

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**THE TRUSTEES OF THE LABOURERS' PENSION FUND OF CENTRAL AND
EASTERN CANADA, THE TRUSTEES OF THE INTERNATIONAL UNION OF
OPERATING ENGINEERS LOCAL 793 PENSION PLAN FOR OPERATING
ENGINEERS IN ONTARIO, SJUNDE AP-FONDEN, DAVID GRANT
and ROBERT WONG**

Plaintiffs

- and -

**SINO-FOREST CORPORATION, ERNST & YOUNG LLP, BDO LIMITED (formerly
known as BDO MCCABE LO LIMITED), ALLEN T.Y. CHAN, W. JUDSON MARTIN,
KAI KIT POON, DAVID J. HORSLEY, WILLIAM E. ARDELL, JAMES P. BOWLAND,
JAMES M.E. HYDE, EDMUND MAK, SIMON MURRAY, PETER WANG, GARRY J.
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CORPORATION, RBC DOMINION SECURITIES INC., SCOTIA CAPITAL INC., CIBC
WORLD MARKETS INC., MERRILL LYNCH CANADA INC., CANACCORD
FINANCIAL LTD., MAISON PLACEMENTS CANADA INC., CREDIT SUISSE
SECURITIES (USA) LLC and MERRILL LYNCH, PIERCE, FENNER & SMITH
INCORPORATED (successor by merger to Banc of America Securities LLC)**

Defendants

Proceeding under the Class Proceedings Act, 1992

**RESPONDING MOTION RECORD OF SFC LITIGATION TRUST
(Settlement Approval Motion Returnable May 11, 2015)**

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

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF SINO-FOREST CORPORATION**

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TAB 1

Court File No.: CV-11-431153-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

THE TRUSTEES OF THE LABOURERS' PENSION FUND OF CENTRAL AND
EASTERN CANADA, THE TRUSTEES OF THE INTERNATIONAL UNION OF
OPERATING ENGINEERS LOCAL 793 PENSION PLAN FOR OPERATING
ENGINEERS IN ONTARIO, SJUNDE AP-FONDEN, DAVID GRANT
and ROBERT WONG

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INCORPORATED (successor by merger to Banc of America Securities LLC)

Defendants

Proceeding under the Class Proceedings Act, 1992

AFFIDAVIT OF COSIMO BORRELLI

I, Cosimo Borrelli, of Level 17, Tower 1, Admiralty Centre, 18 Harcourt Road, Hong
Kong, MAKE OATH AND SAY as follows:

1. I am a Managing Director and founding partner of Borrelli Walsh Limited ("Borrelli
Walsh"), a specialist restructuring, insolvency and forensic accounting firm. Pursuant to a plan
of compromise and reorganization (the "CCAA Plan"), an Order of the Ontario Superior Court
of Justice (Commercial List) dated December 10, 2012 (the "CCAA Plan Sanction Order"),

and a Litigation Trust Agreement dated January 30, 2013 (the "**Trust Agreement**"), I was appointed as the Litigation Trustee of the Sino-Forest Corporation ("**SFC**") Litigation Trust (the "**SFC Litigation Trust**"). As such, and as a result of the investigations that I have conducted to date, I have personal knowledge of the matters to which I herein depose. To the extent that I do not have such personal knowledge and am advised by others who are identified in this affidavit, I believe such information to be true. Wherever I use the word "I" or "my" in this affidavit, I am referring to myself in my capacity as the trustee of the SFC Litigation Trust (the "**Litigation Trustee**") and not in my personal capacity.

Background

2. SFC was an integrated forest plantation operator and forest productions company, with most of its assets and the majority of its business operations located in the southern and eastern regions of the People's Republic of China (the "**PRC**"). SFC's registered office was in Toronto and its principal business office is in Hong Kong.

3. SFC applied to this Honourable Court and obtained an Initial Order under the CCAA on March 30, 2012, pursuant to which a stay of proceedings was granted in respect of SFC and certain of its subsidiaries.

The Class Actions

4. SFC and certain of its former officers, directors and employees, along with SFC's former auditors, technical consultants and the Underwriters have been named as defendants in a number of class action lawsuits. The Underwriters are comprised of Credit Suisse Securities (Canada) Inc., TD Securities Inc., Dundee Securities Corporation, RBC Dominion Securities Inc., Scotia Capital Inc., CIBC World Markets Inc., Merrill Lynch Canada Inc., Canaccord Financial Ltd.,

Maison Placements Canada Inc., Credit Suisse Securities (USA) LLC and Merrill Lynch, Pierce, Fenner & Smith Incorporated (successor to Bank of America Securities LLC).

5. Each of these class action lawsuits, commenced by three separate groups of counsel, were filed in the Ontario Superior Court of Justice on June 8, 2011, June 20, 2011, July 20, 2011, September 26, 2011 and November 14, 2011. A carriage motion in relation to those actions was heard in December 2011, and by Order dated January 6, 2012, Justice Perell granted carriage in the Ontario Class Action to Koskie Minsky LLP and Siskinds LLP.

6. Pursuant to Justice Perell's January 6, 2012 Order, Koskie Minsky and Siskinds LLP have served a fresh as amended Statement of Claim in the consolidated proceeding, a copy of which is attached as Exhibit "A" (the "Ontario Class Action"). The plaintiffs in the Ontario Class Action, on behalf of current and former shareholders of SFC, seek damages against SFC and the other defendants in the Ontario Class Action in the amount of \$6.5 billion for general damages, \$174.8 million in connection with a prospectus issued in June 2007, \$330 million in relation to a prospectus issued in June 2009 and \$319.2 million in relation to a prospectus issued in December 2009. The market cap for SFC during the alleged misrepresentations ranged from \$546.5 million to \$6.15 billion.

7. The Ontario Class Action Plaintiffs also assert claims on behalf of certain former holders of SFC's Notes in the amounts of \$345 million for the 2013 Convertible Notes, \$460 million for the 2016 Convertible Notes, and \$600 million for the 2017 Senior Notes, for a total claim of approximately \$1.8 billion.

8. A similar class action was filed in Quebec (the "Quebec Class Action"). Attached as Exhibit "B" is a copy of the Motion to Authorize the Bringing of a Class Action and to Obtain

the Status of Representative dated June 9, 2011. A third class action as filed in Saskatchewan (the "Saskatchewan Class Action"). Attached as Exhibit "C" is a copy of the Saskatchewan Statement of Claim.

9. Additionally, on January 27, 2012, a class action was commenced against SFC and other defendants in the Supreme Court of the State of New York, U.S.A. (collectively, with the Ontario Class Action, the Quebec Class Action and the Saskatchewan Class Action, the "Class Actions"). The complaint alleges that the action is brought on behalf of person who purchased SFC shares on the over-the-counter market and on behalf of non-Canadian purchasers of SFC debt securities. The quantum of damages sought is not specified in the claim. Attached as Exhibit "D" is a copy of the most recent version of the Complaint in the New York proceeding.

The Underwriters' Claims are Subordinated Equity Claims

10. On June 26, 2012 SFC brought a motion in SFC's CCAA proceeding for an order directing that claims against SFC arising in connection with the ownership, purchase or sale of an equity interest in SFC and related indemnity claims were "equity claims" as defined in section 2 of the CCAA Plan (the "Equity Claims Motion").

11. In the Equity Claims Motion, SFC argued that the claims made by or on behalf of current and former shareholders in the Class Actions, and any indemnification claims being advanced by SFC's co-defendants (including the Underwriters) arising out of same, were subordinated equity claims. The equity claims motion did not purport to deal with the component of the class proceedings that relate to debt claims. The relief sought by SFC was opposed by SFC's former auditors and the Underwriters.

12. In reasons released on July 27, 2012 (the "Equity Claims Decision"), a copy of which is attached as Exhibit "E", this Honourable Court granted the relief sought by SFC, finding that the indemnity claims of the Underwriters arising from the Class Action claims being advanced by SFC's shareholders and former shareholders constituted subordinated Equity Claims as defined in the CCAA Plan.

13. The auditors and Underwriters appealed the decision to the Court of Appeal for Ontario. The appeal was heard on November 13, 2012. On November 23, 2012, the Court of Appeal dismissed the appeal. A copy of the reasons of the Court of Appeal for Ontario dated November 23, 2012 is attached as Exhibit "F".

14. In accordance with the Equity Claims Decision and the Court of Appeal's dismissal of the appeal, the Class Action claims being advanced on behalf of SFC's former shareholders and the corresponding indemnification claims of the Underwriters were subordinated and were to rank behind the claims of SFC's unsecured creditors.

The CCAA Plan

15. Pursuant to an Order of this Honourable Court dated August 31, 2012, a creditor meeting was held on December 3, 2012 at which an overwhelming majority of SFC's affected creditors approved the CCAA Plan. In total, 99% in number and greater than 99% in value of those creditors eligible to vote, voted in favour of the CCAA Plan. I am advised by Jonathan Bell of Bennett Jones LLP that the overwhelming support for the CCAA Plan was the result of exhaustive negotiations between SFC, the Monitor and the various constituent groups. I am further advised that the CCAA Plan was a heavily negotiated document and that both the Class

Action plaintiffs' and the Underwriters' counsel had significant involvement in the negotiation of aspects of the CCAA Plan.

16. Neither the Class Action plaintiffs nor the Underwriters opposed the sanctioning of the CCAA Plan which represented the negotiated compromise of the various constituent groups' claims.

17. The CCAA Plan was sanctioned by this Honourable Court on December 10, 2012. A copy of the CCAA Plan Sanction Order enclosing the CCAA Plan is attached as Exhibit "G".

18. In December 2012, Invesco Canada Ltd., Northwest & Ethical Investments L.P. and Comite Syndical National de Retraite Batirente Inc. ("Invesco") commenced a motion for leave to appeal the CCAA Plan Sanction Order (as well as the approval of a settlement entered into between the Ontario Class Action plaintiffs and Ernst & Young LLP). The Court of Appeal denied leave to appeal pursuant to reasons dated June 26, 2013. Thereafter, Invesco unsuccessfully sought leave to appeal the CCAA Plan Sanction Order to the Supreme Court of Canada.

The Litigation Trust

19. Pursuant to the Trust Agreement, a copy of which is attached as Exhibit "H", I was appointed as the Litigation Trustee of the SFC Litigation Trust.

20. The Litigation Trust Claims (as defined in the CCAA Plan) consist of any and all claims or causes of action which have been or may be asserted by or on behalf of (a) SFC against any and all third parties; or (b) the trustees (on behalf of the former noteholders in SFC) against any and all persons in connection with the notes issued by SFC, other than in either case (i) any claim,

right or cause of action against any person that is released pursuant to Article 7 of the CCAA Plan; or (ii) any Excluded Litigation Trust Claim.

21. Under the Trust Agreement and the CCAA Plan Sanction Order, the Litigation Trust Assets (as defined therein) of SFC were transferred to the SFC Litigation Trust. The Litigation Trust Assets included the Litigation Trust Claims (as described above), the Litigation Funding Amount (as defined therein), and any other assets acquired by the SFC Litigation Trust on or after the effective date pursuant to the Trust Agreement or the CCAA Plan.

Actions Taken by the SFC Litigation Trust

22. To date, I have taken significant steps on behalf of the beneficiaries of the SFC Litigation Trust (i.e., the creditors of SFC), far in excess of anything the Ontario Class Action plaintiffs have covered. I am the only party to have obtained a determination on the merits against former CEO Allen Chan, reflected in the reasons for decision of the Honourable Justice Halney dated August 28, 2014, which finds there "is a very strong *prima facie* case of fraud on the part of Allen Chan". I have preserved limitation periods by entering tolling agreements with various potential targets of litigation and have commenced litigation against a number of parties on behalf of the Litigation Trust. I have also conducted expansive investigations into the conduct of certain former employees and members of SFC's former management as well as a number of SFC's former advisors. A copy of the decision of Justice Halney dated August 28, 2014 is attached as Exhibit "I".

23. As Litigation Trustee, I commenced an action in the Ontario Superior Court of Justice against David J. Horsley ("Horsley") (which subsequently was resolved, as discussed in further detail below), SFC's former lawyer, John Zeng and the Kaitong Law Firm (which has subsequently been resolved), SFC's former forestry consultants, Poyry (Beijing) Consulting

Company Limited and affiliated entities and individuals, SFC's former auditor and against Allen Tak Yuen Chan ("Chan") the former Chairman of the Board and Chief Executive Officer of SFC.

24. In the action against Chan, the SFC Litigation Trust has successfully obtained a worldwide Mareva order, freezing Chan's assets worldwide. The Mareva order was granted pursuant to an Order of the Honourable Justice Hainey dated August 28, 2014 and remains in place to date.

The Relief Sought by the Underwriters

25. I understand that, in accordance with the terms of minutes of settlement dated January 26, 2015, the Ontario Class Action plaintiffs have agreed, pending approval by this Honourable Court, to resolve the claims advanced against the Underwriters in the Ontario Class Action. Pursuant to the terms of that proposed settlement, the Underwriters now seek to obtain a CCAA Plan release purportedly in accordance with the terms of the CCAA Plan.

26. The CCAA Plan, a copy of which is attached at Exhibit G, provides a mechanism by which "Named Third Party Defendants" in the various Class Actions can take advantage of the prescribed settlement framework to obtain a CCAA Plan release. The CCAA Plan allows a "Named Third Party Defendant" to settle specified litigation in relation to SFC, including the Ontario Class Action, and to obtain a "Named Third Party Defendant Release", subject to certain conditions.

27. The benefit of a CCAA Plan release does not belong to class counsel. Rather, it is really provided in connection with a settlement that works to the benefit of the CCAA estate as a whole. Accordingly, among the pre-conditions in the CCAA Plan, is the consent of SFC (pre-Plan

implementation), SFC's noteholders (pre-Plan implementation), the SFC Litigation Trustee (post-Plan implementation) and the Monitor.

28. The releases contemplated by the CCAA Plan and granted pursuant to the CCAA Plan are significantly broader than the releases ordinarily available to parties, including the Underwriters, under the *Class Proceedings Act*. For example, the CCAA Plan release would not be confined to the settlement of claims advanced by the plaintiffs of the Ontario and Quebec class action (and any corresponding claims for contribution and indemnity or other claims arising therefrom), but would extend to *any* claim that *any* person could have against the party. In short, it is a total release of all possible claims that could ever arise out of the SFC matter.

29. The broad scope of the CCAA Plan release offers a significant benefit to the Underwriters, which benefit is reflected in the consideration the Underwriters propose to pay in connection with the proposed settlement, if approved by the Court. It represents not just a settlement with the plaintiffs but with the world at large.

The Underwriters Failed to Consult the SFC Litigation Trust

30. On January 8, 2015, Andrew Gray, counsel to the Underwriters, advised Robert Staley of Bennett Jones LLP (counsel to the SFC Litigation Trust) that as a condition of the minutes of settlement executed between his client and the Ontario Class Action plaintiffs, the Underwriters intended to seek to obtain a CCAA Plan release. Mr. Gray's January 8, 2015 letter was the first time that the Underwriters sought consent of the SFC Litigation Trust to the provision of a CCAA Plan release in the context of the proposed settlement with the Underwriters. A copy of the January 8, 2015 correspondence is attached as Exhibit "J".

31. On January 16, 2015, Mr. Staley responded to Mr. Gray's correspondence. In his response, a copy of which is attached as Exhibit "K", Mr Staley noted that the SFC Litigation Trust has advised counsel for the Ontario Class Action plaintiffs on several occasions dating back to 2013 (In the context of other settlement discussions) that they should not offer a CCAA Plan release to defendants in the Ontario Class Action without the prior knowledge and consent of the SFC Litigation Trust, in accordance with the requirements of the CCAA Plan.

32. Notwithstanding this advice and despite the Ontario Class Action plaintiffs' knowledge that my consent was required, counsel to the Ontario Class Action plaintiffs and the Underwriters have refused to engage the SFC Litigation Trust in any meaningful discussions about obtaining my consent.

33. The decision made by counsel to the Underwriters and Ontario Class Action plaintiffs to exclude the SFC Litigation Trust from settlement discussions is particularly surprising given that this is not the first time this issue has come up. The Ontario Class Action plaintiffs originally tried to negotiate a settlement with Horsley without consulting me. Through counsel, I made it very clear to the Ontario Class Action plaintiffs that the CCAA Plan releases were not theirs to give away in settlement agreements and that I needed to be a party to any discussions to result in a release that would require my consent. The SFC Litigation Trust was ultimately included in the Horsley settlement discussions and I ultimately consented to the CCAA Plan release that this Court ultimately granted to Horsley pursuant to the framework set out in the CCAA Plan. A copy of the Minutes of Settlement and the Order of Justice Morawetz dated July 24, 2014 approving the settlement with Horsley are attached as Exhibit "L".

34. In his January 16, 2015 correspondence, Mr. Staley expressly advised counsel that the SFC Litigation Trust was prepared to engage in without prejudice discussions with the Underwriters and Ontario Class Action plaintiffs with a view to negotiating the terms upon which it would consent to a CCAA Plan release. They were also reminded that if a CCAA Plan release was a required term of that settlement, the Litigation Trustee's consent would be required.

35. On January 29, 2015 counsel to the Ontario Class Action plaintiffs, the Underwriters and the SFC Litigation Trust attended before Justice Morawetz to seek approval of the proposed settlement with the Underwriters. In advance of the attendance, the SFC Litigation Trust filed a responding motion record containing the correspondence outlined above, as well as the CCAA Plan Sanction Order. A copy of the Responding Motion Record of the SFC Litigation Trust is attached as Exhibit "M". During the January 29, 2015 attendance, Mr. Staley again reiterated the SFC Litigation Trust's position that its consent was required and that it was prepared to engage in without prejudice discussions.

36. Notwithstanding the position articulated in Mr. Staley's January 16, 2015 correspondence, on April 1, 2015 and during the attendance before Justice Morawetz on January 29, 2015, Ken Rosenberg, counsel to the Ontario Class Action plaintiffs, wrote to Mr. Staley proposing a timetable for the delivery of motion materials and seeking the consent of the SFC Litigation Trust. A copy of Mr. Rosenberg's April 1, 2015 letter is attached as Exhibit "N".

37. On April 7, 2015, Mr. Staley responded to Mr. Rosenberg's correspondence. In doing so, he yet again reiterated that the SFC Litigation Trust was prepared to engage in without prejudice discussions, as it had repeatedly advised. A copy of Mr. Staley's April 7, 2015 letter to Mr. Rosenberg is attached as Exhibit "O".

38. Mr. Staley also wrote to Mr. Gray on April 7, 2015 to advise that, among other things, if the Underwriters and Ontario Class Action plaintiffs had sought settlement approval in the class action courts, without a CCAA Plan release, on customary terms (i.e., the inclusion of a bar order), the SFC Litigation Trust would not oppose the settlement. He further advised that the SFC Litigation Trust's issue with the settlement was strictly confined to the CCAA Plan release sought by the parties in the absence of efforts to obtain the consent of the SFC Litigation Trust. A copy of Mr. Staley's April 7, 2015 correspondence to Mr. Gray is attached as Exhibit "P".

The Relief Sought Fails to Benefit the Creditors of the SFC Litigation Trust

39. The beneficiaries of the SFC Litigation Trust differ from those of the Ontario Class Action. The relief sought by the Underwriters seeks to require the SFC Litigation Trust to consent to a settlement in which all of the value of the CCAA Plan release will be enjoyed solely by the beneficiaries of the Ontario Class Action plaintiffs, the vast majority of whom are former equity holders. In light of the fiduciary duties owed by me to the beneficiaries of the SFC Litigation Trust, in the absence of any corresponding value to the beneficiaries of the SFC Litigation Trust, I cannot consent to the Underwriters requested relief. The Underwriters and Class Action plaintiffs are free to settle their dispute in the forum in which their dispute is being heard, the class action proceeding. To the extent the Underwriters want a CCAA Plan release, consideration for the value of that release must be paid to SFC's creditors who are the beneficiaries of the SFC Litigation Trust. That is the process that was contemplated by the CCAA Plan and that is the process that was approved by 99% of SFC's creditors. I do not understand how SFC's former equity holders now purport to be in a position to settle their claims by handing out CCAA Plan releases in a manner that expressly violates the framework negotiated and approved in the CCAA Plan.

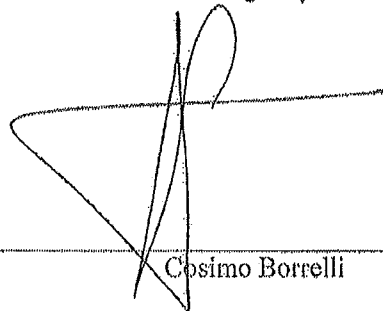
The Monitor's Position on the Relief Sought

40. The Monitor's position in respect of the relief sought by the Underwriters and the Ontario Class Action plaintiffs is set out in a February 19, 2015 email to counsel to the Underwriters, a copy of which is attached as Exhibit "Q", in which Mr. Tay states: *"it appears to be common ground for all parties that the provisions of the Plan require that the consent of the Litigation Trust be given for the Underwriter's Settlement to enjoy the benefits of the third party release provided under the CCAA Plan"*.

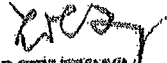
41. To my knowledge, the Monitor has not consented to the relief sought by the Underwriters.

