shall not be required to accept the highest, best or any Final Offer.

#### **Court Approval and Closing**

- Any Final Offer that is accepted shall be subject to approval by the DIP Lenders and pre-filing secured lenders (unless the Final Offer provides for full payment on closing to those parties) and shall be subject only to the conditions contained in the APA and other conditions, if any, as may be acceptable to the Monitor and the Applicants.
- Any Final Offer shall be subject to Court approval in both Canada and the United States.
- Closing of the transaction shall be completed as soon as possible after all approvals are received, but in any event on or before February 26, 2010 unless otherwise agreed by the Applicants and the Monitor.

#### **Other**

The Applicants, in consultation with the Monitor and subject to the rights of Brookfield under the Existing Offer, may amend, subject to the consent of the DIP Lenders, this Bid Process

including as it relates to any time limits as may be necessary to achieve the above objectives, or as may be amended by further Order of the Court.

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

AND IN THE MATTER OF A PROPOSED PLAN OF COMPROMISE OR ARRANGEMENT WITH RESPECT TO FRASER PAPERS INC., FPS CANADA INC., FRASER PAPERS HOLDINGS INC., FRASER TIMBER LTD., FRASER PAPERS LIMITED and FRASER N.H. LLC (collectively, the "Applicants")

Court File No.: CV-09-8241-00CL

**ONTARIO**  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

Proceedings commenced at Toronto

**ORDER**  
(Approval of Sale Agreement, Bid Process)

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