

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(IN BANKRUPTCY AND INSOLVENCY)**

**IN THE MATTER OF THE PROPOSAL OF COGENT FIBRE INC.**

**AMENDED PROPOSAL**

Cogent Fibre Inc. (“**CFI**”), hereby submits the following Proposal pursuant to the provisions of *Bankruptcy and Insolvency Act* (Canada), R.S.C. 1985, c. B-3.

**PART I**  
**Interpretation**

**Definitions**

- 1.1 In this Proposal unless otherwise stated or the context otherwise requires, capitalized terms shall have the following meanings:
- (a) “**Act**” means *Bankruptcy and Insolvency Act* (Canada), R.S.C. 1985, c. B-3, as it may be amended from time to time;
  - (b) “**Administrative Fees and Expenses**” means the proper fees and expenses of the Trustee, including all legal fees and disbursements incurred by the Trustee, arising from or related to, (i) the preparation, presentation, consideration and implementation of the Proposal and any amendments thereto, and (ii) the proceedings, transactions and agreements contemplated by the Proposal or arising therefrom;
  - (c) “**Approval Order**” means an Order of the Court approving this Proposal pursuant to the provisions of the Act,
  - (d) “**Business Day**” means a day, other than a Saturday, Sunday or a day observed as a holiday under the laws of the Province of Ontario or the federal laws of Canada applicable therein on which banks are generally open for business in Toronto, Ontario;
  - (e) “**Claim**” means any right of any person against CFI in connection with any indebtedness, liability, or obligation of any nature whatsoever of CFI to any person, whether liquidated, unliquidated, fixed, contingent, matured, legal, equitable, secured, unsecured, present, future, known or unknown, and whether

by guarantee, surety or otherwise, incurred or arising or relating to the period prior to the Filing Date, and “**Claims**” has a corresponding meaning;

- (f) “**Claims Bar Date**” has the meaning set forth in Section 5.3;
- (g) “**Court**” means the Ontario Superior Court of Justice in Bankruptcy and Insolvency;
- (h) “**Creditor**” means any person who holds one or more Claims, including Secured Creditors, Preferred Creditors and Unsecured Creditors, and “**Creditors**” has a corresponding meaning;
- (i) “**Creditors’ Meeting**” means a meeting of the Creditors called for the purpose of considering and voting on the Proposal;
- (j) “**Effective Date**” means the date that all conditions set out in Part VIII have been satisfied;
- (k) “**Employees**” means the employees and former employees of CFI, not including independent commissioned sales agents or contractors;
- (l) “**Filing Date**” means the date of filing the Notice of Intention, being July 15, 2015;
- (m) “**Fuller Landau**” means The Fuller Landau Group Inc.;
- (n) “**Notice of Intention**” means the notice of intention to make a proposal pursuant to the BIA filed by CFI with the Official Receiver on July 15, 2015;
- (o) “**Preferred Creditor**” means a Creditor with a Proven Claim that is entitled to receive payment thereof without interest in priority to other Creditors as provided for in Section 136 of the Act;
- (a) “**Proposal**” means this Proposal and any amendments thereto;
- (b) “**Proof of Claim**” means the proof of claim required by the Act to be provided to each known Creditor prior to the Creditors’ Meeting;
- (c) “**Proven Claim**” means the value of any Claim as accepted by the Trustee and proven in accordance with Section 135 of the Act;
- (d) “**Secured Creditor**” means any person holding a mortgage, hypothec, pledge, charge, lien, encumbrance, security interest or privilege on or against the property of CFI or any part thereof as security for a Claim, and “**Secured Creditors**” has a corresponding meaning;

- (e) “**Termination Order**” means the order of the Court, dated August 12, 2015, terminating the time for CFI to file a proposal pursuant to Section 50.4(11) of the Act;
- (f) “**Trustee**” means Fuller Landau, or its duly appointed successor, in its capacity as trustee acting under the Proposal;
- (g) “**Unsecured Creditor**” means a Creditor with a Proven Claim that is not a Secured Creditor or a Preferred Creditor and “**Unsecured Creditors**” has a corresponding meaning.
- (h) “**Voting Letter**” shall mean the voting letter required by subsection 51(1) of the Act to be mailed or sent by electronic transmission to each known Creditor prior to the Creditors’ Meeting.