SWORN BEFORE ME at the City of)
Hong Kong, this 26th)
day of April, 2015.)
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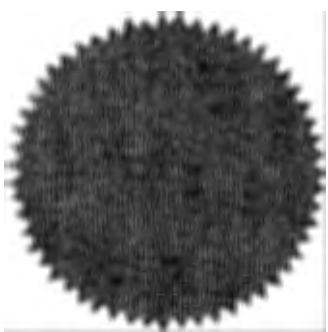
A commissioner, etc.)



Cosimo Borrelli


LI SIU FUNG
NOTARY PUBLIC
HONG KONG SAR
Unit 1303, 13/E,
Tower 1, Admiralty Centre,
18 Harcourt Road,
Hong Kong.

My commission expires at death



TAB A

This is Exhibit "A" to the
Affidavit of Cosimo Borrelli
Sworn before me on 26 April 2015



A Commissioner, etc.
LI SIU FUNG
NOTARY PUBLIC
HONG KONG SAR
Unit 1303, 13/F.,
Tower 1, Admiralty Centre,
18 Harcourt Road,
Hong Kong.

Court File No.: CV-11-431153-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

THE TRUSTEES OF THE LABOURERS' PENSION FUND OF CENTRAL AND EASTERN
CANADA, THE TRUSTEES OF THE INTERNATIONAL UNION OF OPERATING
ENGINEERS LOCAL 793 PENSION PLAN FOR OPERATING ENGINEERS IN ONTARIO,
SJUNDE AP-FONDEN, DAVID GRANT and ROBERT WONG

Plaintiffs

- and -

SINO-FOREST CORPORATION, ERNST & YOUNG LLP, BDO LIMITED (formerly known
as BDO MCCABE LO LIMITED), ALLEN T.Y. CHAN, W. JUDSON MARTIN, KAI KIT
POON, DAVID J. HORSLEY, WILLIAM E. ARDELL, JAMES P. BOWLAND, JAMES M.E.
HYDE, EDMUND MAK, SIMON MURRAY, PETER WANG, GARRY J. WEST, PÖYRY
(BEIJING) CONSULTING COMPANY LIMITED, CREDIT SUISSE SECURITIES
(CANADA), INC., TD SECURITIES INC., DUNDEE SECURITIES CORPORATION, RBC
DOMINION SECURITIES INC., SCOTIA CAPITAL INC., CIBC WORLD MARKETS INC.,
MERRILL LYNCH CANADA INC., CANACCORD FINANCIAL LTD., MAISON
PLACEMENTS CANADA INC., CREDIT SUISSE SECURITIES (USA) LLC and MERRILL
LYNCH, PIERCE, FENNER & SMITH INCORPORATED (successor by merger to Banc of
America Securities LLC)

Defendants

Proceeding under the *Class Proceedings Act, 1992***FRESH AS AMENDED STATEMENT OF CLAIM****(NOTICE OF ACTION ISSUED JULY 20, 2011)**

AMENDED THIS April 18/12 PURSUANT TO
MODIFIÉ CE CONFORMÉMENT A

RÈGLE/LA RÈGLE 26.02 (

THE ORDER OF Mr. J. Perrell
L'ORDONNANCE DU
DATED / FAIT LE March 26, 2012

REGISTRAR GREFFIER
SUPERIOR COURT OF JUSTICE COUR SUPÉRIEURE DE JUSTICE

S. Chandradet
Registrar

TO: Sino-Forest Corporation
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AND TO: David Horsley
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AND TO: Allen Chan
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AND TO: William Ardell
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AND TO: James Bowland
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AND TO: James Hyde
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AND TO: Edmund Mak
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AND TO: W. Judson Martin
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AND TO: Simon Murray
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PR CHINA
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- AND TO: TD Securities Inc.**
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P.O. Box 1, TD Bank Tower
Toronto, Ontario M5K 1A2
- AND TO: Dundee Securities Corporation**
1 Adelaide Street East
Toronto, ON M5C 2V9

- AND TO: RBC Dominion Securities Inc.**
155 Wellington Street West, 17th Floor
Toronto, Ontario M5V 3K7
- AND TO: Scotia Capital Inc.**
40 King Street West, Scotia Plaza
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Toronto, Ontario M5W 2X6
- AND TO: CIBC World Markets Inc.**
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Toronto, Ontario M5J 2S8
- AND TO: Merrill Lynch Canada Inc.**
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181 Bay Street, 4th and 5th Floors
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- AND TO: Canaccord Financial Ltd.**
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P.O. Box 516
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- AND TO: Maison Placements Canada Inc.**
130 Adelaide Street West, Suite 906
Toronto, Ontario M5H 3P5
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New York, NY 10010
- AND TO: Merrill Lynch, Pierce, Fenner & Smith Incorporated**
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Charlotte, NC 28255
-

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I. DEFINED TERMS

1. In this Statement of Claim, in addition to the terms that are defined elsewhere herein, the following terms have the following meanings:

- (a) “**AI**” means Authorized Intermediary;
- (b) “**AIF**” means Annual Information Form;

- (c) “**Ardell**” means the defendant William E. Ardell;
 - (d) “**Banc of America**” means the defendant Merrill Lynch, Pierce, Fenner & Smith Incorporated;
 - (e) “**BDO**” means the defendant BDO Limited;
 - (f) “**Bowland**” means the defendant James P. Bowland;
 - (g) “**BVI**” means British Virgin Islands;
 - (h) “**Canaccord**” means the defendant Canaccord Financial Ltd.;
 - (i) “**CBCA**” means the *Canada Business Corporations Act*, RSC 1985, c. C-44, as amended;
 - (j) “**Chan**” means the defendant Allen T.Y. Chan also known as “Tak Yuen Chan”;
 - (k) “**CIBC**” means the defendant CIBC World Markets Inc.;
 - (l) “**CJA**” means the Ontario *Courts of Justice Act*, RSO 1990, c C-43, as amended;
 - (m) “**Class**” and “**Class Members**” all persons and entities, wherever they may reside who acquired **Sino’s Securities** during the **Class Period** by distribution in Canada or on the Toronto Stock Exchange or other secondary market in Canada, which includes securities acquired over-the-counter, and all persons and entities who acquired **Sino’s Securities** during the **Class Period** who are resident of Canada or were resident of Canada at the time of acquisition and who acquired **Sino’s Securities** outside of Canada, except the **Excluded Persons**;
 - (n) “**Class Period**” means the period from and including March 19, 2007 to and including June 2, 2011;
 - (o) “**Code**” means **Sino’s** Code of Business Conduct;
 - (p) “**CPA**” means the Ontario *Class Proceedings Act, 1992*, SO 1992, c 6, as amended;
-

- (q) “**Credit Suisse**” means the defendant Credit Suisse Securities (Canada), Inc.;
- (r) “**Credit Suisse USA**” means the defendant Credit Suisse Securities (USA) LLC;
- (s) “**Defendants**” means **Sino**, the **Individual Defendants**, **Pöyry**, **BDO**, **E&Y** and the **Underwriters**;
- (t) “**December 2009 Offering Memorandum**” means Sino’s Final Offering Memorandum, dated December 10, 2009, relating to the distribution of Sino’s 4.25% Convertible Senior Notes due 2016 which **Sino** filed on **SEDAR** on December 11, 2009;
- (u) “**December 2009 Prospectus**” means **Sino**’s Final Short Form Prospectus, dated December 10, 2009, which **Sino** filed on **SEDAR** on December 11, 2009;
- (v) “**Dundee**” means the defendant Dundee Securities Corporation;
- (w) “**E&Y**” means the defendant, Ernst and Young LLP;
- (x) “**Excluded Persons**” means the **Defendants**, their past and present subsidiaries, affiliates, officers, directors, senior employees, partners, legal representatives, heirs, predecessors, successors and assigns, and any individual who is a member of the immediate family of an **Individual Defendant**;
- (y) “**Final Report**” means the report of the IC, as that term is defined in paragraph 10 hereof;
- (z) “**GAAP**” means Canadian generally accepted accounting principles;
- (aa) “**GAAS**” means Canadian generally accepted auditing standards;
- (bb) “**Horsley**” means the defendant David J. Horsley;
- (cc) “**Hyde**” means the defendant James M.E. Hyde;
- (dd) “**Impugned Documents**” mean the 2005 Annual Consolidated Financial Statements (filed on **SEDAR** on March 31, 2006), Q1 2006 Financial Statements

(filed on **SEDAR** on May 11, 2006), the 2006 Annual Consolidated Financial Statements (filed on **SEDAR** on March 19, 2007), 2006 AIF (filed on **SEDAR** on March 30, 2007), 2006 Annual MD&A (filed on **SEDAR** on March 19, 2007), Management Information Circular dated April 27, 2007 (filed on **SEDAR** on May 4, 2007), Q1 2007 MD&A (filed on **SEDAR** on May 14, 2007), Q1 2007 Financial Statements (filed on **SEDAR** on May 14, 2007), **June 2007 Prospectus**, Q2 2007 MD&A (filed on **SEDAR** on August 13, 2007), Q2 2007 Financial Statements (filed on **SEDAR** on August 13, 2007), Q3 2007 MD&A (filed on **SEDAR** on November 12, 2007), Q3 2007 Financial Statements (filed on **SEDAR** on November 12, 2007), 2007 Annual Consolidated Financial Statements (filed on **SEDAR** on March 18, 2008), 2007 AIF (filed on **SEDAR** on March 28, 2008), 2007 Annual MD&A (filed on **SEDAR** on March 18, 2008), Amended 2007 Annual MD&A (filed on **SEDAR** on March 28, 2008), Management Information Circular dated April 28, 2008 (filed on **SEDAR** on May 6, 2008), Q1 2008 MD&A (filed on **SEDAR** on May 13, 2008), Q1 2008 Financial Statements (filed on **SEDAR** on May 13, 2008), **July 2008 Offering Memorandum**, Q2 2008 MD&A (filed on **SEDAR** on August 12, 2008), Q2 2008 Financial Statements (filed on **SEDAR** on August 12, 2008), Q3 2008 MD&A (filed on **SEDAR** on November 13, 2008), Q3 2008 Financial Statements (filed on **SEDAR** on November 13, 2008), 2008 Annual Consolidated Financial Statements (filed on **SEDAR** on March 16, 2009), 2008 Annual MD&A (filed on **SEDAR** on March 16, 2009), Amended 2008 Annual MD&A (filed on **SEDAR** on March 17, 2009), 2008 AIF (filed on **SEDAR** on March 31, 2009), Management Information Circular dated April 28, 2009 (filed on **SEDAR** on May 4, 2009), Q1 2009 MD&A (filed on **SEDAR** on May 11, 2009), Q1 2009 Financial Statements (filed on **SEDAR** on May 11, 2009), **June 2009 Prospectus**, **June 2009 Offering Memorandum**, Q2 2009 MD&A (filed on **SEDAR** on August 10, 2009), Q2 2009 Financial Statements (filed on **SEDAR** on August 10, 2009), Q3 2009 MD&A (filed on **SEDAR** on November 12, 2009), Q3 2009 Financial Statements (filed on **SEDAR** on November 12, 2009), **December 2009 Prospectus**, **December 2009 Offering Memorandum**, 2009

Annual MD&A (filed on SEDAR on March 16, 2010), 2009 Audited Annual Financial Statements (filed on SEDAR on March 16, 2010), 2009 AIF (filed on SEDAR on March 31, 2010), Management Information Circular dated May 4, 2010 (filed on SEDAR on May 11, 2010), Q1 2010 MD&A (filed on SEDAR on May 12, 2010), Q1 2010 Financial Statements (filed on SEDAR on May 12, 2010), Q2 2010 MD&A (filed on SEDAR on August 10, 2010), Q2 2010 Financial Statements (filed on SEDAR on August 10, 2010), **October 2010 Offering Memorandum**, Q3 2010 MD&A (filed on SEDAR on November 10, 2010), Q3 2010 Financial Statements (filed on SEDAR on November 10, 2010), 2010 Annual MD&A (March 15, 2011), 2010 Audited Annual Financial Statements (filed on SEDAR on March 15, 2011), 2010 AIF (filed on SEDAR on March 31, 2011), and Management Information Circular dated May 2, 2011 (filed on SEDAR on May 10, 2011);

- (ee) **“Individual Defendants”** means **Chan, Martin, Poon, Horsley, Ardell, Bowland, Hyde, Mak, Murray, Wang, and West**, collectively;
- (ff) **“July 2008 Offering Memorandum”** means the Final Offering Memorandum dated July 17, 2008, relating to the distribution of Sino’s 5% Convertible Senior Notes due 2013 which Sino filed on SEDAR as a schedule to a material change report on July 25, 2008;
- (gg) **“June 2007 Prospectus”** means Sino’s Short Form Prospectus, dated June 5, 2007, which Sino filed on SEDAR on June 5, 2007;
- (hh) **“June 2009 Offering Memorandum”** means Sino’s Exchange Offer Memorandum dated June 24, 2009, relating to an offer to exchange Sino’s Guaranteed Senior Notes due 2011 for new 10.25% Guaranteed Senior Notes due 2014 which Sino filed on SEDAR as a schedule to a material change report on June 25, 2009;
- (ii) **“June 2009 Prospectus”** means Sino’s Final Short Form Prospectus, dated June 1, 2009, which Sino filed on SEDAR on June 1, 2009;

- (jj) “**Maison**” means the defendant Maison Placements Canada Inc.;
 - (kk) “**Martin**” means the defendant W. Judson Martin;
 - (ll) “**Mak**” means the defendant Edmund Mak;
 - (mm) “**MD&A**” means Management’s Discussion and Analysis;
 - (nn) “**Merrill**” means the defendant Merrill Lynch Canada Inc.;
 - (oo) “**Muddy Waters**” means Muddy Waters LLC;
 - (pp) “**Murray**” means the defendant Simon Murray;
 - (qq) “**October 2010 Offering Memorandum**” means the Final Offering Memorandum dated October 14, 2010, relating to the distribution of Sino’s 6.25% Guaranteed Senior Notes due 2017;
 - (rr) “**Offering**” or “**Offerings**” means the primary distributions in Canada of Sino’s **Securities** that occurred during the **Class Period** including the public offerings of Sino’s common shares pursuant to the **June 2007, June 2009 and December 2009 Prospectuses**, as well as the offerings of Sino’s notes pursuant to **the July 2008, June 2009, December 2009, and October 2010 Offering Memoranda**, collectively;
 - (ss) “**OSA**” means the *Securities Act*, RSO 1990 c S.5, as amended;
 - (tt) “**OSC**” means the Ontario Securities Commission;
 - (uu) “**Plaintiffs**” means the plaintiffs, the Trustees of the Labourers’ Pension Fund of Central and Eastern Canada (“**Labourers**”), the Trustees of the International Union of Operating Engineers Local 793 Pension Plan for Operating Engineers in Ontario (“**Operating Engineers**”), Sjunde AP-Fonden (“**AP7**”), David C. Grant (“**Grant**”), and Robert Wong (“**Wong**”), collectively;
 - (vv) “**Poon**” means the defendant Kai Kit Poon;
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- (ww) “**Pöyry**” means the defendant, Pöyry (Beijing) Consulting Company Limited;
- (xx) “**PRC**” means the People’s Republic of China;
- (yy) “**Representation**” means the statement that Sino’s financial statements complied with **GAAP**;
- (zz) “**RBC**” means the defendant RBC Dominion Securities Inc.;
- (aaa) “**Scotia**” means the defendant Scotia Capital Inc.;
- (bbb) “**Second Report**” means the Second Interim Report of the IC, as that term is defined in paragraph 10 hereof;
- (ccc) “**Securities**” means Sino’s common shares, notes or other securities, as defined in the *OSA*;
- (ddd) “**Securities Legislation**” means, collectively, the *OSA*, the *Securities Act*, RSA 2000, c S-4, as amended; the *Securities Act*, RSBC 1996, c 418, as amended; the *Securities Act*, CCSM c S50, as amended; the *Securities Act*, SNB 2004, c S-5.5, as amended; the *Securities Act*, RSNL 1990, c S-13, as amended; the *Securities Act*, SNWT 2008, c 10, as amended; the *Securities Act*, RSNS 1989, c 418, as amended; the *Securities Act*, S Nu 2008, c 12, as amended; the *Securities Act*, RSPEI 1988, c S-3.1, as amended; the *Securities Act*, RSQ c V-1.1, as amended; the *Securities Act*, 1988, SS 1988-89, c S-42.2, as amended; and the *Securities Act*, SY 2007, c 16, as amended;
- (eee) “**SEDAR**” means the system for electronic document analysis and retrieval of the Canadian Securities Administrators;
- (fff) “**Sino**” means, as the context requires, either the defendant Sino-Forest Corporation, or Sino-Forest Corporation and its affiliates and subsidiaries, collectively;
- (ggg) “**TD**” means the defendant TD Securities Inc.;

- (hhh) **“TSX”** means the Toronto Stock Exchange;
 - (iii) **“Underwriters”** means **Banc of America, Canaccord, CIBC, Credit Suisse, Credit Suisse USA, Dundee, Maison, Merrill, RBC, Scotia, and TD,** collectively;
 - (jjj) **“Wang”** means the defendant Peter Wang;
 - (kkk) **“West”** means the defendant Garry J. West; and
 - (lll) **“WFOE”** means wholly foreign owned enterprise or an enterprise established in China in accordance with the relevant PRC laws, with capital provided solely by foreign investors.
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II. CLAIM

2. The Plaintiffs claim:

- (a) An order certifying this action as a class proceeding and appointing the Plaintiffs as representative plaintiffs for the Class, or such other class as may be certified by the Court;
- (b) A declaration that the Impugned Documents contained, either explicitly or implicitly, the Representation, and that, when made, the Representation was a misrepresentation, both at law and within the meaning of the Securities Legislation;
- (c) A declaration that the Impugned Documents contained one or more of the other misrepresentations alleged herein, and that, when made, those other misrepresentations constituted misrepresentations, both at law and within the meaning of the Securities Legislation;
- (d) A declaration that Sino is vicariously liable for the acts and/or omissions of the Individual Defendants and of its other officers, directors and employees;
- (e) A declaration that the Underwriters, E&Y, BDO and Pöyry are each vicariously liable for the acts and/or omissions of their respective officers, directors, partners and employees;
- (f) On behalf of all of the Class Members who purchased Sino's Securities in the secondary market during the Class Period, and as against all of the Defendants other than the Underwriters, general damages in the sum of \$6.5 billion;
- (g) On behalf of all of the Class Members who purchased Sino common shares in the distribution to which the June 2007 Prospectus related, and as against Sino, Chan, Poon, Horsley, Martin, Mak, Murray, Hyde, Pöyry, BDO, Dundee, CIBC, Merrill and Credit Suisse general damages in the sum of \$175,835,000;
- (h) On behalf of all of the Class Members who purchased Sino common shares in the distribution to which the June 2009 Prospectus related, and as against Sino, Chan,

Poon, Horsley, Wang, Martin, Mak, Murray, Hyde, Pöyry, E&Y, Dundee, Merrill, Credit Suisse, Scotia and TD, general damages in the sum of \$330,000,000;

