

**THE CORPORATION OF THE CITY OF KENORA**

**BY-LAW NUMBER 126-2006**

**A BY-LAW TO AUTHORIZE THE EXECUTION OF A  
SETTLEMENT AGREEMENT BETWEEN THE CORPORATION OF  
THE CITY OF KENORA AND ABITIBI-CONSOLIDATED INC.**

---

**WHEREAS** the Corporation of the City of Kenora has reached an agreement with Abitibi-Consolidated Inc. for an Assessment Phase In Agreement at the Ninth Street North pulp and paper mill property; and

**WHEREAS** the Council of the City of Kenora deems it necessary and expedient to enter into a Settlement Agreement between the Corporation of the City of Kenora and Abitibi-Consolidated Inc. for this purpose;

**NOW THEREFORE** the Council of the Corporation of the City of Kenora enacts as follows:

- 1. THAT** the Mayor and Clerk of the Corporation of the City of Kenora are hereby authorized to execute a Settlement Agreement between The Corporation of the City of Kenora and Abitibi-Consolidated Inc. for an Assessment Phase In Agreement at the Ninth Street North pulp and paper mill property, in accordance with the terms and conditions set out on the attached agreement and affix the Seal of the Corporation thereto.
- 2. THAT** this by-law shall come into force and be in effect from and after the final passing thereof.

**By-law read a First & Second Time this 25 day of September, 2006**

**By-law read a Third & Final Time this 25 day of September, 2006**

**THE CORPORATION OF THE CITY OF KENORA:**

---

**David S. Canfield MAYOR**

---

**Paulette M. Grouda D/CLERK**

**SETTLEMENT AGREEMENT**

**THIS AGREEMENT** made this      day of September 2006.

**BETWEEN:**

**ABITIBI-CONSOLIDATED INC.**  
**Hereinafter "Abitibi"**

OF THE FIRST PART

- and -

**THE CORPORATION OF THE CITY OF KENORA**  
**Hereinafter "Kenora"**

OF THE SECOND PART

**WITNESSETH THAT WHEREAS** Abitibi is the owner of lands located in Kenora, municipally known as Ninth Street North, Plan 33 Block 3 Main Mill, being Roll No. 60 16 020 009 135 00 0000 on which is located a pulp and paper mill (the "Subject Lands") which Abitibi permanently closed on October 23, 2005;

**AND WHEREAS** the Municipal Property Assessment Corporation (MPAC) returned a Current Value Assessment (the "CVA") for the 2006 taxation year of \$28,616,000 for the Subject Lands;

**AND WHEREAS** Abitibi has complained to the Assessment Review Board (the "ARB") with respect to the CVA for the 2006 taxation year;

**AND WHEREAS** Abitibi and Kenora believe it to be in their mutual best interests to determine the CVA for the Subject Lands for the 2006, 2007 and 2008 taxation years and the parties agree to take the appropriate steps to decrease the CVA for each of the years in question in accordance with this Agreement;

**NOW THEREFORE** the parties agree as follows:

1. The parties acknowledge that the CVA returned for the 2006 taxation year by MPAC is \$28,616,000. The parties agree that the adjusted CVA for each of the 3 years covered by this Agreement i.e. 2006, 2007 and 2008, will be in accordance with the phase-in as set out in the attached Schedule A of this Agreement.
2. Abitibi has filed a complaint to the ARB for the 2006 taxation year being Complaint No. 1843248. Upon all parties executing this agreement, Abitibi will undertake to withdraw the Section 40 appeal to the ARB for taxation year 2006.