## **Headings**

- 1.2 The division of this Proposal into Parts and Sections and the insertion of headings are for the convenience of reference only and do not affect the construction or interpretation of this Proposal. The terms “this Proposal”, “hereof”, “hereunder” and similar expressions refer to this entire Proposal and not to any particular Part, Section or other portion hereof and include any agreement supplemental hereto. Unless something in the subject matter or context is inconsistent herewith, references herein to Parts and Sections are to Parts and Sections of this Proposal.

## **Extended Meanings**

- 1.3 In this Proposal words importing the singular number only include the plural and vice versa, words importing any gender include all genders and words importing persons include individuals, partnerships, associations, trusts, unincorporated organizations and corporations.

## **Date for Any Action**

- 1.4 If any date on which any action required to be taken hereunder by any of the parties is not a Business Day, such action must be taken on the next succeeding day which is a Business Day unless precluded by statute.

## **PART II Classification of Creditors**

### **Classes of Creditors**

- 2.1 For the purposes of voting on the Proposal, the Creditors of CFI shall be composed of one class consisting of all Preferred Creditors and Unsecured Creditors.

### **PART III Proposal**

#### **Purpose and Implementation of Proposal**

- 3.1 The purpose of this Proposal is to provide for a distribution to Creditors and the assignment of the balance of their Claims to Cogent Biomass Inc., on the expectation that all Creditors will derive a greater benefit from payment of their Claims pursuant to the terms of the Proposal than would result from a forced liquidation of CFI's assets.
- 3.2 CFI will pay a total of USD \$1,025,000 to the Trustee, pursuant to the schedule set out below, for distribution amongst the Creditors as set forth in the Proposal:
  - (a) on the Business Day next following the issuance of the Approval Order, CFI will pay USD \$500,000 to the Trustee;
  - (b) on each anniversary of the Approval Order, CFI will pay an additional \$175,000 to the Trustee, up to a maximum of USD \$525,000.
- 3.3 The due and timely payment of all amounts payable by CFI pursuant to Section 3.2 are guaranteed by Cogent Biomass Inc. A copy of the Guarantee from Cogent Biomass Inc. is attached hereto as Schedule "A".

### **PART IV Treatment of Creditors**

#### **Payment of Administrative Fees and Expenses**

- 4.1 All of the Administrative Fees and Expenses shall be paid from the funds paid to the Trustee under Section 3.2 prior to all Claims and shall be a first charge thereon.
- 4.2 The Trustee may take interim draws of its fees and disbursements, including the Trustee's legal fees and disbursements, from the funds paid under Section 3.2 of this Proposal as follows:
  - (a) interim draws may be taken based on actual time and charges at normal billable rates plus applicable taxes as funds become available; and
  - (b) all draws are subject to final taxation by the Court.

#### **Payment of Levy**

- 4.3 All payments contemplated by the Proposal shall be net of any applicable levy payable to the Office of the Superintendent of Bankruptcy as required by the Act.

## **Employees**

- 4.4 Immediately following the granting of the Approval Order, CFI shall pay all Employees the amounts that they are qualified to receive under subsection 136(1)(d) of the Act.

## **Her Majesty in Right of Canada or a Province**

- 4.5 Within six months following the granting of the Approval Order, CFI shall pay in full to Her Majesty in Right of Canada or a Province all amounts that were outstanding as of the Filing Date and are of a kind that could be subject to a demand under:
- (a) subsection 244(1.2) of the *Income Tax Act* (Canada);
  - (b) any provision of the Canada Pension Plan or of the *Employment Insurance Act* that refers to subsection 244(2.2) of the *Income Tax Act* (Canada) and provides for the collection of a contribution, as defined in the Canada Pension Plan, or an employee's premium, or employer's premium, as defined in the *Employment Insurance Act*, and of any related interest, penalties or other amounts; or
  - (c) any provision of provincial legislation that has a similar purpose to subsection 244(1.2) of the *Income Tax Act* (Canada), or that refers to that subsection, to the extent that it provides for the collection of a sum, and of any related interest, penalties or other amounts, where the sum:
    - (i) has been withheld or deducted by a person from a payment to another person and is in respect of a tax similar in nature to the income tax imposed on individuals under the *Income Tax Act* (Canada); or
    - (ii) is of the same nature as a contribution under the Canada Pension Plan if the province is a "province providing a comprehensive pension plan" as defined in subsection 3(1) of the Canada Pension Plan and the provincial legislation establishes a "provincial pension plan" as defined in that subsection;

## **Secured Creditors**

- 4.6 Secured Creditors will be paid in accordance with existing or future agreements between CFI and each Secured Creditor. All Claims of Secured Creditors and security held by Secured Creditors in respect of such Claims shall be unaffected by this Proposal.
- 4.7 All Secured Creditors who are related to CFI (as such term is defined in the Act) are not entitled to any distributions under the Proposal.