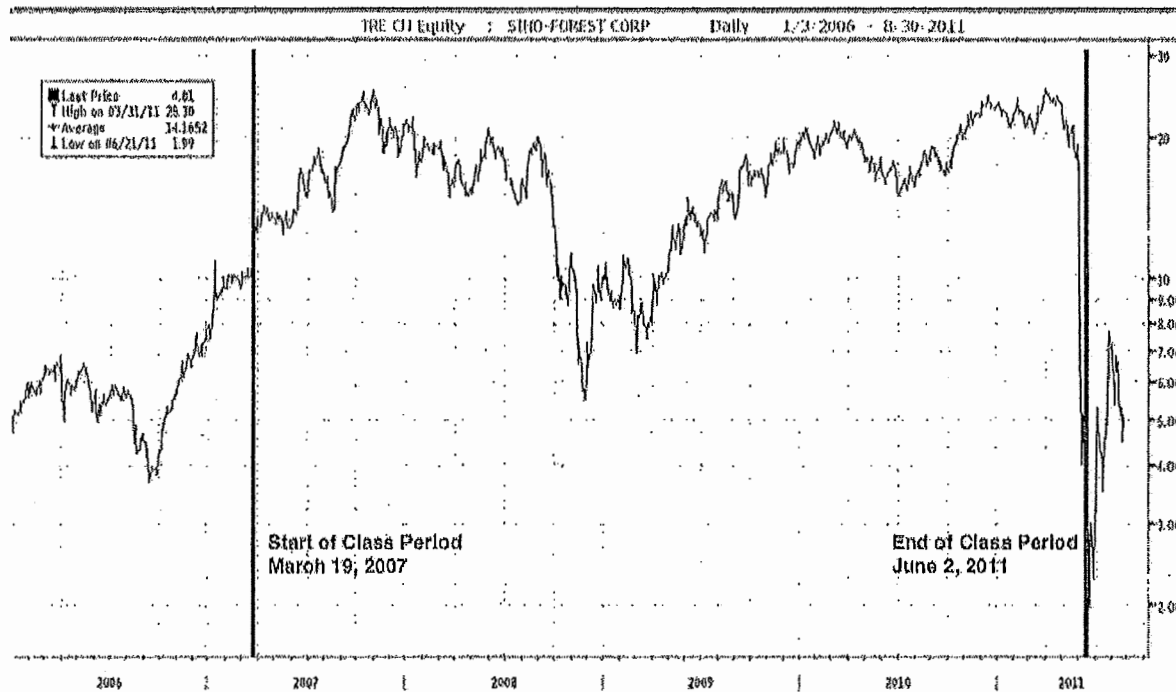
- (i) On behalf of all of the Class Members who purchased Sino common shares in the distribution to which the December 2009 Prospectus related, and as against Sino, Chan, Poon, Horsley, Wang, Martin, Mak, Murray, Hyde, Pöyry, BDO, E&Y, Dundee, Merrill, Credit Suisse, Scotia, CIBC, RBC, Maison, Canaccord and TD, general damages in the sum of \$319,200,000;
 - (j) On behalf of all the Class Members who purchased Sino's 5% Convertible Senior Notes due 2013 pursuant to the July 2008 Offering Memorandum, and as against Sino, Chan, Poon, Horsley, Wang, Martin, Mak, Murray, Hyde, Pöyry, BDO, E&Y and Credit Suisse USA, general damages in the sum of US\$345 million;
 - (k) On behalf of all the Class Members who purchased Sino's 10.25% Guaranteed Senior Notes due 2014 pursuant to the June 2009 Offering Memorandum, and as against Sino, Chan, Poon, Horsley, Wang, Martin, Mak, Murray, Hyde, Pöyry, BDO, E&Y and Credit Suisse USA, general damages in the sum of US\$400 million;
 - (l) On behalf of all the Class Members who purchased Sino's 4.25% Convertible Senior Notes due 2016 pursuant to the December 2009 Offering Memorandum, and as against Sino, Chan, Poon, Horsley, Wang, Martin, Mak, Murray, Hyde, Pöyry, BDO, E&Y, Credit Suisse USA and TD, general damages in the sum of US\$460 million;
 - (m) On behalf of all the Class Members who purchased Sino's 6.25% Guaranteed Senior Notes due 2017 pursuant to the October 2010 Offering Memorandum, and as against Sino, Chan, Poon, Horsley, Wang, Mak, Murray, Hyde, Ardell, Pöyry, E&Y, Credit Suisse USA and Banc of America, general damages in the sum of US\$600 million;
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- (n) On behalf of all of the Class Members, and as against Sino, Chan, Poon and Horsley, punitive damages, in respect of the conspiracy pled below, in the sum of \$50 million;
- (o) A declaration that Sino, Chan, Poon, Horsley, Martin, Mak, Murray and the Underwriters were unjustly enriched;
- (p) A constructive trust, accounting or such other equitable remedy as may be available as against Sino, Chan, Poon, Horsley, Martin, Mak, Murray and the Underwriters;
- (q) A declaration that the acts and omissions of Sino have effected a result, the business or affairs of Sino have been carried on or conducted in a manner, or the powers of the directors of Sino have been exercised in a manner, that is oppressive or unfairly prejudicial to or that unfairly disregards the interests of the Plaintiffs and the Class Members, pursuant to s. 241 of the *CBCA*;
- (r) An order directing a reference or giving such other directions as may be necessary to determine the issues, if any, not determined at the trial of the common issues;
- (s) Prejudgment and post judgment interest;
- (t) Costs of this action on a substantial indemnity basis or in an amount that provides full indemnity plus, pursuant to s 26(9) of the *CPA*, the costs of notice and of administering the plan of distribution of the recovery in this action plus applicable taxes; and
- (u) Such further and other relief as to this Honourable Court may seem just.

III. OVERVIEW

3. From the time of its establishment in 1994, Sino has claimed to be a legitimate business operating in the commercial forestry industry in the PRC and elsewhere. Throughout that period, Sino has also claimed to have experienced breathtaking growth.

4. Beguiled by Sino's reported results, and by Sino's constant refrain that China constituted an extraordinary growth opportunity, investors drove Sino's stock price dramatically higher, as appears from the following chart:



5. The Defendants profited handsomely from the market's appetite for Sino's securities. Certain of the Individual Defendants sold Sino shares at lofty prices, and thereby reaped millions of dollars of gains. Sino's senior management also used Sino's illusory success to justify their lavish salaries, bonuses and other perks. For certain of the Individual Defendants, these outsized gains were not enough. Sino stock options granted to Chan, Horsley and other insiders were backdated or otherwise mispriced, prior to and during the Class Period, in violation of the TSX Rules, GAAP and the Securities Legislation.

6. Sino itself raised in excess of \$2.7 billion¹ in the capital markets during this period. Meanwhile, the Underwriters were paid lucrative underwriting commissions, and BDO, E&Y and Pöyry garnered millions of dollars in fees to bless Sino's reported results and assets. To their great detriment, the Class Members relied upon these supposed gatekeepers.

7: As a reporting issuer in Ontario and elsewhere, Sino was required at all material times to comply with GAAP. Indeed, Sino, BDO and E&Y, Sino's auditors during the Class Period and previously, repeatedly misrepresented that Sino's financial statements complied with GAAP. This was false.

8. On June 2, 2011, Muddy Waters, a short seller and research firm with extensive PRC experience, issued its first research report in relation to Sino, and unveiled the scale of the deception that had been worked upon the Class Members. Muddy Waters' initial report effectively revealed, among other things, that Sino had materially misstated its financial results, had falsely claimed to have acquired trees that it did not own, had reported sales that had not been made, or that had been made in a manner that did not permit Sino to book those sales as revenue under GAAP, and had concealed numerous related party transactions. These revelations had a catastrophic effect on Sino's stock price.

9. On June 1, 2011, prior to the publication of Muddy Waters' report, Sino's common shares closed at \$18.21. After the Muddy Waters report became public, Sino shares fell to \$14.46 on the TSX (a decline of 20.6%), at which point trading was halted. When trading resumed the next day, Sino's shares fell to a close of \$5.23 (a decline of 71.3% from June 1).

10. On June 3, 2011, Sino announced that, in response to the allegations of Muddy Waters, its board had formed a committee, which Sino then falsely characterized as "independent" (the

¹ Dollar figures are in Canadian dollars (unless otherwise indicated) and are rounded for convenience.

“Independent Committee” or “IC”), to examine and review the allegations contained in the Muddy Waters’ report of June 2, 2011. The initial members of the IC were the Defendants Ardell, Bowland and Hyde. The IC subsequently retained legal, accounting and other advisers to assist it in the fulfillment of its mandate.

11. On August 26, 2011, the OSC issued a cease-trade order in respect of Sino’s securities, alleging that Sino appeared to have engaged in significant non-arm’s length transactions which may have been contrary to Ontario securities laws and the public interest, that Sino and certain of its officers and directors appeared to have misrepresented some of Sino’s revenue and/or exaggerated some of its timber holdings, and that Sino and certain of its officers and directors, including Chan, appeared to be engaging or participating in acts, practices or a course of conduct related to Sino’s securities which they (or any of them) knew or ought reasonably know would perpetuate a fraud.

12. On November 13, 2011, the IC released the Second Report. Therein, the IC revealed, *inter alia*, that: (1) Sino’s management had failed to cooperate in numerous important respects with the IC’s investigation; (2) “there is a risk” that certain of Sino’s operations “taken as a whole” were in violation of PRC law; (3) Sino adopted processes that “avoid[] Chinese foreign exchange controls which must be complied with in a normal cross-border sale and purchase transaction, and [which] could present an obstacle to future repatriation of sales proceeds, and could have tax implications as well”; (4) the IC “has not been able to verify that any relevant income taxes and VAT have been paid by or on behalf of the BVIs in China”; (5) Sino lacked proof of title to the vast majority of its purported holdings of standing timber; (6) Sino’s “transaction volumes with a number of AI and Suppliers do not match the revenue reported by such Suppliers in their SAIC filing”; (7) “[n]one of the BVI timber purchase contracts have as

attachments either (i) Plantation Rights Certificates from either the Counterparty or original owner or (ii) villager resolutions, both of which are contemplated as attachments by the standard form of BVI timber purchase contract employed by the Company; and (8) “[t]here are indications in emails and in interviews with Suppliers that gifts or cash payments are made to forestry bureaus and forestry bureau officials.”

13. On January 31, 2012, the IC released its Final Report. Therein, the IC effectively revealed that, despite having conducted an investigation over nearly eight months, and despite the expenditure of US\$50 million on that investigation, it had failed to refute, or even to provide plausible answers to, key allegations made by Muddy Waters:

This Final Report of the IC sets out the activities undertaken by the IC since mid-November, the findings from such activities and the IC’s conclusions regarding its examination and review. The IC’s activities during this period have been limited as a result of Canadian and Chinese holidays (Christmas, New Year and Chinese New Year) and the extensive involvement of IC members in the Company’s Restructuring and Audit Committees, both of which are advised by different advisors than those retained by the IC. The IC believes that, notwithstanding there remain issues which have not been fully answered, the work of the IC is now at the point of diminishing returns because much of the information which it is seeking lies with non-compellable third parties, may not exist or is apparently not retrievable from the records of the Company.

[...]

Given the circumstances described above, the IC understands that, with the delivery of this Final Report, its review and examination activities are terminated. The IC does not expect to undertake further work other than assisting with responses to regulators and the RCMP as required and engaging in such further specific activities as the IC may deem advisable or the Board may instruct. The IC has asked the IC Advisors to remain available to assist and advise the IC upon its instructions

14. Sino failed to meet the standards required of a public company in Canada. Aided by its auditors and the Underwriters, Sino raised billions of dollars from investors on the false premise that they were investing in a well managed, ethical and GAAP-compliant corporation. They

were not. Accordingly, this action is brought to recover the Class Members' losses from those who caused them: the Defendants.

IV. THE PARTIES

A. *The Plaintiffs*

15. Labourers are the trustees of the Labourers' Pension Fund of Central and Eastern Canada, a multi-employer pension plan providing benefits for employees working in the construction industry. The fund is a union-negotiated, collectively-bargained defined benefit pension plan established on February 23, 1972 and currently has approximately \$2 billion in assets, over 39,000 members and over 13,000 pensioners and beneficiaries and approximately 2,000 participating employers. A board of trustees representing members of the plan governs the fund. The plan is registered under the *Pension Benefits Act*, RSO 1990, c P.8 and the *Income Tax Act*, RSC 1985, 5th Supp, c.1. Labourers purchased Sino's common shares over the TSX during the Class Period and continued to hold shares at the end of the Class Period. In addition, Labourers purchased Sino common shares offered by the December 2009 Prospectus and in the distribution to which that Prospectus related.

16. Operating Engineers are the trustees of the International Union of Operating Engineers Local 793 Pension Plan for Operating Engineers in Ontario, a multi-employer pension plan providing pension benefits for operating engineers in Ontario. The pension plan is a union-negotiated, collectively-bargained defined benefit pension plan established on November 1, 1973 and currently has approximately \$1.5 billion in assets, over 9,000 members and pensioners and beneficiaries. The fund is governed by a board of trustees representing members of the plan. The plan is registered under the *Pension Benefits Act*, RSO 1990, c P.8 and the *Income Tax Act*, RSC 1985, 5th Supp, c.1. Operating Engineers purchased Sino's common shares over the TSX during the Class Period, and continued to hold shares at the end of the Class Period.

17. AP7 is the Swedish National Pension Fund. As of June 30, 2011, AP7 had approximately \$15.3 billion in assets under management. Funds managed by AP7 purchased Sino's common shares over the TSX during the Class Period and continued to hold those common shares at the end of the Class Period.

18. Grant is an individual residing in Calgary, Alberta. He purchased 100 of the Sino 6.25% Guaranteed Senior Notes due 2017 that were offered by the October 2010 Offering Memorandum and in the distribution to which that Offering Memorandum related. Grant continued to hold those Notes at the end of the Class Period.

19. Wong is an individual residing in Kincardine, Ontario. During the Class Period, Wong purchased Sino's common shares over the TSX and continued to hold some or all of such shares at the end of the Class Period. In addition, Wong purchased Sino common shares offered by the December 2009 Prospectus and in the distribution to which that Prospectus related, and continued to own those shares at the end of the Class Period.

B. *The Defendants*

20. Sino purports to be a commercial forest plantation operator in the PRC and elsewhere. Sino is a corporation formed under the *CBCA*.

21. At the material times, Sino was a reporting issuer in all provinces of Canada, and had its registered office located in Mississauga, Ontario. At the material times, Sino's shares were listed for trading on the TSX under the ticker symbol "TRE," on the Berlin exchange as "SFJ GR," on the over-the-counter market in the United States as "SNOFF" and on the Tradedgate market as "SFJ TH." Sino securities are also listed on alternative trading venues in Canada and elsewhere including, without limitation, AlphaToronto and PureTrading. Sino's shares also traded over-

the-counter in the United States. Sino has various debt instruments, derivatives and other securities that are traded in Canada and elsewhere.

22. As a reporting issuer in Ontario, Sino was required throughout the Class Period to issue and file with SEDAR:

- (a) within 45 days of the end of each quarter, quarterly interim financial statements prepared in accordance with GAAP that must include a comparative statement to the end of each of the corresponding periods in the previous financial year;
- (b) within 90 days of the end of the fiscal year, annual financial statements prepared in accordance with GAAP, including comparative financial statements relating to the period covered by the preceding financial year;
- (c) contemporaneously with each of the above, a MD&A of each of the above financial statements; and
- (d) within 90 days of the end of the fiscal year, an AIF, including material information about the company and its business at a point in time in the context of its historical and possible future development.

23. MD&As are a narrative explanation of how the company performed during the period covered by the financial statements, and of the company's financial condition and future prospects. The MD&A must discuss important trends and risks that have affected the financial statements, and trends and risks that are reasonably likely to affect them in future.

24. AIFs are an annual disclosure document intended to provide material information about the company and its business at a point in time in the context of its historical and future development. The AIF describes the company, its operations and prospects, risks and other external factors that impact the company specifically.

25. Sino controlled the contents of its MD&As, financial statements, AIFs and the other documents particularized herein and the misrepresentations made therein were made by Sino.

26. Chan is a co-founder of Sino, and was the Chairman, Chief Executive Officer and a director of the company from 1994 until his resignation from those positions on or about August 25, 2011. As Sino's CEO, Chan signed and certified the company's disclosure documents during the Class Period. Chan, along with Hyde, signed each of the 2006-2010 Audited Annual Financial Statements on behalf of Sino's board. Chan resides in Hong Kong, China.

27. Chan certified each of Sino's Class Period annual and quarterly MD&As and financial statements, each of which is an Impugned Document. In so doing, he adopted as his own the false statements such documents contained, as particularized below. Chan signed each of Sino's Class Period annual financial statements, each of which is an Impugned Document. In so doing, he adopted as his own the false statements such documents contained, as particularized below. As a director and officer, he caused Sino to make the misrepresentations particularized below.

28. Since Sino was established, Chan has received lavish compensation from Sino. For example, for 2006 to 2010, Chan's total compensation (other than share-based compensation) was, respectively, US\$3.0 million, US\$3.8 million, US\$5.0 million, US\$7.6 million and US\$9.3 million.

29. As at May 1, 1995, shortly after Sino became a reporting issuer, Chan held 18.3% of Sino's outstanding common shares and 37.5% of its preference shares. As of April 29, 2011 he held 2.7% of Sino's common shares (the company no longer has preference shares outstanding). Chan has made in excess of \$10 million through the sale of Sino shares.

30. Horsley is Sino's Chief Financial Officer, and has held this position since October 2005. In his position as Sino's CFO, Horsley has signed and certified the company's disclosure documents during the Class Period. Horsley resides in Ontario. Horsley has made in excess of \$11 million through the sale of Sino shares.

31. Horsley certified each of Sino's Class Period annual and quarterly MD&As and financial statements, each of which is an Impugned Document. In so doing, he adopted as his own the false statements such documents contained, as particularized below. Horsley signed each of Sino's Class Period annual financial statements, each of which is an Impugned Document. In so doing, he adopted as his own the false statements such documents contained, as particularized below. As an officer, he caused Sino to make the misrepresentations particularized below.

32. Since becoming Sino's CFO, Horsley has also received lavish compensation from Sino. For 2006 to 2010, Horsley's total compensation (other than share-based compensation) was, respectively, US\$1.1 million, US\$1.4 million, US\$1.7 million, US\$2.5 million, and US\$3.1 million.

33. Poon is a co-founder of Sino, and has been the President of the company since 1994. He was a director of Sino from 1994 to May 2009, and he continues to serve as Sino's President. Poon resides in Hong Kong, China. While he was a board member, he adopted as his own the false statements made in each of Sino's annual financial statements, particularized below, when such statements were signed on his behalf. While he was a board member, he caused Sino to make the misrepresentations particularized below.

34. As at May 1, 1995, shortly after Sino became a reporting issuer, Poon held 18.3% of Sino's outstanding common shares and 37.5% of its preference shares. As of April 29, 2011 he

held 0.42% of Sino's common shares. Poon has made in excess of \$34.4 million through the sale of Sino shares.

35. Poon rarely attended board meetings while he was on Sino's board. From the beginning of 2006 until his resignation from the Board in 2009, he attended 5 of the 39 board meetings, or less than 13% of all board meetings held during that period.

36. Wang is a director of Sino, and has held this position since August 2007. Wang resides in Hong Kong, China. As a board member, he adopted as his own the false statements made in each of Sino's annual financial statements, particularized below, when such statements were signed on his behalf. As a board member, he caused Sino to make the misrepresentations particularized below.

37. Martin has been a director of Sino since 2006, and was appointed vice-chairman in 2010. On or about August 25, 2011, Martin replaced Chan as Chief Executive Officer of Sino. Martin was a member of Sino's audit committee prior to early 2011. Martin has made in excess of \$474,000 through the sale of Sino shares. He resides in Hong Kong, China. As a board member, he adopted as his own the false statements made in each of Sino's annual financial statements, particularized below, when such statements were signed on his behalf. As a board member, he caused Sino to make the misrepresentations particularized herein.

38. Mak is a director of Sino, and has held this position since 1994. Mak was a member of Sino's audit committee prior to early 2011. Mak and persons connected with Mak have made in excess of \$6.4 million through sales of Sino shares. Mak resides in British Columbia. As a board member, he adopted as his own the false statements made in each of Sino's annual

financial statements, particularized below, when such statements were signed on his behalf. As a board member, he caused Sino to make the misrepresentations particularized below.

39. Murray is a director of Sino, and has held this position since 1999. Murray has made in excess of \$9.9 million through sales of Sino shares. Murray resides in Hong Kong, China. As a board member, he adopted as his own the false statements made in each of Sino's annual financial statements, particularized below, when such statements were signed on his behalf. As a board member, he caused Sino to make the misrepresentations particularized below.

40. Since becoming a director, Murray has rarely attended board and board committee meetings. From the beginning of 2006 to the close of 2010, Murray attended 14 of 64 board meetings, or less than 22% of board meetings held during that period. During that same period, Murray attended 2 out of 13, or 15%, of the meetings held by the Board's Compensation and Nominating Committee, and attended *none* of the 11 meetings of that Committee held from the beginning of 2007 to the close of 2010.

41. Hyde is a director of Sino, and has held this position since 2004. Hyde was previously a partner of E&Y. Hyde is the chairman of Sino's Audit Committee. Hyde, along with Chan, signed each of the 2007-2010 Annual Consolidated Financial Statements on behalf of Sino's board. Hyde is also member of the Compensation and Nominating Committee. Hyde has made in excess of \$2.4 million through the sale of Sino shares. Hyde resides in Ontario. As a board member, he adopted as his own the false statements made in each of Sino's annual financial statements, particularized below, when he signed such statements or when they were signed on his behalf. As a board member, he caused Sino to make the misrepresentations particularized below.

42. Ardell is a director of Sino, and has held this position since January 2010. Ardell is a member of Sino's audit committee. Ardell resides in Ontario. As a board member, he adopted as his own the false statements made in each of Sino's annual financial statements released while he was a board member, particularized below, when such statements were signed on his behalf. As a board member, he caused Sino to make the misrepresentations particularized below.

43. Bowland was a director of Sino from February 2011 until his resignation from the Board of Sino in November 2011. While on Sino's Board, Bowland was a member of Sino's Audit Committee. He was formerly an employee of a predecessor to E&Y. Bowland resides in Ontario. As a board member, he adopted as his own the false statements made in each of Sino's annual financial statements released while he was a board member, particularized below, when such statements were signed on his behalf. As a board member, he caused Sino to make the misrepresentations particularized below.

44. West is a director of Sino, and has held this position since February 2011. West was previously a partner at E&Y. West is a member of Sino's Audit Committee. West resides in Ontario. As a board member, he adopted as his own the false statements made in each of Sino's annual financial statements released while he was a board member, particularized below, when such statements were signed on his behalf. As a board member, he caused Sino to make the misrepresentations particularized below.

45. As officer and/or directors of Sino, the Individual Defendants were fiduciaries of Sino, and they made the misrepresentations alleged herein, adopted such misrepresentations, and/or caused Sino to make such misrepresentations while they were acting in their capacity as fiduciaries, and in violation of their fiduciary duties. In addition, Chan, Poon, Horsley, Martin,

Mak and Murray were unjustly enriched in the manner and to the extent particularized below while they were acting in their capacity as fiduciaries, and in violation of their fiduciary duties.

46. At all material times, Sino maintained the Code, which governed Sino's employees, officers and directors, including the Individual Defendants. The Code stated that the members of senior management "are expected to lead according to high standards of ethical conduct, in both words and actions..." The Code further required that Sino representatives act in the best interests of shareholders, corporate opportunities not be used for personal gain, no one trade in Sino securities based on undisclosed knowledge stemming from their position or employment with Sino, the company's books and records be honest and accurate, conflicts of interest be avoided, and any violations or suspected violations of the Code, and any concerns regarding accounting, financial statement disclosure, internal accounting or disclosure controls or auditing matters, be reported.