3. It is agreed that for the 2006, 2007 and 2008 taxation years Abitibi and Kenora will determine the adjusted CVA for each of the taxation years subject to paragraphs 4, 5, and 6 of this Agreement.
4. The determination of the Adjusted CVA for each of the taxation years which are the subject of this Agreement will be subject to further adjustment as may result from the application of any of the following:
  - (a) Relief claimed and granted pursuant to section 357(1)(d) of *The Municipal Act*, 2001 S.O. 2001, c. 25 with respect to buildings razed or damaged by fire, demolition or otherwise;
  - (b) The severance and sale of a portion of the Subject Lands; or
  - (c) Relief claimed and granted pursuant to s. 357(1)(a) of *The Municipal Act*, 2001 S.O. 2001, c. 25 as a result of a change event including but not limited to a tax subclass revision.
5. With respect to the severance and sale of a portion of the Subject Lands (the “Severed Lands”), it is understood that this Agreement will cease to apply to the valuation of the Severed Lands and MPAC may therefore determine the CVA of the Severed Lands without regard to this Agreement.
6. It is understood that Abitibi or its designated agent will make both interim and final applications pursuant to section 364 and O.Reg. 325/01, as amended, of *The Municipal Act*, 2001, c. 25 for rebate of taxes for each of the taxation years that are the subject of this Agreement and Kenora agrees to promptly process such applications, make the appropriate rebate determination, and make the necessary rebate.
7. The parties acknowledge that as of the date of this Agreement, the Government of Ontario has by filing O.Reg. 352/06 postponed the updating of the valuation date as contemplated by section 19.2(1)5 of the *Assessment Act*, R.S.O. c. A.31 for the 2007 and 2008 taxation years.
8. Nothing in this Agreement precludes Abitibi or its designated agents from:
  - (a) Initiating complaints pursuant to the provisions of the *Assessment Act* in order to ensure that the Adjusted CVA as contemplated by this Agreement is returned for any of the taxation years, or,
  - (b) Initiating appeals as contemplated by the *Municipal Act*, 2001 to the ARB with respect to matters referred to in paragraphs 5 and 7 above.
9. The parties hereto will from time to time execute and deliver such further documents and do all acts and things as may be necessary or reasonably required to effectively carry out, better evidence or perfect the full intent, spirit, and meaning of this Agreement.
10. Kenora and Abitibi agree that the process to be followed in order to achieve the reduced CVA and resultant tax liability will be as outlined in s. 357 (1)(d) of *The Municipal Act*, 2001 S.O. 2001, c. 25. The application will be completed by Abitibi or its designated agent before February 28<sup>th</sup> of the year following the taxation year. Kenora agrees to approve and process the application prior to its annual cut off date for setting claw back rates in accordance with *The Municipal Act*, 2001 S.O. 2001, c. 25. Kenora also agrees to provide a copy of the approved application to OPTA prior to the “freezing” of their data for tax levy purposes.

11. It is understood that in the event Abitibi resumes occupation and use of the subject lands or any part of them in any of the taxation years to which the agreement applies, agreement will cease to apply to the lands in question. This agreement will continue in full force and effect in respect to any of the Subject Lands, which are not re-occupied or used.
12. The parties agree that each of them will make good faith efforts to resolve any disputes, controversies, questions or other matters arising out of or relating to this Agreement. If the matter has not been resolved within fifteen (15) days of a party's written request for negotiation, the party may initiate arbitration proceedings.
13. Unless otherwise indicated, all dollar amounts in this Agreement are expressed in lawful dollars of Canada.
14. In this Agreement, words importing the singular number only shall include the plural and vice versa, words importing gender shall include all genders and words importing persons shall include individuals, corporations, partnerships, associations, trusts, unincorporated organizations, governmental bodies and other legal or business entities of any kind whatsoever.
15. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether written or oral. There are no conditions, covenants, agreements, representations, warranties or other provisions, express or implied, collateral, statutory or otherwise, relating to the subject matter hereof except as herein provided.
16. Time shall be of the essence in this Agreement.
17. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such determination shall not impair or affect the validity, legality or enforceability of the remaining provisions hereof, and each provision is hereby declared to be separate, severable and distinct.
18. This Agreement shall ensure to the benefit of and shall be binding on and enforceable by the parties, and where the context so permits, their respective successors and assigns.
19. No amendment or waiver of any provision of this Agreement shall be binding on any party unless consented to in writing by such party. No waiver of any provision of this Agreement shall constitute a waiver of any other provision, nor shall any waiver constitute a continuing waiver unless otherwise provided.