## **Distribution To Preferred Creditors**

- 4.8 The Proven Claims of Preferred Creditors are to be paid in full in priority to all claims of Unsecured Creditors in accordance with the scheme of distribution set forth in the Act.

### **Distribution To Unsecured Creditors**

4.9 The balance of the funds paid by CFI pursuant to Section 3.2, after payment of Administrative Fees and Expenses, any payments made pursuant to Sections 4.3 and 4.4, and payment of the Proven Claims of Preferred Creditors, shall be distributed by the Trustee *pro rata* among all of the Unsecured Creditors to the extent of their Proven Claims.

### **Claims Against Directors**

4.10 Any Claims against CFI by any Creditor that are also Claims against the directors and officers of CFI that relate to obligations of CFI where directors are under any law liable in their capacity as directors for the payment of such obligations shall be, and upon Court approval of this Proposal, are hereby, to the extent permitted by the Act, compromised and released and forever discharged as against the directors of CFI upon acceptance of this Proposal by the Creditors and approval by the Court.

### **Interest on Claims**

4.11 No Creditors shall be entitled to claim interest accruing on their Claim after the Filing Date.

### **Post Filing Claims**

4.12 All Claims arising after the Filing Date are unaffected by this Proposal.

### **Timing of Distributions**

4.13 The first distribution to Creditors pursuant to the Proposal shall be paid by the Trustee within sixty (60) Business Days of receipt of funds or as determined by the Trustee. All subsequent distributions to Creditors shall be paid by the Trustee within sixty (60) Business Days of receipt of funds or as determined by the Trustee.

## **PART V**

### **Procedure For Validation and Valuation of Claims**

#### **Allowance or Disallowance of Claims by the Trustee and CFI**

5.1 Upon receipt of a completed Proof of Claim, the Trustee and CFI shall examine the Proof of Claim and shall deal with each Claim in accordance with the provisions of the Act.

#### **Valuation of Claims**

5.2 The procedure for valuing Claims of Creditors and resolving disputes with respect to such Claims will be as provided for in the Act. The Trustee and CFI reserve the right to seek the assistance of the Court in valuing any Claim of a Creditor and in respect of any other matter as may be required.

### **Claims Bar Date**

- 5.3 In order to receive a distribution under the Proposal, all Proofs of Claim must be delivered by the Creditors and received by the Trustee within fifteen (15) days of the issuance of the Approval Order (the “**Claims Bar Date**”). Any and all Creditors who do not file a Proof of Claim by the Claims Bar Date shall not be entitled to any distributions under the Proposal.

## **PART VI Meetings of Creditors**

### **Creditors’ Meetings**

- 6.1 The Trustee will call the Creditors’ Meeting in order for the Creditors’ Meeting to be held 21 days after the filing of the Proposal with the Official Receiver on such date, time and at such place as may be agreed upon by the Trustee and CFI.

### **Notice of Creditors’ Meetings**

- 6.2 The Trustee shall provide the Creditors with notice of the time and place of the Creditors’ Meeting by mail pursuant to the Act. All Proofs of Claim shall be delivered in accordance with the provisions of the Proposal, the Act and any order which may be issued by the Court in respect of the procedure governing the Creditors’ Meeting.

### **Conduct of Creditors’ Meetings**

- 6.3 The Official Receiver, or any nominee thereof, shall preside as the chair of the Creditors’ Meeting and will decide all matters relating to the conduct of the Creditors’ Meeting. The only persons entitled to attend the Creditors’ Meeting are those persons (including the holders of proxies) entitled to vote at the Creditors’ Meeting and the officers, directors and legal counsel of CFI together with such representatives of the Trustee as the Trustee may appoint in its discretion. Any other persons may be admitted on invitation of the chair of the Creditors’ Meeting or with the consent of the Creditors.

### **Adjournment of Meeting**

- 6.4 The Creditors’ Meeting may be adjourned in accordance with Section 52 of the Act.

### **Voting by Creditors**

- 6.5 To the extent provided for herein, each Creditor will be entitled to vote at the Creditors’ Meeting to the extent of the amount which is equal to the Proven Claim of such Creditor as allowed by the Act.