47. E&Y has been engaged as Sino's auditor since August 13, 2007. E&Y was also engaged as Sino's auditor from Sino's creation through February 19, 1999, when E&Y abruptly resigned during audit season and was replaced by the now-defunct Arthur Andersen LLP. E&Y was also Sino's auditor from 2000 to 2004, when it was replaced by BDO. E&Y is an expert of Sino within the meaning of the Securities Legislation.

48. E&Y, in providing what it purported to be "audit" services to Sino, made statements that it knowingly intended to be, and which were, disseminated to Sino's current and prospective security holders. At all material times, E&Y was aware of that class of persons, intended to and did communicate with them, and intended that that class of persons would rely on E&Y's statements relating to Sino, which they did to their detriment.

49. E&Y consented to the inclusion in the June 2009 and December 2009 Prospectuses, as well as the July 2008, June 2009, December 2009 and October 2010 Offering Memoranda, of its audit reports on Sino's Annual Financial Statements for various years, as alleged more particularly below.

50. BDO is the successor of BDO McCabe Lo Limited, the Hong Kong, China based auditing firm that was engaged as Sino's auditor during the period of March 21, 2005 through August 12, 2007, when they resigned at Sino's request, and were replaced by E&Y. BDO is an expert of Sino within the meaning of the Securities Legislation.

51. During the term of its service as Sino's auditor, BDO provided what it purported to be "audit" services to Sino, and in the course thereof made statements that it knowingly intended to be, and which were, disseminated to Sino's current and prospective security holders. At all material times, BDO was aware of that class of persons, intended to and did communicate with them, and intended that that class of persons rely on BDO's statements relating to Sino, which they did to their detriment.

52. BDO consented to the inclusion in each of the June 2007 and December 2009 Prospectuses and the July 2008, June 2009 and December 2009 Offering Memoranda, of its audit reports on Sino's Annual Financial Statements for 2005 and 2006.

53. E&Y and BDO's annual Auditors' Report was made "to the shareholders of Sino-Forest corporation," which included the Class Members. Indeed, s. 1000.11 of the Handbook of the Canadian Institute of Chartered Accountants states that "the objective of financial statements for profit-oriented enterprises focuses primarily on the information needs of *investors and creditors*" [emphasis added].

54. Sino's shareholders, including numerous Class Members, appointed E&Y as auditors of Sino-Forest by shareholder resolutions passed on various dates, including on June 21, 2004, May 26, 2008, May 25, 2009, May 31, 2010 and May 30, 2011.

55. Sino's shareholders, including numerous Class Members, appointed BDO as auditors of Sino-Forest by resolutions passed on May 16, 2005, June 5, 2006 and May 28, 2007.

56. During the Class Period, with the knowledge and consent of BDO or E&Y (as the case may be), Sino's audited annual financial statements for the years ended December 31, 2006, 2007, 2008, 2009 and 2010, together with the report of BDO or E&Y thereon (as the case may be), were presented to the shareholders of Sino (including numerous Class Members) at annual meetings of such shareholders held in Toronto, Canada on, respectively, May 28, 2007, May 26, 2008, May 25, 2009, May 31, 2010 and May 30, 2011. As alleged elsewhere herein, all such financial statements constituted Impugned Documents.

57. Pöyry is an international forestry consulting firm which purported to provide certain forestry consultation services to Sino. Pöyry is an expert of Sino within the meaning of the Securities Legislation.

58. Pöyry, in providing what it purported to be "forestry consulting" services to Sino, made statements that it knowingly intended to be, and which were, disseminated to Sino's current and prospective security holders. At all material times, Pöyry was aware of that class of persons, intended to and did communicate with them, and intended that that class of persons would rely on Pöyry's statements relating to Sino, which they did to their detriment.

59. Pöyry consented to the inclusion in the June 2007, June 2009 and December 2009 Prospectuses, as well as the July 2008, June 2009, December 2009 and October 2010 Offering Memoranda, of its various reports, as detailed below in paragraph ●.

60. The Underwriters are various financial institutions who served as underwriters in one or more of the Offerings.

61. In connection with the distributions conducted pursuant to the June 2007, June 2009 and December 2009 Prospectuses, the Underwriters who underwrote those distributions were paid, respectively, an aggregate of approximately \$7.5 million, \$14.0 million and \$14.4 million in underwriting commissions. In connection with the offerings of Sino's notes in July 2008, December 2009, and October 2010, the Underwriters who underwrote those offerings were paid, respectively, an aggregate of approximately US\$2.2 million, US\$8.5 million and \$US6 million. Those commissions were paid in substantial part as consideration for the Underwriters' purported due diligence examination of Sino's business and affairs.

62. None of the Underwriters conducted a reasonable investigation into Sino in connection with any of the Offerings. None of the Underwriters had reasonable grounds to believe that there was no misrepresentation in any of the Impugned Documents. In the circumstances of this case, including the facts that Sino operated in an emerging economy, Sino had entered Canada's capital markets by means of a reverse merger, and Sino had reported extraordinary results over an extended period of time that far surpassed those reported by Sino's peers, the Underwriters all ought to have exercised heightened vigilance and caution in the course of discharging their duties to investors, which they did not do. Had they done so, they would have uncovered Sino's true nature, and the Class Members to whom they owed their duties would not have sustained the losses that they sustained on their Sino investments.

V. THE OFFERINGS

63. Through the Offerings, Sino raised in aggregate in excess of \$2.7 billion from investors during the Class Period. In particular:

- (a) On June 5, 2007, Sino issued and filed with SEDAR the June 2007 Prospectus pursuant to which Sino distributed to the public 15,900,000 common shares at a price of \$12.65 per share for gross proceeds of \$201,135,000. The June 2007 Prospectus incorporated by reference Sino's: (1) 2006 AIF; (2) 2006 Audited Annual Financial Statements; (3) 2006 Annual MD&A; (4) Management Information Circular dated April 27, 2007; (5) Q1 2007 Financial Statements; and (6) Q1 2007 MD&A;
- (b) On July 17, 2008, Sino issued the July 2008 Offering Memorandum pursuant to which Sino sold through private placement US\$345 million in aggregate principal amount of convertible senior notes due 2013. The July 2008 Offering Memorandum included: (1) Sino's Consolidated Annual Financial Statements for 2005, 2006 and 2007; (2) Sino's unaudited interim financial statements for the three-month periods ended March 31, 2007 and 2008; (3) the section of the 2007 AIF entitled "Audit Committee" and the charter of the Audit Committee attached as an appendix to the 2007 AIF; and (4) the Pöyry report entitled "Sino-Forest Corporation Valuation of China Forest Assets Report as at 31 December 2007" dated March 14, 2008;
- (c) On June 1, 2009, Sino issued and filed with SEDAR the June 2009 Prospectus pursuant to which Sino distributed to the public 34,500,000 common shares at a price of \$11.00 per share for gross proceeds of \$379,500,000. The June 2009 Prospectus incorporated by reference Sino's: (1) 2008 AIF; (2) 2007 and 2008 Annual Consolidated Financial Statements; (3) Amended 2008 Annual MD&A; (4) Q1 2009 MD&A; (5) Q1 2008 and 2009 Financial Statements; (6) Q1 2009 MD&A; (7) Management Information Circular dated April 28, 2009; and (8) the Pöyry report titled "Valuation of China Forest Corp Assets As at 31 December 2008" dated April 1, 2009;

- (d) On June 24, 2009, Sino issued the June 2009 Offering Memorandum for exchange of certain of its then outstanding senior notes due 2011 with new notes, pursuant to which Sino issued US\$212,330,000 in aggregate principal amount of 10.25% Guaranteed Senior Notes due 2014. The June 2009 Offering Memorandum incorporated by reference: (1) Sino's 2005, 2006 and 2007 Consolidated Annual Financial Statements; (2) the auditors' report of BDO dated March 19, 2007 with respect to Sino's Consolidated Annual Financial Statements for 2005 and 2006; (3) the auditors' report of E&Y dated March 12, 2008 with respect to Sino's Consolidated Annual Financial Statements for 2007 except as to notes 2, 18 and 23; (4) Sino's Consolidated Annual Financial Statements for 2007 and 2008 and the auditors' report of E&Y dated March 13, 2009; (5) the section entitled "Audit Committee" in the 2008 AIF, and the charter of the Audit Committee attached as an appendix to the 2008 AIF; and (6) the unaudited interim financial statements for the three-month periods ended March 31, 2008 and 2009;
- (e) On December 10, 2009, Sino issued the December 2009 Offering Memorandum pursuant to which Sino sold through private placement US\$460,000,000 in aggregate principal amount of 4.25% convertible senior notes due 2016. This Offering Memorandum incorporated by reference: (1) Sino's Consolidated Annual Financial Statements for 2005, 2006, 2007; (2) the auditors' report of BDO dated March 19, 2007 with respect to Sino's Annual Financial Statements for 2005 and 2006; (3) the auditors' report of E&Y dated March 12, 2008 with respect to Sino's Consolidated Annual Financial Statements for 2007, except as to notes 2, 18 and 23; (4) Sino's Consolidated Annual Financial Statements for 2007 and 2008 and the auditors' report of E&Y dated March 13, 2009; (5) the unaudited interim consolidated financial statements for the nine-month periods ended September 30, 2008 and 2009; (6) the section entitled "Audit Committee" in the 2008 AIF, and the charter of the Audit Committee attached to the 2008 AIF; (7) the Pöyry report entitled "Sino-Forest Corporation Valuation of China Forest Assets as at 31 December 2007"; and (8) the Pöyry report entitled "Sino-Forest Corporation Valuation of China Forest Corp Assets as at 31 December 2008" dated April 1, 2009;

- (f) On December 10, 2009, Sino issued and filed with SEDAR the December 2009 Prospectus (together with the June 2007 Prospectus and the June 2009 Prospectus, the “**Prospectuses**”) pursuant to which Sino distributed to the public 21,850,000 common shares at a price of \$16.80 per share for gross proceeds of \$367,080,000. The December 2009 Prospectus incorporated by reference Sino’s: (1) 2008 AIF; (2) 2007 and 2008 Annual Consolidated Financial Statements; (3) Amended 2008 Annual MD&A; (4) Q3 2008 and 2009 Financial Statements; (5) Q3 2009 MD&A; (6) Management Information Circular dated April 28, 2009; and (7) the Pöyry report titled “Valuation of China Forest Corp Assets As at 31 December 2008” dated April 1, 2009;
- (g) On February 8, 2010, Sino closed the acquisition of substantially all of the outstanding common shares of Mandra Forestry Holdings Limited. Concurrent with this acquisition, Sino completed an exchange with holders of 99.7% of the USD\$195 million notes issued by Mandra Forestry Finance Limited and 96.7% of the warrants issued by Mandra Forestry Holdings Limited, for new 10.25% guaranteed senior notes issued by Sino in the aggregate principal amount of USD\$187,177,375 with a maturity date of July 28, 2014. On February 11, 2010, Sino exchanged the new 2014 Senior Notes for an additional issue of USD\$187,187,000 in aggregate principal amount of Sino’s existing 2014 Senior Notes, issued pursuant to the June 2009 Offering Memorandum; and
- (h) On October 14, 2010, Sino issued the October 2010 Offering Memorandum pursuant to which Sino sold through private placement US\$600,000,000 in aggregate principal amount of 6.25% guaranteed senior notes due 2017. The October 2010 Offering Memorandum incorporated by reference: (1) Sino’s Consolidated Annual Financial Statements for 2007, 2008 and 2009; (2) the auditors’ report of E&Y dated March 15, 2010 with respect to Sino’s Annual Financial Statements for 2008 and 2009; and (3) Sino’s unaudited interim financial statements for the six-month periods ended June 30, 2009 and 2010.
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64. The offering documents referenced in the preceding paragraph included, or incorporated other documents by reference that included, the Representation and the other misrepresentations in such documents that are particularized elsewhere herein. Had the truth in regard to Sino's management, business and affairs been timely disclosed, securities regulators likely would not have receipted the Prospectuses, nor would any of the Offerings have occurred.

65. Each of Chan, Horsley, Martin and Hyde signed the June 2007 Prospectus, and therein falsely certified that that prospectus, together with the documents incorporated therein by reference, constituted full, true and plain disclosure of all material facts relating to the securities offered thereby. Each of Dundee, CIBC, Merrill and Credit Suisse also signed the June 2007 Prospectus, and therein falsely certified that, to the best of its knowledge, information and belief, that prospectus, together with the documents incorporated therein by reference, constituted full, true and plain disclosure of all material facts relating to the securities offered thereby.

66. Each of Chan, Horsley, Martin and Hyde signed the June 2009 Prospectus, and therein falsely certified that that prospectus, together with the documents incorporated therein by reference, constituted full, true and plain disclosure of all material facts relating to the securities offered thereby. Each of Dundee, Merrill, Credit Suisse, Scotia and TD also signed the June 2009 Prospectus, and therein falsely certified that, to the best of its knowledge, information and belief, that prospectus, together with the documents incorporated therein by reference, constituted full, true and plain disclosure of all material facts relating to the securities offered thereby.

67. Each of Chan, Horsley, Martin and Hyde signed the December 2009 Prospectus, and therein falsely certified that that prospectus, together with the documents incorporated therein by reference, constituted full, true and plain disclosure of all material facts relating to the securities

offered thereby. Each of Dundee, Merrill, Credit Suisse, Scotia, CIBC, RBC, Maison, Canaccord and TD also signed the December 2009 Prospectus, and therein falsely certified that, to the best of its knowledge, information and belief, that prospectus, together with the documents incorporated therein by reference, constituted full, true and plain disclosure of all material facts relating to the securities offered thereby.

68. E&Y consented to the inclusion in: (1) the June 2009 Prospectus, of its audit reports on Sino's Audited Annual Financial Statements for 2007 and 2008; (2) the December 2009 Prospectus, of its audit reports on Sino's Audited Annual Financial Statements for 2007 and 2008; (3) the July 2008 Offering Memorandum, of its audit reports on Sino's Audited Annual Financial Statements for 2007, and its adjustments to Sino's Audited Annual Financial Statements for 2005 and 2006; (4) the December 2009 Offering Memorandum, of its audit reports on Sino's Audited Annual Financial Statements for 2007 and 2008; and (5) the October 2010 Offering Memoranda, of its audit reports on Sino's Audited Annual Financial Statements for 2008 and 2009.

69. BDO consented to the inclusion in each of the June 2007 and December 2009 Prospectuses and the July 2008, June 2009 and December 2009 Offering Memoranda of its audit reports on Sino's Audited Annual Financial Statements for 2006 and 2005.

VI. THE MISREPRESENTATIONS

70. During the Class Period, Sino made the misrepresentations particularized below. These misrepresentations related to:

- A. Sino's history and fraudulent origins;
 - B. Sino's forestry assets;
 - C. Sino's related party transactions;
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- D. Sino's relationships with forestry bureaus and its purported title to forestry assets in the PRC;
 - E. Sino's relationships with its "Authorized Intermediaries;"
 - F. Sino's cash flows;
 - G. Certain risks to which Sino was exposed; and
 - H. Sino's compliance with GAAP and the Auditors' compliance with GAAS.
- A. *Misrepresentations relating to Sino's History and Fraudulent Origins***
- (i) Sino Overstates the Value of, and the Revenues Generated by, the Leizhou Joint Venture*

71. At the time of its founding by way of reverse merger in 1994, Sino's business was conducted primarily through an equity joint venture between Sino's Hong Kong subsidiary, Sino-Wood Partners, Limited ("Sino-Wood"), and the Leizhou Forestry Bureau, which was situated in Guangdong Province in the south of the PRC. The name of the venture was Zhanjiang Leizhou Eucalyptus Resources Development Co. Ltd. ("**Leizhou**"). The stated purpose of Leizhou, established in 1994, was:

Managing forests, wood processing, the production of wood products and wood chemical products, and establishing a production facility with an annual production capacity of 50,000 m³ of Micro Density Fiber Board (MDF), managing a base of 120,000 mu (8,000 ha) of which the forest annual utilization would be 8,000 m³.

72. There are two types of joint ventures in the PRC relevant to Sino: equity joint ventures ("EJV") and cooperating joint ventures ("CJV"). In an EJV, profits and assets are distributed in proportion to the parties' equity holdings upon winding up. In a CJV, the parties may contract to divide profits and assets disproportionately to their equity interests.

73. According to a Sino prospectus issued in January 1997, Leizhou, an EJV, was responsible for 20,000 hectares of the 30,000 hectares that Sino claimed to have “phased-in.” Leizhou was the key driver of Sino’s purported early growth.

74. Sino claimed to hold 53% of the equity in Leizhou, which was to total US\$10 million, and Sino further claimed that the Leizhou Forestry Bureau was to contribute 20,000 ha of forestry land. In reality, however, the terms of the EJV required the Leizhou Forestry Bureau to contribute a mere 3,533 ha.

75. What was also unknown to investors was that Leizhou did not generate the sales claimed by Sino. More particularly, in 1994, 1995 and 1996, respectively, Sino claimed to have generated US\$11.3 million, US\$23.9 million and US\$23.1 million in sales from Leizhou. In reality, however, these sales did not occur, or were materially overstated.

76. Indeed, in an undisclosed letter from Leizhou Forestry Bureau to Zhanjiang City Foreign and Economic Relations and Trade Commission, dated February 27, 1998, the Bureau complained:

To: Zhanjiang Municipal Foreign Economic Relations & Trade Commission

Through mutual consultation between Leizhou Forestry Administration (hereinafter referred to as *our side*) and Sino-Wood Partners Limited (hereinafter referred to as the *foreign party*), and, with the approval document ZJMPZ No.021 [1994] issued by your commission on 28th January 1994 for approving the contracts and articles of association entered into by both parties, and, with the approval certificate WJMZHZZZ No.065 [1994] issued by your commission, both parties jointly established Zhanjiang Eucalyptus Resources Development Co. Ltd. (hereinafter referred to as the Joint Venture) whose incorporate number is 162622-0012 and duly registered the same with Zhanjiang Administration for Industry and Commerce and obtained the business license GSQHYZ No.00604 on 29th January in the same year. It has been 4 years since the registration and we set out the situation as follows:

I. Information of the investment of both sides

- A. The investment of our side: according to the contract and articles of association signed by both sides and approved by your commission, our side has paid in RMB95,481,503.29 (equivalent to USD11,640,000.00) to the Joint Venture on 20th June 1995 through an in-kind contribution. The payment was made in accordance with the prescribed procedures and confirmed by signatures of the legal representatives of both parties. According to the Capital Verification Report from Yuexi (粤西) Accounting Firm, this payment accounts for 99.1% of the agreed capital contribution from our side, which is USD11,750,000, and accounts for 46.56% of the total investment.
- B. The investment of the foreign party: the foreign party has paid in USD1,000,000 on 16th March 1994, which was in the starting period of the Joint Venture. According to the Capital Verification Report from Yuexi (粤西) Accounting Firm, this payment only accounts for 7.55% of the agreed capital contribution from the foreign party totaling USD13,250,000, and accounts for 4% of the total investment. Then, in the prescribed investment period, the foreign party did not further pay capital into the Joint Venture. In view of this, your commission sent a "Notice on Time for Capital Contribution" to the foreign party on 30th January 1996. In accordance with the notice, the foreign party then on 10th April sent a letter to your commission, requesting for postponing the deadline for capital contribution to 20th December the same year. On 14th May 1996, your commission replied to Allen Chan (陈德源), the Chairman of the Joint Venture, stating that "postponement of the deadline for capital contribution is subject to the consent of our side and requires amendment of the term on the capital contribution time in the original contract, and both parties shall sign a bilateral supplementary contract; after the application has been approved, the postponed deadline will become effective.". Based on the spirit of the letter dated 14th May from your commission and for the purpose of achieving mutual communication and dealing with the issues of the Joint Venture actively and appropriately, on 11th June 1996, Chan Shixing (陈识兴) and two other Directors from our side sent a joint letter to Allen Chan (陈德源), the Chairman of the Joint Venture, to propose a meeting of the board to be convened before 30th June 1996 in Zhanjiang, in order to discuss how to deal with the issues of the Joint Venture in accordance with the relevant State provisions. Unfortunately, the foreign party neither had discussion with our side pursuant to your commission's letter, nor replied to the proposal of our side, and furthermore failed to make payment to the Joint Venture. Now, it has been two years beyond the deadline for capital contribution (29th January 1996), and more than one year beyond the date prescribed by the Notice on Time for Capital Contribution issued by your commission (30th April 1996). However, the foreign party has been evading the discussion of the capital contribution issue, and moreover has taken no further action.