20. Any notice of other communication required or permitted to be given hereunder shall be in writing and shall be delivered by personal delivery, by overnight courier, by telecopy or similar means or recorded electronic communication or by registered mail addressed as follows:

(a) Abitibi-Consolidated Inc.  
1155 Metcalfe St.  
Montreal, Quebec H3B 5H2  
Attention: Alice Minville, Legal Counsel  
Fax No.: (514) 875-6284  
[Alice\\_minville@abitibiconsolidated.com](mailto:Alice_minville@abitibiconsolidated.com)

(b) The Corporation of the City of Kenora  
One Main St. S  
Kenora, Ontario P9N 3X2  
Attention: Karen Brown, Treasurer  
Fax No.: (807) 467-2150  
[kbrown@kenora.ca](mailto:kbrown@kenora.ca)

Any such notice or other communication delivered by personal delivery or overnight courier shall be deemed to have been given and received on the day on which it was delivered (or, if such day is not a business day, on the next following business day), and if transmitted by telecopier, on the day of the transmission thereof if such day is a business day and is received before 4:30 pm (local time to the recipient) or otherwise on the next business day after the day of the transmittal, provided that the party so transmitting the notice has received confirmation of its successful transmittal, and if mailed or sent by registered mail, on the fifth business day following the date of mailing; provided, however, that if at the time of mailing or within three business days thereafter there is or occurs a labour dispute or any other event which might reasonably be expected to disrupt the delivery of documents by mail, any notice or other communication hereunder shall be delivered or transmitted by means personal delivery, telecopier or recorded electronic communication as aforesaid. Any party may at any time change its address for service from time to time by giving notice to the other party in accordance with this Section 19.

21. Except as may be required by any applicable law or regulatory requirement, the terms of this Agreement shall be kept confidential at all times by each of the parties hereto.
22. The Agreement shall be interpreted and construed in accordance with the laws of the Province of Ontario, Canada and the federal laws of Canada applicable herein and the parties hereby attorn to the non-exclusive jurisdiction of the courts of Ontario and the federal courts of Canada.
23. This Agreement may be executed in counterparts, each of which as so executed and delivered shall be deemed an original, but all of which together shall constitute one and the same instrument. Execution by facsimile signature shall be deemed to be, and shall have the same effect as, execution by original signature.

24. **In accordance with paragraph 16, THIS AGREEMENT MUST BE DEALT WITH POST HASTE. ABITIBI AND KENORA AGREE TO EXECUTE THIS AGREEMENT BEFORE 4:30 ON SEPTEMBER 29, 2006, FOR THE TERMS AND CONDITIONS TO BE BINDING, FAILING WHICH THIS AGREEMENT WILL BECOME NULL AND VOID.**

**IN WITNESS WHEREOF** the parties hereto have executed this Agreement as of the date and year first above written.

**ABITIBI-CONSOLIDATED INC.**

By: \_\_\_\_\_

Name:

Title:

I have the authority to bind the  
Corporation

**THE CORPORATION OF THE CITY  
OF KENORA**

By: \_\_\_\_\_

Name: David S. Canfield

Title: Mayor

By: \_\_\_\_\_

Name: Paulette M. Grouda

Title: Deputy Clerk

We have the authority to bind the  
Corporation

## SCHEDULE A

<b>Taxation Year</b>	<b>Assessment</b>	<b>LU</b>	<b>LT</b>	<b>CT</b>
2006	\$22,185,000	\$512,348	\$21,382,768	\$289,884
2007	\$16,548,000	\$512,348	\$15,820,287	\$215,365
2008	\$11,092,000	\$512,348	\$10,438,809	\$140,843