### **Approval by Creditors**

- 6.6 In order for the Proposal to be binding on all of the Creditors, it must first be accepted by the Creditors by a majority in number of the Creditors with Proven Claims who actually

vote upon the Proposal (whether in person or by proxy) at the relevant Creditors' Meeting or by a Voting Letter, representing two-thirds in value of the Proven Claims of the Creditors who actually vote upon the Proposal (whether in person or by proxy) at the relevant Creditors' Meeting or by a Voting Letter.

## **PART VII Inspectors**

- 7.1 At the Creditors' Meeting, the Creditors will be entitled to appoint one or more, but not exceeding five, Inspectors whose powers shall be as follows:
- (a) advising the Trustee in respect of such matters as may be referred to the Inspectors by the Trustee;
  - (b) advising the Trustee concerning any dispute that may arise as to the validity of the Claims of Creditors under this Proposal;
  - (c) exercising all powers given to the Inspectors of a bankrupt estate appointed pursuant to the provisions of the Act; and
  - (d) altering or extending the time for payments to be made pursuant to this Proposal, as recommended by the Trustee, but not the total amount paid.

## **PART VIII Conditions Precedent to Implementation of the Proposal**

- 8.1 As provided for in the Act, the arrangements set out in this Proposal will not take effect unless the conditions set forth below are satisfied:
- (a) all approvals and consents to the Proposal that may be required have been obtained;
  - (b) the Approval Order has been issued and the appeal period in respect of such order has expired; and
  - (c) no order or decree restraining or enjoining the consummation of the transactions contemplated by this Proposal has been issued.

## **PART IX Miscellaneous**

### **Effect of Payment**

- 9.1 Upon the delivery of the certificate of performance contemplated by Section 9.3 of the Proposal, the balance of all Claims shall, automatically, be irrevocably and unconditionally assigned to Cogent Biomass Inc., without any further action required on the part of CFI, Cogent Biomass Inc., the Trustee or any Creditor.



### **Amendment to Proposal**

9.2 This Proposal may be amended by CFI with the consent of the Trustee at any time prior to the conclusion of the Creditors' Meeting called to consider the Proposal, provided that any amendment made pursuant to this section shall not reduce the rights and benefits given to the Creditors under the Proposal before any such amendment, and provided further that any and all amendments shall be deemed to be effective as of the filing date of the Proposal.

### **Performance Certificate**

9.3 The Trustee will give CFI and the Official Receiver a certificate of performance, contemplated by Section 65.3 of the Act, following the Trustee being satisfied that all distributions to Creditors contemplated herein are complete.

### **Court Approval**

9.4 After the Creditors' acceptance of the Proposal, the Trustee will proceed to seek the Approval Order from the Court pursuant to Section 58 of the Act.

### **Binding Effect**

9.5 The provisions of this Proposal will be binding on the Creditors, CFI, and their respective heirs, executors, administrators, successors and assigns, upon the Effective Date.

### **Reviewable Transactions**

9.6 Sections 95 to 101 of the Act do not apply to this Proposal.

### **Outstanding Appeals**

9.7 On August 12, 2015, the Court granted the Termination Order. On that same date, CFI served a Notice of Appeal of the Termination Order as well as a Notice of Appeal of the Order of the United States District Court for the Southern District of New York, dated July 14, 2015, which confirmed an arbitration award granted in favour of NS United Kaiun Kaisha Ltd.

9.8 The appeals described in Section 9.7 may affect the timing of the Creditors' Meeting, the granting of the Approval Order and/or the distributions to Creditors contemplated by the Proposal.

### **Notices**

9.9 Any notices or communication to be made or given hereunder shall be in writing and shall refer to this Proposal and may be given by personal delivery, fax or by email addressed to the respective parties as follows:

(a) If to CFI:

c/o Arthur Birnbaum  
208-90 Eglinton Ave East  
Toronto Ontario  
M4P 2Y3

Fax: 416-483-2737

Email: [arthur.birnbaum@rogers.blackberry.net](mailto:arthur.birnbaum@rogers.blackberry.net)

Copy to:

Dentons Canada LLP  
77 King Street West, Suite 400  
Toronto, ON M5K 0A1

Attention: Ken Kraft

Fax: 416-863-4592

Email: [kenneth.kraft@dentons.com](mailto:kenneth.kraft@dentons.com)

(b) If to the Trustee:

The Fuller Landau Group Inc.  
151 Bloor Street West, 12<sup>th</sup> Floor  
Toronto, ON M5S 1S4