II. *The Joint Venture is not capable of attaining substantial operation*

According to the contract and articles of association, the main purposes of setting up the Joint Venture are, on the one hand, to invest and construct a project producing 50,000 cubic meter Medium Density Fiberboard (MDF) a year; and on the other hand, to create a forest base of 120,000 mu, with which to produce 80,000 cubic meter of timber as raw material for the production of medium density fiberboard. The contract and articles of association also prescribed that the whole funding required for the MDF board project should be paid by the foreign party in cash; our side should pay in-kind the proportion of the fund prescribed by the contract. *After contributing capital of USD1,000,000 in the early stage, the foreign party not only failed to make subsequent capital contributions, but also in their own name successively withdrew a total amount of RMB4,141,045.02, from the funds they contributed, of which USD270,000 was paid to Huadu Baixing Wood Products Factory (花都市百兴木制品厂), which has no business relationship with the Joint Venture. This amount of money equals 47.6% of [the foreign party's] paid in capital. Although our side has almost paid off the agreed capital contribution (only short 0.9% of the total committed), due to the limited contribution from the foreign party and the fact that they withdrew a huge amount of money from those funds originally contributed by them, it is impossible for the Joint Venture to construct or set up production projects and to commence production operation while the funds have been insufficient and the foreign party did not pay in the majority of the subscribed capital. In fact, the Joint Venture therefore is merely a shell, existing in name only.*

Additionally, after the establishment of the Joint Venture, its internal operations have been extremely abnormal, for example, annual board meetings have not been held as scheduled; annual reports on the status and the results of the annual financial audit are missing; the withdrawal of the huge amount of funds by the foreign party was not discussed in the board meetings, etc. It is hard to list all here.

In light of the present state of contributions by both sides and the status of the Joint Venture from its establishment till now, our side now applies to your commission for:

1. The cancellation of the approval certificate for "Zhanjiang Eucalyptus Resources Development Co. Ltd.", i.e. WJMZHZZZ No. 065[1994], based on the relevant provisions of Certain Regulations on the Subscription of Capital by the Parties to Sino-Foreign Joint Equity Enterprises,

2. Direct the Joint Venture to complete the deregistration procedures for "Zhanjiang Eucalyptus Resources Development Co. Ltd." at the local Administration for Industry and Commerce, and for the return of its business license.
3. Coordination with both parties to resolve the relevant remaining issues.

Please let us have your reply on whether the above is in order.

The Seal of the Leizhou Forestry Bureau

1998, February 27

[Translation; emphasis added.]

77. In its 1996 Annual Financial Statements, Sino stated:

The \$14,992,000 due from the LFB represents cash collected from the sale of wood chips on behalf of the Leizhou EJV. As originally agreed to by Sino-Wood, the cash was being retained by the LFB to fund the ongoing plantation costs of the Leizhou EJV incurred by the LFB. Sino-Wood and LFB have agreed that the amount due to the Leizhou EJV, after reduction for plantation costs incurred, will be settled in 1997 concurrent with the settlement of capital contributions due to the Leizhou EJV by Sino-Wood.

78. These statements were false, inasmuch as Leizhou never generated such sales. Leizhou was wound-up in 1998.

79. At all material times, Sino's founders, Chan and Poon, were fully aware of the reality relating to Leizhou, and knowingly misrepresented the true status of Leizhou, as well as its true revenues and profits.

(ii) Sino's Fictitious Investment in SJXT

80. In Sino's audited financial statements for the year ended December 31, 1997, filed on SEDAR on May 20, 1998 (the "1997 Financial Statements"), Sino stated that, in order to establish strategic partnerships with key local wood product suppliers and to build a strong distribution for the wood-based product and contract supply businesses, it had acquired a 20% equity interest in "Shanghai Jin Xiang Timber Ltd." ("SJXT"). Sino then described SJXT as an

EJV that had been formed in 1997 by the Ministry of Forestry in China, and declared that its function was to organize and manage the first and only official market for timber and log trading in Eastern China. It further stated that the investment in SJXT was expected to provide the Company with good accessibility to a large base of potential customers and companies in the timber and log businesses in Eastern China.

81. There is, in fact, no entity known as “Shanghai Jin Xiang Timber Ltd.” While an entity called “Shanghai Jin Xiang Timber Wholesale Market” does exist, Sino did not have, as claimed in its disclosure documents, an equity stake in that venture.

82. According to the 1997 Audited Annual Financial Statements, the total investment of SJXT was estimated to be US\$9.7 million, of which Sino would be required to contribute approximately US\$1.9 million for a 20% equity interest. The 1997 Audited Annual Financial Statements stated that, as at December 31, 1997, Sino had made capital contributions to SJXT in the amount of US\$1.0 million. In Sino’s balance sheet as at December 31, 1997, the SJXT investment was shown as an asset of \$1.0 million.

83. In October 1998, Sino announced an Agency Agreement with SJXT. At that time, Sino stated that it would provide 130,000 m³ of various wood products to SJXT over an 18 month period, and that, based on then-current market prices, it expected this contract to generate “significant revenue” for Sino-Forest amounting to approximately \$40 million. The revenues that were purportedly anticipated from the SJXT contract were highly material to Sino. Indeed, Sino’s total reported revenues in 1998 were \$92.7 million.

84. In Sino’s Audited Annual Financial Statements for the year ended December 31, 1998, which statements were filed on SEDAR on May 18, 1999 (the “1998 Financial Statements”), Sino again stated that, in 1997, it had acquired a 20% equity interest in SJXT, that the total

investment in SJXT was estimated to be US\$9.7 million, of which Sino would be required to contribute approximately \$1.9 million, representing 20% of the registered capital, and that, as at December 31, 1997 and 1998, Sino had made contributions in the amount of US\$1.0 million to SJXT. In Sino's balance sheet as at December 31, 1998, the SJXT investment was again shown as an asset of US\$1.0 million.

85. Sino also stated in the 1998 Audited Annual Financial Statements that, during 1998, the sale of logs and lumber to SJXT amounted to approximately US\$537,000. These sales were identified in the notes to the 1998 Financial Statements as related party transactions.

86. In Sino's Annual Report for 1998, Chan stated that lumber and wood products trading constituted a "promising new opportunity." Chan explained that:

SJXT represents a very significant development for our lumber and wood products trading business. The market is prospering and continues to look very promising. Phase I, consisting of 100 shops, is completed. Phases II and III are expected to be completed by the year 2000. This expansion would triple the size of the Shanghai Timber Market.

The Shanghai Timber Market is important to Sino-Forest as a generator of significant new revenue. In addition to supplying various forest products to the market from our own operations, our direct participation in SJXT increases our activities in sourcing a wide range of other wood products both from inside China and internationally.

The Shanghai Timber Market is also very beneficial to the development of the forest products industry in China because it is the first forest products national sub-market in the eastern region of the country.

[...]

The market also greatly facilitates Sino-Forest's networking activities, enabling us to build new industry relationships and add to our market intelligence, all of which increasingly leverage our ability to act as principal in our dealings.

[Emphasis added.]

87. Chan also stated in the 1998 Annual Report that the “Agency Agreement with SJXT [is] expected to generate approximately \$40 million over 18 months.”

88. In Sino’s Annual Report for 1999, Sino stated:

There are also promising growth opportunities as Sino-Forest’s investment in Shanghai Jin Xiang Timber Ltd. (SJXT or the Shanghai Timber Market), develops. The Company also continues to explore opportunities to establish and reinforce ties with other international forestry companies and to bring our e-commerce technology into operation.

Sino-Forest’s investment in the Shanghai Timber Market — the first national forest products submarket in eastern China — has provided a strong foundation for the Company’s lumber and wood products trading business.

[Emphasis added.]

89. In Sino’s MD&A for the year ended December 31, 1999, Sino also stated that:

Sales from lumber and wood products trading increased 264% to \$34.2 million compared to \$9.4 million in 1998. The increase in lumber and wood products trading is attributable largely to the increase in new business generated from our investment in Shanghai Jin Xiang Timber Ltd. (SJXT) and a larger sales force in 1999. Lumber and wood products trading on an agency basis has increased 35% from \$2.3 million in 1998 to \$3.1 million in 1999. The increase in commission income on lumber and wood products trading is attributable to approximately \$1.8 million of fees earned from a new customer.

[Emphasis added.]

90. That same MD&A, however, also states that “The investment in SJXT has contributed to the significant growth of the lumber and wood products trading business, *which has recorded an increase in sales of 219% from \$11.7 million in 1998 to \$37.2 million in 1999*” (emphasis added).

91. In Sino’s Audited Annual Financial Statements for the year ended December 31, 1999, which statements were filed on SEDAR on May 18, 2000 (the “1999 Financial Statements”), Sino stated:

During the year, Shanghai Jin Xiang Timber Ltd. ["SJXT"] applied to increase *the original total capital contributions of \$868,000* [Chinese renminbi 7.2 million] to \$1,509,000 [Chinese renminbi 12.5 million], Sino-Wood is required to *make an additional contribution of \$278,000* as a result of the increase in total capital contributions. The additional capital contribution of \$278,000 was made in 1999 *increasing its equity interest in SJXT from 27.8% to 34.4%*. The principal activity of SJXT is to organize trading of timber and logs in the PRC market.

[Emphasis added.]

92. The statements made in the 1999 Financial Statements contradicted Sino's prior representations in relation to SJXT. Among other things, Sino previously claimed to have made a capital contribution of \$1,037,000 for a 20% equity interest in SJXT.

93. In addition, note 2(b) to the 1999 Financial Statements stated that, "[a]s at December 31, 1999, \$796,000...advances to SJXT remained outstanding. The advances to SJXT were unsecured, non-interest bearing and without a fixed repayment date." Thus, assuming that Sino's contributions to SJXT were actually made, then Sino's prior statements in relation to SJXT were materially misleading, and violated GAAP, inasmuch as those statements failed to disclose that Sino had made to SJXT, a related party, a non-interest bearing loan of \$796,000.

94. In Sino's Audited Annual Financial Statements for the year ended December 31, 2000, which statements were filed on SEDAR on May 18, 2000 (the "**2000 Financial Statements**"), Sino stated:

In 1999, Shanghai Jin Xiang Timber Ltd. ("SJXT") applied to increase the original total capital contributions of \$868,000 [Chinese renminbi 7.2 million] to \$1,509,000 [Chinese renminbi 12.5 million]. Sino-Wood is required to make an additional contribution of \$278,000 as a result of the increase in total capital contributions. The additional capital contribution of \$278,000 was made in 1999 increasing its equity interest in SJXT from 27.8% to 34.4%. The principal activity of SJXT is to organize the trading of timber and logs in the PRC market. During the year, advances to SJXT of \$796,000 were repaid.

95. In Sino's balance sheet as at December 31, 2000, the SJXT investment was shown as an asset of \$519,000, being the sum of Sino's purported SJXT investment of \$1,315,000 as at December 31, 1999, and the \$796,000 of "advances" purportedly repaid to Sino by SJXT during the year ended December 31, 2000.

96. In Sino's Annual Reports (including the audited annual financial statements contained therein) for the years 2001 and beyond, there is no discussion whatsoever of SJXT. Indeed, Sino's "promising" and "very significant" investment in SJXT simply evaporated, without explanation, from Sino's disclosure documents. In fact, and unbeknownst to the public, Sino never invested in a company called "Shanghai Jin Xiang Timber Ltd." Chan and Poon knew, or were reckless in not knowing of, that fact.

97. At all material times, Sino's founders, Chan and Poon, were fully aware of the reality relating to SJXT, and knowingly misrepresented the true status of SJXT and Sino's interest therein.

(iii) Sino's Materially Deficient and Misleading Class Period Disclosures regarding Sino's History

98. During the Class Period, the Sino disclosure documents identified below purported to provide investors with an overview of Sino's history. However, those disclosure documents, and indeed all of the Impugned Documents, failed to disclose the material fact that, from its very founding, Sino was a fraud, inasmuch as its purportedly key investments in Leizhou and SJXT were either grossly inflated or fictitious.

99. Accordingly, the statements particularized in paragraphs 100 to 104 below were misrepresentations. The misleading nature of such statements was exacerbated by the fact that, throughout the Class Period, Sino's senior management and Board purported to be governed by

the Code, which touted the “high standards of ethical conduct, in both words and actions”, of Sino’s senior management and Board.

100. In the Prospectuses, Sino described its history, but did not disclose that the SJXT investment was fictitious, or that the revenues generated by Leizhou were non-existent or grossly overstated.

101. In particular, the June 2007 Prospectus stated merely that:

The Corporation was formed under the *Business Corporations Act* (Ontario) upon the amalgamation of Mt. Kearsarge Minerals Inc. and 1028412 Ontario Inc. pursuant to articles of amalgamation dated March 14, 1994. The articles of amalgamation were amended by articles of amendment filed on July 20, 1995 and May 20, 1999 to effect certain changes in the provisions attaching to the Corporation’s class A subordinate-voting shares and class B multiple-voting shares. On June 25, 2002, the Corporation filed articles of continuance to continue under the *Canada Business Corporations Act*. On June 22, 2004, the Corporation filed articles of amendment whereby its class A subordinate-voting shares were reclassified as Common Shares and its class B multiple-voting shares were eliminated.

102. Similarly, the June 2009 Prospectus stated only that:

The Corporation was formed under the *Business Corporations Act* (Ontario) upon the amalgamation of Mt. Kearsarge Minerals Inc. and 1028412 Ontario Inc. pursuant to articles of amalgamation dated March 14, 1994. The articles of amalgamation were amended by articles of amendment filed on July 20, 1995 and May 20, 1999 to effect certain changes in the provisions attaching to the Corporation’s class A subordinate-voting shares and class B multiple-voting shares. On June 25, 2002, the Corporation filed articles of continuance to continue under the *Canada Business Corporations Act*. On June 22, 2004, the Corporation filed articles of amendment whereby its class A subordinate-voting shares were reclassified as Common Shares and its class B multiple-voting shares were eliminated.

103. Finally, the December 2009 Prospectus stated only that:

The Corporation was formed under the *Business Corporations Act* (Ontario) upon the amalgamation of Mt. Kearsarge Minerals Inc. and 1028412 Ontario Inc. pursuant to articles of amalgamation dated March 14, 1994. The articles of amalgamation were amended by articles of amendment filed on July 20, 1995 and May 20, 1999 to effect certain changes in the provisions attaching to the

Corporation's class A subordinate-voting shares and class B multiple-voting shares. On June 25, 2002, the Corporation filed articles of continuance to continue under the *Canada Business Corporations Act* (the "CBCA"). On June 22, 2004, the Corporation filed articles of amendment whereby its class A subordinate-voting shares were reclassified as Common Shares and its class B multiple-voting shares were eliminated.

104. The failure to disclose the true nature of, and/or Sino's revenues and profits from, SJXT and Leizhou in the historical narrative in the Prospectuses rendered those Prospectuses materially false and misleading. Those historical facts would have alerted persons who purchased Sino shares under the Prospectuses, and/or in the secondary markets, to the highly elevated risk of investing in a company that continued to be controlled by Chan and Poon, both of whom were founders of Sino, and both of whom had knowingly misrepresented the true nature of Leizhou and SJXT from the time of Sino's creation. Thus, Sino was required to disclose those historical facts to the Class Members during the Class Period, but failed to do so, either in the Prospectuses or in any other Impugned Document.

B. *Misrepresentations relating to Sino's Forestry Assets*

(1) Sino Overstates its Yunnan Forestry Assets

105. In a press release issued by Sino and filed on SEDAR on March 23, 2007, Sino announced that it had entered into an agreement to sell 26 million shares to several institutional investors for gross proceeds of US\$200 million, and that the proceeds would be used for the acquisition of standing timber, including pursuant to a new agreement to purchase standing timber in Yunnan Province. It further stated in that press release that Sino-Panel (Asia) Inc. ("**Sino-Panel**"), a wholly-owned subsidiary of Sino, had entered on that same day into an agreement with Gengma Dai and Wa Tribes Autonomous Region Forestry Company Ltd., ("**Gengma Forestry**") established in Lincang City, Yunnan Province in the PRC, and that, under that Agreement, Sino-Panel would acquire approximately 200,000 hectares of non-state owned

commercial standing timber in Lincang City and surrounding cities in Yunnan for US\$700 million to US\$1.4 billion over a 10-year period.

106. These same terms of Sino's Agreement with Gengma Forestry were disclosed in Sino's Q1 2007 MD&A. Moreover, throughout the Class Period, Sino discussed its purported Yunnan acquisitions in the Impugned Documents, and Pöyry repeatedly made statements regarding said holdings, as particularized below.

107. The reported acquisitions did not take place. Sino overstated to a material degree the size and value of its forestry holdings in Yunnan Province. It simply does not own all of the trees it claims to own in Yunnan. Sino's overstatement of the Yunnan forestry assets violated GAAP.

108. The misrepresentations about Sino's acquisition and holdings of the Yunnan forestry assets were made in all of the Impugned Documents that were MD&As, financial statements, AIFs, Prospectuses and Offering Memoranda, except for the 2005 Audited Annual Financial Statements, the Q1 2006 interim financial statements, the 2006 Audited Annual Financial Statements, the 2006 Annual MD&A.

(ii) Sino Overstates its Suriname Forestry Assets; Alternatively, Sino fails to Disclose the Material Fact that its Suriname Forestry Assets are contrary to the Laws of Suriname

109. In mid-2010, Sino became a majority shareholder of Greenheart Group Ltd., a Bermuda corporation having its headquarters in Hong Kong, China and a listing on the Hong Kong Stock Exchange ("**Greenheart**").

110. In August 2010, Greenheart issued an aggregate principal amount of US\$25,000,000 convertible notes for gross proceeds of US\$24,750,000. The sole subscriber of these convertible notes was Greater Sino Holdings Limited, an entity in which Murray has an indirect interest. In

addition, Chan and Murray then became members of Greenheart's Board, Chan became the Board's Chairman, and Martin became the CEO of Greenheart and a member of its Board.

111. On August 24, 2010 and December 28, 2010, Greenheart granted to Chan, Martin and Murray options to purchase, respectively, approximately 6.8 million, 6.8 million and 1.1 million Greenheart shares. The options are exercisable for a five-year term.

112. As at March 31, 2011, General Enterprise Management Services International Limited, a company in which Murray has an indirect interest, held 7,000,000 shares of Greenheart, being 0.9% of the total issued and outstanding shares of Greenheart.

113. As a result of the aforesaid transactions and interests, Sino, Chan, Martin and Murray stood to profit handsomely from any inflation in the market price of Greenheart's shares.

114. At all material times, Greenheart purported to have forestry assets in New Zealand and Suriname. On March 1, 2011, Greenheart issued a press release in which it announced that:

Greenheart acquires certain rights to additional 128,000 hectare concession in Suriname

312,000 hectares now under Greenheart management

Hong Kong, March 1, 2011 – Greenheart Group Limited (“Greenheart” or “the Company”) (HKSE: 00094), an investment holding company with forestry assets in Suriname and New Zealand (subject to certain closing conditions) today announced that *the Company has acquired 60% of Vista Marine Services N.V. (“Vista”), a private company based in Suriname, South America that controls certain harvesting rights to a 128,000 hectares hardwood concession. Vista will be rebranded as part of the Greenheart Group. This transaction will increase Greenheart’s concessions under management in Suriname to approximately 312,000 hectares.* The cost of this acquisition is not material to the Company as a whole but the Company is optimistic about the prospects of Vista and the positive impact that it will bring. *The concession is located in the Sipalawini district of Suriname, South America, bordering Lake Brokopondo and has an estimated annual allowable cut of approximately 100,000 cubic meters.*

Mr. Judson Martin, Chief Executive Officer of Greenheart and Vice-Chairman of Sino-Forest Corporation, the Company's controlling shareholder said, "This acquisition is in line with our growth strategy to expand our footprint in Suriname. In addition to increased harvestable area, this acquisition will bring synergies in sales, marketing, administration, financial reporting and control, logistics and overall management. I am pleased to welcome Mr. Ty Wilkinson to Greenheart as our minority partner. Mr. Wilkinson shares our respect for the people of Suriname and the land and will be appointed Chief Executive Officer of this joint venture and be responsible for operating in a sustainable and responsible manner. This acquisition further advances Greenheart's strategy of becoming a global agri-forestry company. We will continue to actively seek well-priced and sustainable concessions in Suriname and neighboring regions in the coming months."

[Emphasis added.]

115. In its 2010 AIF, filed on SEDAR on March 31, 2011, Sino stated:

We hold a majority interest in Greenheart Group which, together with its subsidiaries, owns certain rights and *manages approximately 312,000 hectares of hardwood forest concessions in the Republic of Suriname, South America* ("Suriname") and 11,000 hectares of a radiata pine plantation on 13,000 hectares of freehold land in New Zealand as at March 31, 2011. *We believe that our ownership in Greenheart Group will strengthen our global sourcing network in supplying wood fibre for China in a sustainable and responsible manner.*

[Emphasis added.]

116. The statements reproduced in the preceding paragraph were false and/or materially misleading when made. Under the Suriname *Forest Management Act*, it is prohibited for one company or a group of companies in which one person or company has a majority interest to control more than 150,000 hectares of land under concession. Therefore, either Greenheart's concessions under management in Suriname did not exceed 150,000 hectares, or Greenheart's concessions under management in Suriname violated the laws of Suriname, which was a material fact not disclosed in any of the Impugned Documents.

117. In each of the October 2010 Offering Memorandum, the 2010 Annual MD&A, the 2010 AIF, Sino represented that Greenheart had well in excess of 150,000 hectares of concession

under management in Suriname without however disclosing that Suriname law imposed a limit of 150,000 hectares on Greenheart and its subsidiaries.

118. Finally, Vista's forestry concessions are located in a region of Suriname populated by the Saramaka, an indigenous people. Pursuant to the American Convention on Human Rights and a decision of the Inter-American Court of Human Rights, the Saramaka people must have effective control over their land, including the management of their reserves, and must be effectively consulted by the State of Suriname. Sino has not disclosed in any of the Impugned Documents where it has discussed Greenheart and/or Suriname assets that Vista's purported concessions in Suriname, if they exist at all, are impaired due to the unfulfilled rights of the indigenous people of Suriname, in violation of GAAP. The Impugned Documents that omitted that disclosure were the 2010 Annual MD&A, the 2010 Audited Annual Financial Statements, and the 2010 AIF.

(iii) Sino overstates its Jiangxi Forestry Assets

119. On June 11, 2009, Sino issued a press release in which it stated:

Sino-Forest Corporation (TSX: TRE), a leading commercial forest plantation operator in China, announced today that its wholly-owned subsidiary, Sino-Panel (China) Investments Limited ("Sino-Panel"), has entered into a Master Agreement for the Purchase of Pine and Chinese Fir Plantation Forests (the "Jiangxi Master Agreement") with Jiangxi Zhonggan Industrial Development Company Limited ("Jiangxi Zhonggan"), which will act as the authorized agent for the original plantation rights holders.

Under the Jiangxi Master Agreement, Sino-Panel will, through PRC subsidiaries of Sino-Forest, acquire between 15 million and 18 million cubic metres (m³) of wood fibre located in plantations in Jiangxi Province over a three-year period with a price not to exceed RMB300 per m³, to the extent permitted under the relevant PRC laws and regulations. *The plantations in which such amount of wood fibre to acquire is between 150,000 and 300,000 hectares* to achieve an estimated average wood fibre yield of approximately 100 m³ per hectare, and include tree species such as pine, Chinese fir and others. Jiangxi Zhonggan will ensure plantation forests sold to Sino-Panel and its PRC subsidiaries are non-state-owned, non-natural, commercial plantation forest trees.

In addition to securing the maximum tree acquisition price, Sino-Panel has pre-emptive rights to lease the underlying plantation land at a price, permitted under the relevant PRC laws and regulations, not to exceed RMB450 per hectare per annum for 30 years from the

time of harvest. The land lease can also be extended to 50 years as permitted under PRC laws and regulations. The specific terms and conditions of purchasing or leasing are to be determined upon the execution of definitive agreements between the PRC subsidiaries of Sino-Panel and Jiangxi Zhonggan upon the authorisation of original plantation rights holders, and subject to the requisite governmental approval and in compliance with the relevant PRC laws and regulations.

Sino-Forest Chairman and CEO Allen Chan said, "We are fortunate to have been able to capture and support investment opportunities in China's developing forestry sector by locking up a large amount of fibre at competitive prices. The Jiangxi Master Agreement is Sino-Forest's fifth, long-term, fibre purchase agreement during the past two years. These five agreements cover a total plantation area of over one million hectares in five of China's most densely forested provinces."

[Emphasis added.]

120. According to Sino's 2010 Annual MD&A, as of December 31, 2010, Sino had acquired 59,700 ha of plantation trees from Jiangxi Zhonggan Industrial Development Company Limited ("Zhonggan") for US\$269.1 million under the terms of the master agreement. (In its interim report for the second quarter of 2011, which was issued after the Class Period, Sino claims that, as at June 30, 2011, this number had increased to 69,100 ha, for a purchase price of US\$309.6 million).

121. However, as was known to Sino, Chan, Poon and Horsley, and as ought to have been known to the remaining Individual Defendants, BDO, E&Y and Pöyry, Sino's plantation acquisitions through Zhonggan are materially smaller than Sino has claimed.

(iv) Poyry makes Misrepresentations in relation to Sino's Forestry Assets

122. As particularized above, Sino overstated its forestry assets in Yunnan and Jiangxi Provinces in the PRC and in Suriname. Accordingly, Sino's total assets are overstated to a material degree in all of the Impugned Documents, in violation of GAAP, and each such statement of Sino's total assets constitutes a misrepresentation.

123. In addition, during the Class Period, Pöyry and entities affiliated with it made statements that are misrepresentations in regard to Sino's Yunnan Province "assets," namely:

- (a) In a report dated March 14, 2008, filed on SEDAR on March 31, 2008 (the "2008 Valuations"), Pöyry: (a) stated that it had determined the valuation of the Sino forest assets to be US\$3.2 billion as at 31 December 2007; (b) provided tables and figures regarding Yunnan; (c) stated that "Stands in Yunnan range from 20 ha to 1000 ha," that "In 2007 Sino-Forest purchased an area of mixed broadleaf forest in Yunnan Province," that "Broadleaf forests already acquired in Yunnan are all mature," and that "Sino-Forest is embarking on a series of forest acquisitions/expansion efforts in Hunan, Yunnan and Guangxi;" and (d) provided a detailed discussion of Sino's Yunnan "holdings" at Appendixes 3 and 5. Pöyry's 2008 Valuations were incorporated in Sino's 2007 Annual MD&A, amended 2007 Annual MD&A, 2007 AIF, each of the Q1, Q2, and Q3 2008 MD&As, Annual 2008 MD&A, amended Annual 2008 MD&A, each of the Q1, Q2 and Q3 2009, annual 2009 MD&A, and July 2008 and December 2009 Offering Memoranda;
 - (b) In a report dated April 1, 2009 and filed on SEDAR on April 2, 2009 (the "2009 Valuations"), Pöyry stated that "[t]he area of forest owned in Yunnan has quadrupled from around 10 000 ha to almost 40 000 ha over the past year," provided figures and tables regarding Yunnan, and stated that "Sino-Forest has increased its holding of broadleaf crops in Yunnan during 2008, with this province containing nearly 99% of its broadleaf resource." Pöyry's 2009 Valuations were incorporated in Sino's 2008 AIF, each of the Q1, Q2, Q3 2009 MD&As, Annual 2009 MD&A, June 2009 Offering Memorandum, and June 2009 and December 2009 Prospectuses;
 - (c) In a "Final Report" dated April 23, 2010, filed on SEDAR on April 30, 2010 (the "2010 Valuations"), Pöyry stated that "Guangxi, Hunan and Yunnan are the three largest provinces in terms of Sino-Forest's holdings. The largest change in area by province, both in absolute and relative terms [sic] has been Yunnan, where the
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area of forest owned has almost tripled, from around 39 000 ha to almost 106 000 ha over the past year,” provided figures and tables regarding Yunnan, stated that “Yunnan contains 106 000 ha, including 85 000 ha or 99% of the total broadleaf forest,” stated that “the three provinces of Guangxi, Hunan and Yunnan together contain 391 000 ha or about 80% of the total forest area of 491 000 ha” and that “[a]lmost 97% of the broadleaf forest is in Yunnan,” and provided a detailed discussion of Sino’s Yunnan “holdings” at Appendixes 3 and 4. Pöyry’s 2010 Valuations were incorporated in Sino’s 2009 AIF, the annual 2009 MD&A, each of the Q1, Q2 and Q3 2010 MD&As, and the October 2010 Offering Memorandum;

- (d) In a “Summary Valuation Report” regarding “Valuation of Purchased Forest Crops as at 31 December 2010” and dated May 27, 2011, Pöyry provided tables and figures regarding Yunnan, stated that “[t]he major changes in area by species from December 2009 to 2010 has been in Yunnan pine, with acquisitions in Yunnan and Sichuan provinces” and that “[a]nalysis of [Sino’s] inventory data for broadleaf forest in Yunnan, and comparisons with an inventory that Pöyry undertook there in 2008 supported the upwards revision of prices applied to the Yunnan broadleaf large size log,” and stated that “[t]he yield table for Yunnan pine in Yunnan and Sichuan provinces was derived from data collected in this species in these provinces by Pöyry during other work;” and
- (e) In a press release titled “Summary of Sino-Forest’s China Forest Asset 2010 Valuation Reports” and which was “jointly prepared by Sino-Forest and Pöyry to highlight key findings and outcomes from the 2010 valuation reports,” Pöyry reported on Sino’s “holdings” and estimated the market value of Sino’s forest assets on the 754,816 ha to be approximately US\$3.1 billion as at December 31, 2010.

C. *Misrepresentations relating to Sino's Related Party Transactions*

(i) *Related Party Transactions Generally*

124. Under GAAP and GAAS, a "related party" exists "when one party has the ability to exercise directly or indirectly, control, joint control or significant influence over the other." (CICA Handbook 3840.03) Examples include a parent-subsidary relationship or an entity that is economically dependent upon another.

125. Related parties raise the concern that transactions may not be conducted at arm's length, and pricing or other terms may not be determined at fair market values. For example, when a subsidiary "sells" an asset to its parent at a given price, it may not be appropriate that that asset be reported on the balance sheet or charged against the earnings of the parent at that price. Where transactions are conducted between arm's length parties, this concern is generally not present.

126. The existence of related party transactions is important to investors irrespective of the reported dollar values of the transactions because the transactions may be controlled, manipulated and/or concealed by management (for example, for corporate purposes or because fraudulent activity is involved), and because such transactions may be used to benefit management or persons close to management at the expense of the company, and therefore its shareholders.

(ii) *Sino fails to disclose that Zhonggan was a Related Party*

127. Irrespective of the true extent of Zhonggan's transactions in Jiangxi forestry plantations, Sino failed to disclose, in violation of GAAP, that Zhonggan was a related party of Sino. More particularly, according to AIC records, the legal representative of Zhonggan is Lam Hong Chiu, who is an executive vice president of Sino. Lam Hong Chiu is also a director and a 50%

shareholder of China Square Industrial Limited, a BVI corporation which, according to AIC records, owns 80% of the equity of Zhonggan.

128. The Impugned Documents that omitted that disclosure were the Q2 2009 MD&A, the Q2 2009 interim financial statements, the Q3 2009 MD&A, the Q3 2009 interim financial statements, the December 2009 Prospectus, the 2009 Annual MD&A, the 2009 Audited Annual Financial Statements, the 2009 AIF, the Q1 2010 MD&A, the Q1 2010 interim financial statements, the Q2 2010 MD&A, the Q2 2010 interim financial statements, the Q3 2010 MD&A, the Q3 2010 interim financial statements, the 2010 Annual MD&A, the 2010 Audited Annual Financial Statements, and the 2010 AIF.

(iii) Sino fails to disclose that Homix was a Related Party

129. On January 12, 2010, Sino issued a press release in which it announced the acquisition by one of its wholly-owned subsidiaries of Homix Limited (“**Homix**”), which it described as a company engaged in research and development and manufacturing of engineered-wood products in China, for an aggregate amount of US\$7.1 million. That press release stated:

HOMIX has an R&D laboratory and two engineered-wood production operations based in Guangzhou and Jiangsu Provinces, covering eastern and southern China wood product markets. The company has developed a number of new technologies with patent rights, specifically suitable for domestic plantation logs including poplar and eucalyptus species. HOMIX specializes in curing, drying and dyeing methods for engineered wood and has the know-how to produce recomposed wood products and laminated veneer lumber. Recomposed wood technology is considered to be environment-friendly and versatile as it uses fibre from forest plantations, recycled wood and/or wood residue. This reduces the traditional use of large-diameter trees from natural forests. There is growing demand for recomposed wood technology as it reduces cost for raw material while increases the utilization and sustainable use of plantation fibre for the production of furniture and interior/exterior building materials.

[...]

Mr. Allen Chan, Sino-Forest’s Chairman & CEO, said, “As we continue to ramp up our replanting programme with improved eucalyptus species, it is important for Sino-Forest to continue investing in the research and development that maximizes all aspects of the

forest product supply chain. Modernization and improved productivity of the wood processing industry in China is also necessary given the country's chronic wood fibre deficit. Increased use of technology improves operation efficiency, and maximizes and broadens the use of domestic plantation wood, which reduces the need for logging domestic natural forests and for importing logs from strained tropical forests. HOMIX has significant technological capabilities in engineered-wood processing."

Mr. Chan added, "By acquiring HOMIX, we intend to use six-year eucalyptus fibre instead of 30-year tree fibre from other species to produce quality lumber using recomposed technology. We believe that this will help preserve natural forests as well as improve the demand for and pricing of our planted eucalyptus trees."

130. Sino's 2009 Audited Annual Financial Statements, Q1/2010 Unaudited Interim Financial Statements, 2010 Audited Annual Financial Statements, the MD&As related to each of the aforementioned financial statements, and Sino's AIFs for 2009 and 2010, each discussed the acquisition of Homix, but nowhere disclosed that Homix was in fact a related party of Sino.

131. More particularly, Hua Chen, a Senior Vice President, Administration & Finance, of Sino in the PRC, and who joined Sino in 2002, is a 30% shareholder of an operating subsidiary of Homix, Jiangsu Dayang Wood Co., Ltd. ("Jiangsu")

132. In order to persuade current and prospective Sino shareholders that there was a commercial justification for the Homix acquisition, Sino misrepresented Homix's patent designs registered with the PRC State Intellectual Property Office. In particular, in its 2009 Annual Report, Sino stated:

HOMIX acquisition

In accordance with our strategy to focus on research and development and to improve the end-use of our wood fibre, we acquired HOMIX Ltd. in January 2010 for \$7.1 million. This corporate acquisition is small but strategically important *adding valuable intellectual property rights* and two engineered-wood processing facilities located in Guangdong and Jiangsu Provinces to our operations. *Homix has developed environment-friendly technology, an efficient process using recomposed technology to convert small-diameter plantation logs into building materials and furniture.* Since we plan to grow high volumes of eucalypt and other FGHY species, this acquisition will help us achieve our long-term objectives of maximizing the use of our fibre, supplying a

variety of downstream customers and enhancing economic rural development. [Emphasis added]

133. However, Homix itself then had no patent designs registered with the PRC State Intellectual Property Office. At that time, Homix had two subsidiaries, Jiangsu and Guangzhou Pany Dacheng Wood Co. The latter then had no patent designs registered with the PRC State Intellectual Property Office, while Jiangsu had two patent designs. However, each such design was for wood dyeing, and not for the conversion of small-diameter plantation logs into building materials and furniture.

(iv) Sino fails to disclose that Yunnan Shunxuan was a Related Party

134. In addition, during the Class Period, Sino purportedly purchased approximately 1,600 hectares of timber in Yunnan province from Yunnan Shunxuan Forestry Co. Ltd. Yunnan Shunxuan was part of Sino, acting under a separate label. Accordingly, it was considered a related party for the purposes of the GAAP disclosure requirements, a fact that Sino failed to disclose.

135. The Impugned Documents that omitted that disclosure were the 2009 Annual MD&A, the 2009 Audited Annual Financial Statements, the 2009 AIF, the Q1 2010 MD&A, the Q1 2010 interim financial statements, the Q2 2010 MD&A, the Q2 2010 interim financial statements, the Q3 2010 MD&A, the Q3 2010 interim financial statements, the 2010 Annual MD&A, the 2010 Audited Annual Financial Statements, and the 2010 AIF.

136. Sino's failure to disclose that Yunnan Shunxuan was a related party was a violation of GAAP, and a misrepresentation.

(v) Sino fails to disclose that Yuda Wood was a Related Party

137. Huaihua City Yuda Wood Co. Ltd., based in Huaihua City, Hunan Province ("Yuda Wood"), was a major supplier of Sino at material times. Yuda Wood was founded in April 2006

and, from 2007 until 2010, its business with Sino totalled approximately 152,164 Ha and RMB 4.94 billion.

138. During that period, Yuda Wood was a related party of Sino. Indeed, in the Second Report, the IC acknowledged that *“there is evidence suggesting close cooperation [between Sino and Yuda Wood] (including administrative assistance, possible payment of capital at the time of establishment, joint control of certain of Yuda Wood’s RMB bank accounts and the numerous emails indicating coordination of funding and other business activities)”* [emphasis added.]

139. The fact that Yuda Wood was a related party of Sino during the Class Period was a material fact and was required to be disclosed under GAAP, but, during the Class Period, that fact was not disclosed by Sino in any of the Impugned Documents, or otherwise.

(vi) Sino fails to Disclose that Major Suppliers were Related Parties

140. At material times, Sino had at least thirteen suppliers where former Sino employees, consultants or secondees are or were directors, officers and/or shareholders of one or more such suppliers. Due to these and other connections between these suppliers and Sino, some or all of such suppliers were in fact undisclosed related parties of Sino.

141. Including Yuda Wood, the thirteen suppliers referenced above accounted for 43% of Sino’s purported plantation purchases between 2006 and the first quarter of 2011.

142. In none of the Impugned Documents did Sino disclose that any of these suppliers were related parties, nor did it disclose sufficient particulars of its relations with such suppliers as would have enabled the investing public to ascertain that those suppliers were related parties.

D. *Misrepresentations relating to Sino's Relations with Forestry Bureaus and its Purported Title to Forestry Assets in the PRC*

143. In at least two instances during the Class Period, PRC forestry bureau officials were either concurrently or subsequently employees of, or consultants to, Sino. One forestry bureau assigned employees to Sino and other companies to assist in the development of the forestry industry in its jurisdiction.

144. In addition, a vice-chief of the forestry bureau was assigned to work closely with Sino, and while that vice chief still drew a basic salary from the forestry bureau, he also acted as a consultant to Sino in the conduct of Sino's business. This arrangement was in place for several years. That vice-chief appeared on Sino's payroll from January 2007 with a monthly payment of RMB 15,000, which was significant compared with his forestry bureau salary.

145. In addition, at material times, Sino and/or its subsidiaries and/or its suppliers made cash payments and gave "gifts" to forestry bureau officials, which potentially constituted a serious criminal offence under the laws of the PRC. At least some of these payments and gifts were made or given in order to induce the recipients to issue "confirmation letters" in relation to Sino's purported holdings in the PRC of standing timber. These practices utterly compromised the integrity of the process whereby those "confirmation letters" were obtained.

146. Further, a chief of a forestry bureau who had authorized the issuance of confirmations to Sino was arrested due to corruption charges. That forestry bureau had issued confirmations only to Sino and to no other companies. Subsequent to the termination of that forestry bureau chief, that forestry bureau did not issue confirmations to any company.

147. The foregoing facts were material because: (1) they undermined the reliability (if any) of the documentation upon which Sino relied and continues to rely to establish its ownership of

standing timber; and (2) the corruption in which Sino was engaged exposed Sino to potential criminal penalties, including substantial fines, as well as a risk of severe reputational damage in Sino's most important market, the PRC.

148. However, none of these facts was disclosed in any of the Impugned Documents. On the contrary, Sino only made the following disclosure regarding former government officials in its 2007 Annual Report (and in no other Impugned Document), which was materially incomplete, and a misrepresentation:

To ensure successful growth, we have trained and promoted staff from within our organization, and hired knowledgeable people with relevant working experience and industry expertise – some joined us from forestry bureaus in various regions and provinces and/or state-owned tree farms. [...] 4. Based in Heyuan, Guangdong, Deputy GM responsible for Heyuan plantations, previously with forestry bureau; studied at Yangdongxian Dangxiao [Mr. Liang] 5. Based in Hunan, Plantation controller, graduated from Hunan Agricultural University, previously Assistant Manager of state-owned farm trees in Hunan [Mr. Xie].

149. In respect of Sino's purported title to standing timber in the PRC, Sino possessed Plantation Rights Certificates, or registered title, only in respect of 18% of its purported holdings of standing timber as at December 31, 2010, a fact nowhere disclosed by Sino during the Class Period. This fact was highly material to Sino, inasmuch as standing timber comprised a large proportion of Sino's assets throughout the Class Period, and in the absence of Plantation Rights Certificates, Sino could not establish its title to that standing timber.

150. Rather than disclose this highly material fact, Sino made the following misrepresentations in the following Impugned Documents:

- (a) In the 2008 AIF: *"We have obtained the plantation rights certificates or requisite approvals for acquiring the relevant plantation rights for most of the purchased tree plantations and planted tree plantations currently under our management, and we are in the process of applying for the plantation rights*
-

certificates for those plantations for which we have not obtained such certificates” [emphasis added];

- (b) In the 2009 AIF: “*We have obtained the plantation rights certificates or requisite approvals for acquiring the relevant plantation rights for most of the purchased plantations and planted plantations currently under our management*, and we are in the process of applying for the plantation rights certificates for those plantations for which we have not obtained such certificates” [emphasis added]; and
- (c) In the 2010 AIF: “*We have obtained the plantation rights certificates or requisite approvals for acquiring the relevant plantation rights for most of the purchased plantations and planted plantations currently under our management*, and we are in the process of applying for the plantation rights certificates for those plantations for which we have not obtained such certificates” [emphasis added].

151. In the absence of Plantation Rights Certificates, Sino relies principally on the purchase contracts entered into by its BVI subsidiaries (“BVIs”) in order to demonstrate its ownership of standing timber.

152. However, under PRC law, those contracts are void and unenforceable.

153. In the alternative, if those contracts are valid and enforceable, they are enforceable only as against the counterparties through which Sino purported to acquire the standing timber, and not against the party who has registered title (if any) to the standing timber. Because some or all of those counterparties were or became insolvent, corporate shells or thinly capitalized, then any claims that Sino would have against those counterparties under PRC law, whether for unjust enrichment or otherwise, were of little to no value, and certainly constituted no substitute for registered title to the standing timber which Sino purported to own.