Attention: Ken Pearl

Fax: 416-645-6501

Email: [KPearl@FullerLLP.com](mailto:KPearl@FullerLLP.com)

(c) If to an Unsecured Creditor, to the address, fax number or email for such Unsecured Creditor specified in their Proof of Claim filed by such Unsecured Creditor or, if no Proof of Claim has been filed, to such other address, email or fax number at which the notifying party may reasonably believe that the Unsecured Creditor may be contacted;

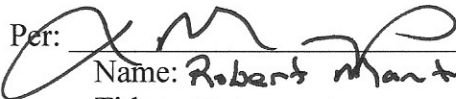
or such other address as any party may from time to time notify the others in accordance with this Section. All such notices and communications will be deemed to have been received, in the case of notice by fax, email or delivery prior to 5:00 p.m. on a Business Day, when received or if received after 5:00 p.m. on a Business Day or at any time on a non-Business Day, on the next following Business Day. Any unintentional failure to give a notice contemplated hereunder to any particular Creditor will not invalidate this Proposal or any action taken by any person pursuant to this Proposal, including CFI.

**PART X  
Trustee**

- 10.1 Fuller Landau, shall be the Trustee under this Proposal and all monies payable under this Proposal shall be paid over to the Trustee who shall make the payment of all dividends in accordance with the terms of this Proposal.
- 10.2 Fuller Landau is acting in its capacity as Trustee and not in its personal capacity and no officer, director, employee or agent of Fuller Landau shall incur any obligations or liabilities in connection with this Proposal or in respect of the business or liabilities of CFI.
- 10.3 Upon payment by the Trustee of the amounts contemplated in Part IV of this Proposal, the Trustee shall have discharged its duties as Trustee, and the Trustee shall be entitled to apply for its discharge as Trustee hereunder.
- 10.4 For greater certainty, the Trustee will not be responsible or liable for any obligations of CFI and will be exempt from any personal liability in fulfilling any duties or exercising any powers conferred upon it by the Proposal unless such acts have been carried out in bad faith and constitute a willful or wrongful act or default.

Dated at Collingwood, Ontario this 17 day of August, 2015.

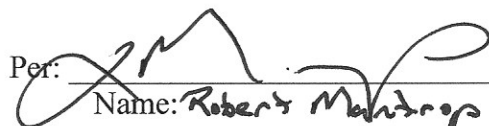
**COGENT FIBRE INC.**

Per:   
Name: Robert Mantrop  
Title: Director

I have authority to bind the corporation

Agreed to this 17<sup>th</sup> day of August, 2015

**COGENT BIOMASS INC.**

Per:   
Name: Robert Mantrop  
Title: Director

I have authority to bind the corporation

**SCHEDULE A  
GUARANTEE**

**TO: The Creditors of Cogent Fibre Inc. (the "Creditors")**

**FROM: Cogent Biomass Inc. ("Guarantor")**

**WHEREAS** Cogent Fibre Inc. ("CFI") has made a Proposal to its Creditors pursuant to the provisions of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, dated as of today's date (the "**Proposal**");

**AND WHEREAS** all capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Proposal;

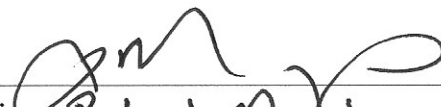
**AND WHEREAS** the Guarantor has agreed to guarantee the financial obligations of CFI pursuant to the Proposal;

**NOW THEREFORE THIS GUARANTEE WITNESSETH** that in consideration for the benefits to the Guarantor of CFI making a Proposal to its Creditors:

1. **Guarantee.** The Guarantor hereby unconditionally, absolutely and irrevocably guarantees, as a primary obligor and not merely as surety, the due and timely payment of all amounts payable by CFI pursuant to Section 3.2 of the Proposal (the "**Obligations**"). In the event that CFI fails to make the payments contemplated by Section 3.2 of the Proposal, the Guarantor will make such payments to the Trustee within five (5) Business Days of a request in writing delivered to the Guarantor by the Trustee or any Creditor.
2. **Governing Law.** This Guarantee shall be construed and enforced in accordance with, and shall be governed by, the laws of the Province of Ontario and the laws of Canada applicable therein (without application of any conflict of laws rules).

**DATED** the 17<sup>th</sup> day of August, 2015

**COGENT BIOMASS INC.**

By:   
Name: Robert Martop  
Title: Director