154. Sino never disclosed these material facts during the Class Period, whether in the Impugned Documents or otherwise. On the contrary, Sino made the following misrepresentations in relation to its purported title to standing timber:

- (a) In the July 2008 Offering Memorandum, Sino stated “Based on the relevant purchase contracts and the approvals issued by the relevant forestry bureaus, we legally own our purchased plantations”;
 - (b) In the June 2009 Offering Memorandum, Sino stated “Based on the relevant purchase contracts and the approvals issued by the relevant forestry bureaus, we legally own our purchased plantations”;
 - (c) In the October 2010 Offering Memorandum, Sino stated “Based on the relevant purchase contracts and the approvals issued by the relevant forestry bureaus, we legally own our purchased plantations”;
 - (d) In the 2006 AIF, Sino stated “Based on the supplemental purchase contracts and the plantation rights certificates issued by the relevant forestry departments, we have the legal right to own our purchased tree plantations”;
 - (e) In the 2007 AIF, Sino stated “Based on the relevant purchase contracts and the approvals issued by the relevant forestry departments, we have the legal right to own our purchased tree plantations”;
 - (f) In the 2008 AIF, Sino stated “Based on the relevant purchase contracts and the approvals issued by the relevant forestry bureaus, we legally own our purchased tree plantations”;
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- (g) In the 2009 AIF, Sino stated “Based on the relevant purchase contracts and the approvals issued by the local forestry bureaus, we legally own our purchased plantations”;
- (h) In the December 2009 Offering Memorandum, Sino stated “Based on the relevant purchase contracts and the approvals issued by the local forestry bureaus, we legally own our purchased plantations”; and
- (i) In the 2010 AIF, Sino stated “Based on the relevant purchase contracts and the approvals issued by the relevant forestry bureaus, we legally own our purchased plantations.”

155. In addition, during the Class Period, Sino never disclosed the material fact, belatedly revealed in the Second Report, that *“in practice it is not able to obtain Plantation Rights Certificates for standing timber purchases when no land transfer rights are transferred”* [emphasis added].

156. On the contrary, during the Class Period, Sino made the following misrepresentation in each of the 2006 and 2007 AIFs:

Since 2000, the PRC has been improving its system of registering plantation land ownership, plantation land use rights and plantation ownership rights and its system of issuing certificates to the persons having plantation land use rights, to owners owning the plantation trees and to owners of the plantation land. In April 2000, the PRC State Forestry Bureau announced the “Notice on the Implementation of Nationwide Uniform Plantation Right Certificates” (Lin Zi Fa [2000] No. 159) on April 19, 2000 (the “Notice”). Under the Notice, a new uniform form of plantation rights certificate is to be used commencing from the date of the Notice. *The same type of new form plantation rights certificate will be issued to the persons having the right to use the plantation land, to persons who own the plantation land and plantation trees, and to persons having the right to use plantation trees.*

[Emphasis added]

157. Under PRC law, county and provincial forestry bureaus have no authority to issue confirmation letters. Such letters cannot be relied upon in a court of law to resolve a dispute and are not a guarantee of title. Notwithstanding this, during the Class Period, Sino made the following misrepresentations:

- (a) In the 2006 AIF: “In addition, for the purchased tree plantations, *we have obtained confirmations from the relevant forestry bureaus that we have the legal right to own the purchased tree plantations for which we have not received certificates*” [emphasis added]; and
- (b) In the 2007 AIF: “For our Purchased Tree Plantations, we have applied for the relevant Plantation Rights Certificates with the competent local forestry departments. As the relevant locations where we purchased our Purchased Tree Plantations have not fully implemented the new form Plantation Rights Certificate, we are not able to obtain all the corresponding Plantation Rights Certificates for our Purchased Tree Plantations. *In this connection, we obtained confirmation on our ownership of our Purchased Tree Plantations from the relevant forestry departments.*” [emphasis added]

E. Misrepresentations relating to Sino's Relationships with its AIs

158. In addition to the misrepresentations alleged above in relation to Sino's AIs, including those alleged in Section VI.C hereof (*Misrepresentations relating to Sino's Related Party Transactions*), Sino made the following misrepresentations during the Class Period in relation to its relationships with its AIs.

(i) Sino Misrepresents the Degree of its Reliance on its AIs

159. On March 30, 2007, Sino issued and filed on SEDAR its 2006 AIF. In that AIF, Sino stated:

...PRC laws and regulations require foreign companies to obtain licenses to engage in any business activities in the PRC. As a result of these requirements, we currently engage in our trading activities through PRC authorized intermediaries that have the requisite business licenses. There is no assurance that the PRC government will not take action to restrict our ability to engage in trading activities through our authorized intermediaries. *In order to reduce our reliance on the authorized intermediaries, we intend to use a WFOE in the PRC to enter into contracts directly with suppliers of raw timber, and then process the raw timber, or engage others to process raw timber on its behalf, and sell logs, wood chips and wood-based products to customers, although it would not be able to engage in pure trading activities.*

[Emphasis added.]

160. In its 2007 AIF, which Sino filed on March 28, 2008, Sino again declared its intention to reduce its reliance upon AIs.

161. These statements were false and/or materially misleading when made, inasmuch as Sino had no intention to reduce materially its reliance on AIs, because its AIs were critical to Sino's ability to inflate its revenue and net income. Rather, these statements had the effect of mitigating any investor concern arising from Sino's extensive reliance upon AIs.

162. Throughout the Class Period, Sino continued to depend heavily upon AIs for its purported sales of standing timber. In fact, contrary to Sino's purported intention to reduce its reliance on its AIs, Sino's reliance on its AIs in fact *increased* during the Class Period.

(ii) *Sino Misrepresents the Tax-related Risks Arising from its use of AIs*

163. Throughout the Class Period, Sino materially understated the tax-related risks arising from its use of AIs.

164. Tax evasion penalties in the PRC are severe. Depending on whether the PRC authorities seek recovery of unpaid taxes by means of a civil or criminal proceeding, its claims for unpaid tax are subject to either a five- or ten-year limitation period. The unintentional failure to pay taxes is subject to a 0.05% per day interest penalty, while an intentional failure to pay taxes is punishable with fines of up to five times the unpaid taxes, and confiscation of part or all of the criminal's personal properties maybe also imposed.

165. Therefore, because Sino professed to be unable to determine whether its AIs have paid required taxes, the tax-related risks arising from Sino's use of AIs were potentially devastating. Sino failed, however, to disclose these aspects of the PRC tax regime in its Class Period disclosure documents, as alleged more particularly below.

166. Based upon Sino's reported results, Sino's tax accruals in all of its Impugned Documents that were interim and annual financial statements were materially deficient. For example, depending on whether the PRC tax authorities would assess interest at the rate of 18.75% per annum, or would assess no interest, on the unpaid income taxes of Sino's BVI subsidiaries, and depending also on whether one assumes that Sino's AIs have paid no income taxes or have paid 50% of the income taxes due to the PRC, then Sino's tax accruals in its 2007, 2008, 2009 and 2010 Audited Annual Financial Statements were understated by, respectively, US\$10 million to US\$150 million, US\$50 million to US\$260 million, US\$81 million to US\$371 million, and US\$83 million to US\$493 million. Importantly, were one to consider the impact of unpaid taxes other than unpaid income taxes (for example, unpaid value-added taxes), then the amounts by

which Sino's tax accruals were understated in these financial statements would be substantially larger.

167. The aforementioned estimates of the amounts by which Sino's tax accruals were understated also assume that the PRC tax authorities only impose interest charges on Sino's BVI Subsidiaries and impose no other penalties for unpaid taxes, and assume further that the PRC authorities seek back taxes only for the preceding five years. As indicated above, each of these assumptions is likely to be unduly optimistic. In any case, Sino's inadequate tax accruals violated GAAP, and constituted misrepresentations.

168. Sino also violated GAAP in its 2009 Audited Annual Financial Statements by failing to apply to its 2009 financial results the PRC tax guidance that was issued in February 2010. Although that guidance was issued after year-end 2009, GAAP required that Sino apply that guidance to its 2009 financial results, because that guidance was issued in the subsequent events period.

169. Based upon Sino's reported profit margins on its dealings with AIs, which margins are extraordinary both in relation to the profit margins of Sino's peers, and in relation to the limited risks that Sino purports to assume in its transactions with its AIs, Sino's AIs are not satisfying their tax obligations, a fact that was either known to the Defendants or ought to have been known. If Sino's extraordinary profit margins are real, then Sino and its AIs must be dividing the gains from non-payment of taxes to the PRC.

170. During the Class Period, Sino never disclosed the true nature of the tax-related risks to which it was exposed. This omission, in violation of GAAP, rendered each of the following statements a misrepresentation:

- (a) In the 2006 Annual Financial Statements, note 11 [b] “Provision for tax related liabilities” and associated text;
 - (b) In the 2006 Annual MD&A, the subsection “Provision for Tax Related Liabilities” in the section “Critical Accounting Estimates,” and associated text;
 - (c) In the AIF dated March 30, 2007, the section “Estimation of the Company’s provision for income and related taxes,” and associated text;
 - (d) In the Q1 and Q2 2007 Financial Statements, note 5 “Provision for Tax Related Liabilities,” and associated text;
 - (e) In the Q3 2007 Financial Statements, note 6 “Provision for Tax Related Liabilities,” and associated text;
 - (f) In the 2007 Annual Financial Statements, note 13 [b] “Provision for tax related liabilities,” and associated text;
 - (g) In the 2007 Annual MD&A and Amended 2007 Annual MD&A, the subsection “Provision for Tax Related Liabilities” in the section “Critical Accounting Estimates,” and associated text;
 - (h) In the AIF dated March 28, 2008, the section “Estimation of the Corporation’s provision for income and related taxes,” and associated text;
 - (i) In the Q1, Q2 and Q3 2008 Financial Statements, note 12 “Provision for Tax Related Liabilities,” and associated text;
 - (j) In the Q1, Q2 and Q3 2008 MD&As, the subsection “Provision for Tax Related Liabilities” in the section “Critical Accounting Estimates,” and associated text;
 - (k) In the July 2008 Offering Memorandum, the subsection “Taxation” in the section “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” and associated text;
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- (l) In the 2008 Annual Financial Statements, note 13 [d] “Provision for tax related liabilities,” and associated text;
- (m) In the 2008 Annual MD&A and Amended 2008 Annual MD&A, the subsection “Provision for Tax Related Liabilities” in the section “Critical Accounting Estimates,” and associated text;
- (n) In the AIF dated March 31, 2009, the section “We may be liable for income and related taxes to our business and operations, particularly our BVI Subsidiaries, in amounts greater than the amounts we have estimated and for which we have provisioned,” and associated text;
- (o) In the Q1, Q2 and Q3 2009 Financial Statements, note 13 “Provision for Tax Related Liabilities,” and associated text;
- (p) In the Q1, Q2 and Q3 2009 MD&As, the subsection “Provision for Tax Related Liabilities” in the section “Critical Accounting Estimates,” and associated text;
- (q) In the 2009 Annual Financial Statements, note 15 [d] “Provision for tax related liabilities,” and associated text;
- (r) In the 2009 Annual MD&A, the subsection “Provision for Tax Related Liabilities” in the section “Critical Accounting Estimates,” and associated text;
- (s) In the AIF dated March 31, 2010, the section “We may be liable for income and related taxes to our business and operations, particularly our BVI Subsidiaries, in amounts greater than the amounts we have estimated and for which we have provisioned,” and associated text;
- (t) In the Q1 and Q2 2010 Financial Statements, note 14 “Provision for Tax Related Liabilities,” and associated text;
- (u) In the Q1 and Q2 2010 MD&As, the subsection “Provision for Tax Related Liabilities” in the section “Critical Accounting Estimates,” and associated text;

- (v) In the Q3 2010 Financial Statements, note 14 “Provision and Contingencies for Tax Related Liabilities,” and associated text; and
- (w) In the Q3 2010 MD&As, the subsection “Provision and Contingencies for Tax Related Liabilities” in the section “Critical Accounting Estimates,” and associated text;
- (x) In the October 2010 Offering Memorandum, the subsection “Taxation” in the section “Selected Financial Information,” and associated text;
- (y) In the 2010 Annual Financial Statements, note 18 “Provision and Contingencies for Tax Related Liabilities,” and associated text;
- (z) In the 2010 Annual MD&A, the subsection “Provision and Contingencies for Tax Related Liabilities” in the section “Critical Accounting Estimates,” and associated text; and
- (aa) In the AIF dated March 31, 2011, the section “We may be liable for income and related taxes to our business and operations, particularly our BVI Subsidiaries, in amounts greater than the amounts we have estimated and for which we have provisioned,” and associated text.

171. In every Impugned Document that is a financial statement, the line item “Accounts payable and accrued liabilities” and associated figures on the Consolidated Balance Sheets fails to properly account for Sino’s tax accruals and is a misrepresentation, and a violation of GAAP.

172. During the Class Period, Sino also failed to disclose in any of the Impugned Documents that were AIFs, MD&As, financial statements, Prospectuses or Offering Memoranda, the risks relating to the repatriation of its earnings from the PRC. In 2010, Sino added two new sections to its AIF regarding the risk that it would not be able to repatriate earnings from its BVI subsidiaries (which deal with the AIs). The amount of retained earnings that may not be able to be repatriated is stated therein to be US\$1.4 billion. Notwithstanding this disclosure, Sino did not

disclose in these Impugned Documents that it would be unable to repatriate *any* earnings absent proof of payment of PRC taxes, which it has admitted that it lacks.

(iii) *Sino Misrepresents its Accounting Treatment of its AIs*

173. In addition, there are material discrepancies in Sino's descriptions of its accounting treatment of its AIs. Beginning in the 2003 AIF, Sino described its AIs as follows:

Because of the provisions in the Operational Procedures that specify when we and the authorized intermediary assume the risks and obligations relating to the raw timber or wood chips, as the case may be, we treat these transactions for accounting purposes as providing that we take title to the raw timber when it is delivered to the authorized intermediary. Title then passes to the authorized intermediary once the timber is processed into wood chips. *Accordingly, we treat the authorized intermediaries for accounting purposes as being both our suppliers and customers in these transactions.*

[Emphasis added.]

174. Sino's disclosures were consistent in that regard up to and including Sino's first AIF issued in the Class Period (the 2006 AIF), which states:

Because of the provisions in the Operational Procedures that specify when we and the AI assume the risks and obligations relating to the raw timber or wood chips, as the case may be, we treat these transactions for accounting purposes as providing that we take title to the raw timber when it is delivered to the AI. Title then passes to the AI once the timber is processed into wood chips. *Accordingly, we treat the AI for accounting purposes as being both our supplier and customer in these transactions.*

[Emphasis added.]

175. In subsequent AIFs, Sino ceased without explanation to disclose whether it treated AIs for accounting purposes as being both the supplier and the customer.

176. Following the issuance of Muddy Waters' report on the last day of the Class Period, however, Sino declared publicly that Muddy Waters was "wrong" in its assertion that, for accounting purposes, Sino treated its AIs as being both supplier and customer in transactions. This claim by Sino implies either that Sino misrepresented its accounting treatment of AIs in its

2006 AIF (and in its AIFs for prior years), or that Sino changed its accounting treatment of its AIs after the issuance of its 2006 AIF. If the latter is true, then Sino was obliged by GAAP to disclose its change in its accounting treatment of its AIs. It failed to do so.

F. *Misrepresentations relating to Sino's Cash Flow Statements*

177. Given the nature of Sino's operations, that of a frequent trader of standing timber, Sino improperly accounted for its purchases of timber assets as "Investments" in its Consolidated Statements Of Cash Flow. In fact, such purchases are "Inventory" within the meaning of GAAP, given the nature of Sino's business.

178. Additionally, Sino violated the GAAP 'matching' principle in treating timber asset purchases as "Investments" and the sale of timber assets as "Inventory": cash flow that came into the company was treated as cash flow from operations, but cash flow that was spent by Sino was treated as cash flow for investments. As a result, "Additions to timber holding" was improperly treated as a "Cash Flows Used In Investing Activities" instead of "Cash Flows From Operating Activities" and the item "Depletion of timber holdings included in cost of sales" should not be included in "Cash Flows From Operating Activities," because it is not a cash item.

179. The effect of these misstatements is that Sino's Cash Flows From Operating Activities were materially overstated throughout the Class Period, which created the impression that Sino was a far more successful cash generator than it was. Such mismatching and misclassification is a violation of GAAP.

180. Cash Flows From Operating Activities are one of the crucial metrics used by the financial analysts who followed Sino's performance. These misstatements were designed to, and did, have the effect of causing such analysts to materially overstate the value of Sino. This material

overstatement was incorporated into various research reports made available to the Class Members, the market and the public at large.

181. Matching is a foundational requirement of GAAP reporting. E&Y and BDO were aware, at all material times, that Sino was required to adhere to the matching principle. If E&Y and BDO had conducted GAAS-complaint audits, they would have been aware that Sino's reporting was not GAAP compliant with regard to the matching principle. Accordingly, if they had conducted GAAS-compliant audits, the statements by E&Y and BDO that Sino's reporting was GAAP-compliant were not only false, but were made, at a minimum, recklessly.

182. Further, at all material times, E&Y and BDO were aware that misstatements in Cash Flows From Operating Activities would materially impact the market's valuation of Sino.

183. Accordingly, in every Impugned Document that is a financial statement, the Consolidated Statements Of Cash Flow are a misrepresentation and, particularly, the Cash Flows From Operating Activities item and associated figures is materially overstated, the "additions to timber holdings" item and figures is required to be listed as Cash Flows From Operating Activities, and the "depletion of timber holdings included in cost of sales" item and figures should not have been included.

G. Misrepresentations relating to Certain Risks to which Sino was exposed

(i) Sino is conducting "business activities" in China

184. At material times, PRC law required foreign entities engaging in "business activities" in the PRC to register to obtain and maintain a license. Violation of this requirement could have resulted in both administrative sanctions and criminal punishment, including banning the unlicensed business activities, confiscating illegal income and properties used exclusively therefor, and/or an administrative fines of no more than RMB 500,000. Possible criminal punishment included a criminal fine from 1 to 5 times the amount of the profits gained.

185. Consequently, were Sino's BVI subsidiaries to have been engaged in unlicensed in "business activities" in the PRC during the Class Period, they would have been exposed to risks that were highly material to Sino.

186. Under PRC law, the term "business activities" generally encompasses any for-profit activities, and Sino's BVI subsidiaries were in fact engaged in unlicensed "business activities" in the PRC during the Class Period. However, Sino did not disclose this fact in any of the Impugned Documents, including in its AIFs for 2008-2010, which purported to make full disclosure of the material risks to which Sino was then exposed.

(ii) Sino fails to disclose that no proceeds were paid to it by its AIs

187. In the Second Report, Sino belatedly revealed that:

In practice, proceeds from the Entrusted Sale Agreements are not paid to SF but are held by the AIs as instructed by SF and subsequently used to pay for further purchases of standing timber by the same or other BVIs. The AIs will continue to hold these proceeds until the Company instructs the AIs to use these proceeds to pay for new BVI standing timber purchases. *No proceeds are directly paid to the Company, either onshore or offshore.*

[Emphasis added]

188. This material fact was never disclosed in any of the Impugned Documents during the Class Period. On the contrary, Sino made the following statements during the Class Period in relation to the proceeds paid to it by its AIs, each of which was materially misleading and therefore a misrepresentation:

- (a) In the 2005 financial statements, Sino stated: “As a result, *the majority* of the accounts receivable arising from sales of wood chips and standing timber are realized through instructing the debtors to settle the amounts payable on standing timber and other PRC liabilities” [emphasis added];
- (b) In the 2006 Annual MD&A, the subsection “Provision for Tax Related Liabilities” in the section “Critical Accounting Estimates,” and associated text;
- (c) In the 2006 financial statements, Sino stated: “As a result, *the majority* of the accounts receivable arising from sales of wood chips and standing timber are realized through instructing the debtors to settle the amounts payable on standing timber and other liabilities denominated in Renminbi” [emphasis added];
- (d) In the 2007 financial statements, Sino stated: “As a result, *the majority* of the accounts receivable arising from sales of standing timber are realized through instructing the debtors to settle the amounts payable on standing timber and other liabilities denominated in Renminbi;”
- (e) In the 2008 financial statements, Sino stated: “As a result, *the majority* of the accounts receivable arising from sales of standing timber are realized through instructing the debtors to settle the amounts payable on standing timber and other liabilities denominated in Renminbi” [emphasis added];
- (f) In the 2009 financial statements, Sino stated: “As a result, *the majority* of the accounts receivable arising from sales of standing timber are realized through instructing the debtors to settle the amounts payable on standing timber and other liabilities denominated in Renminbi” [emphasis added]; and

- (g) In the 2010 financial statements, Sino stated: “As a result, *the majority* of the accounts receivable arising from sales of standing timber are realized through instructing the debtors to settle the amounts payable on standing timber and other liabilities denominated in Renminbi” [emphasis added].

H. *Misrepresentations relating to Sino’s GAAP Compliance and the Auditors’ GAAS Compliance*

(i) Sino, Chan and Horsley misrepresent that Sino complied with GAAP

189. In each of its Class Period financial statements, Sino represented that its financial reporting was GAAP-compliant, which was a misrepresentation for the reasons set out elsewhere herein.

190. In particular, Sino misrepresented in those financial statements that it was GAAP-compliant as follows:

- (a) In the annual statements filed on March 19, 2007, at Note 1: “These consolidated financial statements Sino-Forest Corporation (the “Company”) have been prepared in United States dollars in accordance with Canadian generally accepted accounting principles”;
- (b) In the annual financial statements filed on March 18, 2008, at Note 1: “The consolidated financial statements of Sino-Forest Corporation (the “Company”) have been prepared in United States dollars and in accordance with Canadian generally accepted accounting principles”;
- (c) In the annual financial statements filed on March 16, 2009, at note 1: “The consolidated financial statements of Sino-Forest Corporation (the “Company”) have been prepared in United States dollars and in accordance with Canadian generally accepted accounting principles”;

- (d) In the annual financial statements filed on March 16, 2010, at note 1: “The consolidated financial statements of Sino-Forest Corporation (the “Company”) have been prepared in United States dollars and in accordance with Canadian generally accepted accounting principles”; and
- (e) In the annual financial statements filed on March 15, 2011, at note 1: “The consolidated financial statements of Sino-Forest Corporation (the “Company”) have been prepared in United States dollars and in accordance with Canadian generally accepted accounting principles”.

191. In each of its Class Period MD&As, Sino represented that its reporting was GAAP-compliant, which was a misrepresentation for the reasons set out elsewhere herein.

192. In particular, Sino misrepresented in those MD&As that it was GAAP-compliant as follows:

- (a) In the annual MD&A filed on March 19, 2007: “Except where otherwise indicated, all financial information reflected herein is determined on the basis of Canadian generally accepted accounting principles (GAAP)”;
- (b) In the quarterly MD&A filed on May 14, 2007: “Except where otherwise indicated, all financial information reflected herein is determined on the basis of Canadian generally accepted accounting principles (“GAAP”)”;
- (c) In the quarterly MD&A filed on August 13, 2007: “Except where otherwise indicated, all financial information reflected herein is determined on the basis of Canadian generally accepted accounting principles (“GAAP”)”;
- (d) In the quarterly MD&A filed on November 12, 2007: “Except where otherwise indicated, all financial information reflected herein is determined on the basis of Canadian generally accepted accounting principles (“GAAP”)”;

- (e) In the annual MD&A filed on March 18, 2008: “Except where otherwise indicated, all financial information reflected herein is determined on the basis of Canadian generally accepted accounting principles (GAAP)”;
 - (f) In the amended annual MD&A filed on March 28, 2008: “Except where otherwise indicated, all financial information reflected herein is determined on the basis of Canadian generally accepted accounting principles (GAAP)”;
 - (g) In the quarterly MD&A filed on May 13, 2008: “Except where otherwise indicated, all financial information reflected herein is determined on the basis of Canadian generally accepted accounting principles (“GAAP”)”;
 - (h) In the quarterly MD&A filed on August 12, 2008: “Except where otherwise indicated, all financial information reflected herein is determined on the basis of Canadian generally accepted accounting principles (“GAAP”)”;
 - (i) In the quarterly MD&A filed on November 13, 2008: “Except where otherwise indicated, all financial information reflected herein is determined on the basis of Canadian generally accepted accounting principles (“GAAP”)”;
 - (j) In the annual MD&A filed on March 16, 2009: “Except where otherwise indicated, all financial information reflected herein is determined on the basis of Canadian generally accepted accounting principles (GAAP)”;
 - (k) In the amended annual MD&A filed on March 17, 2009: “Except where otherwise indicated, all financial information reflected herein is determined on the basis of Canadian generally accepted accounting principles (GAAP)”;
 - (l) In the quarterly MD&A filed on May 11, 2009: “Except where otherwise indicated, all financial information reflected herein is determined on the basis of Canadian generally accepted accounting principles (GAAP)”;
 - (m) In the quarterly MD&A filed on August 10, 2009: “Except where otherwise indicated, all financial information reflected herein is determined on the basis of Canadian generally accepted accounting principles (GAAP)”;
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- (n) In the quarterly MD&A filed on November 12, 2009: “Except where otherwise indicated, all financial information reflected herein is determined on the basis of Canadian Generally Accepted Accounting Principles (“GAAP”);
- (o) In the annual MD&A files on March 16, 2010: “Except where otherwise indicated, all financial information reflected herein is determined on the basis of Canadian Generally Accepted Accounting Principles (“GAAP”);
- (p) In the quarterly MD&A filed on May 12, 2010: “Except where otherwise indicated, all financial information reflected herein is determined on the basis of Canadian Generally Accepted Accounting Principles (“GAAP”);
- (q) In the quarterly MD&A filed on August 10, 2010: “Except where otherwise indicated, all financial information reflected herein is determined on the basis of Canadian Generally Accepted Accounting Principles (“GAAP”);
- (r) In the quarterly MD&A filed on November 10, 2010: “Except where otherwise indicated, all financial information reflected herein is determined on the basis of Canadian Generally Accepted Accounting Principles (“GAAP”); and
- (s) In the annual MD&A filed on March 15, 2011: “Except where otherwise indicated, all financial information reflected herein is determined on the basis of Canadian Generally Accepted Accounting Principles (“GAAP”).”

193. In the Offerings, Sino represented that its reporting was GAAP-compliant, which was a misrepresentation for the reasons set out elsewhere herein.

194. In particular, Sino misrepresented in the Offerings that it was GAAP-compliant as follows:

- (a) In the July 2008 Offering Memorandum: “We prepare our financial statements on a consolidated basis in accordance with accounting principles generally accepted in Canada (“Canadian GAAP”)[...],” “Our auditors conduct their audit of our

financial statements in accordance with auditing standards generally accepted in Canada” and “Each of the foregoing reports or financial statements will be prepared in accordance with Canadian generally accepted accounting principles other than for reports prepared for financial periods commencing on or after January 1, 2011 [...]”;

- (b) In the June 2009 Offering Memorandum: “We prepare our financial statements on a consolidated basis in accordance with accounting principles generally accepted in Canada (“Canadian GAAP”)[...],” “Our auditors conduct their audit of our financial statements in accordance with auditing standards generally accepted in Canada,” “The audited and unaudited consolidated financial statements were prepared in accordance with Canadian GAAP,” “Our audited and consolidated financial statements for the years ended December 31, 2006, 2007 and 2008 and our unaudited interim consolidated financial statements for the three-month periods ended March 31, 2008 and 2009 have been prepared in accordance with Canadian GAAP”;
 - (c) In the June 2009 Offering Memorandum: “We prepare our financial statements on a consolidated basis in accordance with accounting principles generally accepted in Canada (“Canadian GAAP”)[...],” “Our auditors conduct their audit of our financial statements in accordance with auditing standards generally accepted in Canada” and “The audited and unaudited consolidated financial statements were prepared in accordance with Canadian GAAP”; and
 - (d) In the October 2010 Offering Memorandum: “We prepare our financial statements on a consolidated basis in accordance with accounting principles generally accepted in Canada (“Canadian GAAP”)[...],” “Our auditors conduct their audit of our financial statements in accordance with auditing standards generally accepted in Canada,” “The audited and unaudited consolidated financial statements were prepared in accordance with Canadian GAAP,” “Our audited and consolidated financial statements for the years ended December 31, 2007, 2008 and 2009 and our unaudited interim consolidated financial statements for the six-
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month periods ended June 30, 2009 and 2010 have been prepared in accordance with Canadian GAAP.”

195. In the Class Period Management’s Reports, Chan and Horsley represented that Sino’s reporting was GAAP-compliant, which was a misrepresentation for the reasons set out elsewhere herein.

196. In particular, Chan and Horsley misrepresented in those Management’s Reports that Sino’s financial statements were GAAP-compliant as follows:

- (a) In the annual statements filed on March 19, 2007 Chan and Horsley stated: “The consolidated financial statements contained in this Annual Report have been prepared by management in accordance with Canadian generally accepted accounting principles”;
- (b) In the annual financial statements filed on March 18, 2008 Chan and Horsley stated: “The consolidated financial statements contained in this Annual Report have been prepared by management in accordance with Canadian generally accepted accounting principles”;
- (c) In the annual financial statements filed on March 16, 2009 Chan and Horsley stated: “The consolidated financial statements contained in this Annual Report have been prepared by management in accordance with Canadian generally accepted accounting principles”;
- (d) In the annual financial statements filed on March 16, 2010 Chan and Horsley stated: “The consolidated financial statements contained in this Annual Report have been prepared by management in accordance with Canadian generally accepted accounting principles”; and
- (e) In the annual financial statements filed on March 15, 2011 Chan and Horsley stated: “The consolidated financial statements contained in this Annual Report

have been prepared by management in accordance with Canadian generally accepted accounting principles.”

(ii) *E&Y and BDO misrepresent that Sino complied with GAAP and that they complied with GAAS*

197. In each of Sino’s Class Period annual financial statements, E&Y or BDO, as the case may be, represented that Sino’s reporting was GAAP-compliant, which was a misrepresentation for the reasons set out elsewhere herein. In addition, in each such annual financial statement, E&Y and BDO, as the case may be, represented that they had conducted their audit in compliance with GAAS, which was a misrepresentation because they did not in fact conduct their audits in accordance with GAAS.

198. In particular, E&Y and BDO misrepresented that Sino’s financial statements were GAAP-compliant and that they had conducted their audits in compliance with GAAS as follows:

- (a) In Sino’s annual financial statements filed on March 19, 2007, BDO stated: “We conducted our audit in accordance with Canadian generally accepted auditing standards” and “In our opinion, these consolidated financial statements present fairly, in all material respects, the financial position of the Company as at December 31, 2006 and 2005 and the results of its operations and its cash flows for the years then ended in accordance with Canadian generally accepted accounting principles”;
- (b) In the June 2007 Prospectus, BDO stated: “We have complied with Canadian generally accepted standards for an auditor’s involvement with offering documents”;
- (c) In Sino’s annual financial statements filed on March 18, 2008, E&Y stated: “We conducted our audit in accordance with Canadian generally accepted auditing standards” and “In our opinion, these consolidated financial statements present fairly, in all material respects, the financial position of the Company as at

December 31, 2007 and the results of its operations and its cash flows for the year then ended in accordance with Canadian generally accepted accounting principles. The financial statements as at December 31, 2006 and for the year then ended were audited by other auditors who expressed an opinion without reservation on those statements in their report dated March 19, 2007”;

- (d) In the July 2008 Offering Memorandum, BDO stated: “We conducted our audit in accordance with Canadian generally accepted auditing standards” and “In our opinion, these consolidated financial statements present fairly, in all material respects, the financial position of the Company as at December 31, 2006 and 2005 and the results of its operations and its cash flows for the years then ended in accordance with Canadian generally accepted accounting principles” and E&Y stated “We conducted our audit in accordance with Canadian generally accepted auditing standards” and “In our opinion, these consolidated financial statements present fairly, in all material respects, the financial position of the Company as at December 31, 2007 and the results of its operations and its cash flows for the year then ended in accordance with Canadian generally accepted accounting principles”;
- (e) In Sino’s annual financial statements filed on March 16, 2009, E&Y stated: “We conducted our audits in accordance with Canadian generally accepted auditing standards” and “In our opinion, these consolidated financial statements present fairly, in all material respects, the financial position of the Company as at December 31, 2008 and 2007 and the results of its operations and its cash flows for the years then ended in accordance with Canadian generally accepted accounting principles”;
- (f) In Sino’s annual financial statements filed on March 16, 2010, E&Y stated: “We conducted our audits in accordance with Canadian generally accepted auditing standards” and “In our opinion, these consolidated financial statements present fairly, in all material respects, the financial position of the Company as at December 31, 2009 and 2008 and the results of its operations and its cash flows

for the years then ended in accordance with Canadian generally accepted accounting principles”; and

- (g) In Sino’s annual financial statements filed on March 15, 2011, E&Y stated: “We conducted our audits in accordance with Canadian generally accepted auditing standards.” and “In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of Sino-Forest corporation as at December 31, 2010 and 2009 and the results of its operations and cash flows for the years then ended in accordance with Canadian generally accepted accounting principles.”

(iii) *The Market Relied on Sino’s Purported GAAP-compliance and E&Y’s and BDO’s purported GAAS-compliance in Sino’s Financial Reporting*

199. As a public company, Sino communicated the results it claimed to have achieved to the Class Members via quarterly and annual financial results, among other disclosure documents. Sino’s auditors, E&Y and BDO, as the case may be, were instrumental in the communication of Sino’s financial information to the Class Members. The auditors certified that the financial statements were compliant with GAAP and that they had performed their audits in compliance with GAAS. Neither was true.

200. The Class Members invested in Sino’s securities on the critical premise that Sino’s financial statements were in fact GAAP-compliant, and that Sino’s auditors had in fact conducted their audits in compliance with GAAS. Sino’s reported financial results were also followed by analysts at numerous financial institutions. These analysts promptly reported to the market at large when Sino made earnings announcements, and incorporated into their Sino-related analyses and reports Sino’s purportedly GAAP-compliant financial results. These analyses and reports, in turn, significantly affected the market price for Sino’s securities.

201. The market, including the Class Members, would not have relied on Sino's financial reporting had the auditors disclosed that Sino's financial statements were not reliable or that they had not followed the processes that would have amply revealed that those statements were reliable.

VII. CHAN'S AND HORSLEY'S FALSE CERTIFICATIONS

202. Pursuant to National Instrument 52-109, the defendants Chan, as CEO, and Horsley, as CFO, were required at the material times to certify Sino's annual and quarterly MD&As and Financial Statements as well as the AIFs (and all documents incorporated into the AIFs). Such certifications included statements that the filings "do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made" and that the reports "fairly present in all material respects the financial condition, results of operations and cash flows of the issuer."

203. As particularized elsewhere herein, however, the Impugned Documents contained the Representation, which was false, as well as the other misrepresentations alleged above. Accordingly, the certifications given by Chan and Horsley were false and were themselves misrepresentations. Chan and Horsley made such false certifications knowingly or, at a minimum, recklessly.

VIII. THE TRUTH IS REVEALED

204. On June 2, 2011, Muddy Waters issued its initial report on Sino, and stated in part therein:

Sino-Forest Corp (TSE: TRE) is the granddaddy of China RTO frauds. It has always been a fraud – reporting excellent results from one of its early joint ventures – even though, because of TRE’s default on its investment obligations, the JV never went into operation. TRE just lied.

The foundation of TRE’s fraud is a convoluted structure whereby it claims to run most of its revenues through “authorized intermediaries” (“AI”). AIs are supposedly timber trader customers who purportedly pay much of TRE’s value added and income taxes. At the same time, these AIs allow TRE a gross margin of 55% on standing timber merely for TRE having speculated on trees.

The sole purpose of this structure is to fabricate sales transactions while having an excuse for not having the VAT invoices that are the mainstay of China audit work. If TRE really were processing over one billion dollars in sales through AIs, TRE and the AIs would be in serious legal trouble. No legitimate public company would take such risks – particularly because this structure has zero upside.

[...]

On the other side of the books, TRE massively exaggerates its assets. TRE significantly falsifies its investments in plantation fiber (trees). It purports to have purchased \$2.891 billion in standing timber under master agreements since 2006 [...]

[...]

Valuation

Because TRE has \$2.1 billion in debt outstanding, which we believe exceeds the potential recovery, we value its equity at less than \$1.00 per share.

205. Muddy Waters’ report also disclosed that (a) Sino’s business is a fraudulent scheme; (b) Sino systemically overstated the value of its assets; (c) Sino failed to disclose various related party transactions; (d) Sino misstated that it had enforced high standards of governance; (e) Sino misstated that its reliance on the AIs had decreased; (f) Sino misrepresented the tax risk associated with the use of AIs; and (g) Sino failed to disclose the risks relating to repatriation of earnings from PRC.

206. After Muddy Waters’ initial report became public, Sino shares fell to \$14.46, at which point trading was halted (a decline of 20.6% from the pre-disclosure close of \$18.21). When

trading was allowed to resume the next day, Sino's shares fell to a close of \$5.23 (a decline of 71.3% from June 1).

207. On November 13, 2011 Sino released the Second Report in redacted form. Therein, the Committee summarized its findings:

B. Overview of Principal Findings

The following sets out a very high level overview of the IC's principal findings and should be read in conjunction with the balance of this report.

Timber Ownership

[...]

The Company does not obtain registered title to BVI purchased plantations. In the case of the BVIs' plantations, the IC has visited forestry bureaus, Suppliers and AIs to seek independent evidence to establish a chain of title or payment transactions to verify such acquisitions. The purchase contracts, set-off arrangement documentation and forestry bureau confirmations constitute the documentary evidence as to the Company's contractual or other rights. *The IC has been advised that the Company's rights to such plantations could be open to challenge. However, Management has advised that, to date, it is unaware of any such challenges that have not been resolved* with the Suppliers in a manner satisfactory to the Company.

Forestry Bureau Confirmations and Plantation Rights Certificates

Registered title, through Plantation Rights Certificates is not available in the jurisdictions (i.e. cities and counties) examined by the IC Advisors for standing timber that is held without land use/lease rights. *Therefore the Company was not able to obtain Plantation Rights Certificates for its BVIs standing timber assets in those areas.* In these circumstances, the Company sought confirmations from the relevant local forestry bureau acknowledging its rights to the standing timber.

The IC Advisors reviewed forestry bureau confirmations for virtually all BVIs assets and non-Mandra WFOE purchased plantations held as at December 31, 2010. The IC Advisors, in meetings organized by Management, met with a sample of forestry bureaus with a view to obtaining verification of the Company's rights to standing timber in those jurisdictions. The result of such meetings to date have concluded with the forestry bureaus or related entities having issued new confirmations as to the Company's contractual rights to the Company in respect of 111,177 Ha. as of December 31, 2010 and 133,040 Ha. as of March 31, 2011, and have acknowledged the issuance of existing confirmations issued to the

Company as to certain rights, among other things, in respect of 113,058 Ha. as of December 31, 2010.

Forestry bureau confirmations are not officially recognized documents and are not issued pursuant to a legislative mandate or, to the knowledge of the IC, a published policy. It appears they were issued at the request of the Company or its Suppliers. The confirmations are not title documents, in the Western sense of that term, although the IC believes they should be viewed as comfort indicating the relevant forestry bureau does not dispute SF's claims to the standing timber to which they relate and might provide comfort in case of disputes. The purchase contracts are the primary evidence of the Company's interest in timber assets.

In the meetings with forestry bureaus, the IC Advisors did not obtain significant insight into the internal authorization or diligence processes undertaken by the forestry bureaus in issuing confirmations and, as reflected elsewhere in this report, the IC did not have visibility into or complete comfort regarding the methods by which those confirmations were obtained. It should be noted that several Suppliers observed that SF was more demanding than other buyers in requiring forestry bureau confirmations.

Book Value of Timber

Based on its review to date, the IC is satisfied that the book value of the BVIs timber assets of \$2.476 billion reflected on its 2010 Financial Statements and of SP WFOE standing timber assets of \$298.6 million reflected in its 2010 Financial Statements reflects the purchase prices for such assets as set out in the BVIs and WFOE standing timber purchase contracts reviewed by the IC Advisors. Further, the purchase prices for such BVIs timber assets have been reconciled to the Company's financial statements based on set-off documentation relating to such contracts that were reviewed by the IC. However, *these comments are also subject to the conclusions set out above under "Timber Ownership" on title and other rights to plantation assets.*

The IC Advisors reviewed documentation acknowledging the execution of the set-off arrangements between Suppliers, the Company and AIs for the 2006-2010 period. *However, the IC Advisors were unable to review any documentation of AIs or Suppliers which independently verified movements of cash in connection with such set-off arrangements between Suppliers, the Company and the AIs used to settle purchase prices paid to Suppliers by AIs on behalf of SF.* We note also that the independent valuation referred to in Part VIII below has not yet been completed.

Revenue Reconciliation

As reported in its First Interim Report, the IC has reconciled reported 2010 total revenue to the sales prices in BVIs timber sales contracts, together with macro customer level data from other businesses. However, *the IC was unable to review any documentation of AIs or Suppliers which independently verified movements*

of cash in connection with set-off arrangements used to settle purchase prices paid, or sale proceeds received by, or on behalf of SF.

Relationships

- Yuda Wood: The IC is satisfied that Mr. Huang Ran is not currently an employee of the Company and that Yuda Wood is not a subsidiary of the Company. However, *there is evidence suggesting close cooperation (including administrative assistance, possible payment of capital at the time of establishment, joint control of certain of Yuda Wood's RMB bank accounts and the numerous emails indicating coordination of funding and other business activities)*, Management has explained these arrangements were mechanisms that allowed the Company to monitor its interest in the timber transactions. Further, *Huang Ran (a Yuda Wood employee) has an ownership and/or directorship in a number of Suppliers* (See Section VI.B). The IC Advisors have been introduced to persons identified as influential backers of Yuda Wood but were unable to determine the relationships, if any, of such persons with Yuda Wood, the Company or other Suppliers or AIs. *Management explanations of a number of Yuda Wood-related emails and answers to E&Y's questions are being reviewed by the IC and may not be capable of independent verification.*

- Other: The IC's review has identified other situations which require further review. *These situations suggest that the Company may have close relationships with certain Suppliers, and certain Suppliers and AIs may have cross-ownership and other relationships with each other.* The IC notes that in the interviews conducted by the IC with selected AIs and Suppliers, all such parties represented that they were independent of SF. Management has very recently provided information and analysis intended to explain these situations. The IC is reviewing this material from Management and intends to report its findings in this regard in its final report to the Board. Some of such information and explanations may not be capable of independent verification.

- Accounting Considerations: *To the extent that any of SF's purchase and sale transactions are with related parties for accounting purposes, the value of these transactions as recorded on the books and records of the Company may be impacted.*

[...]

BVI Structure

The BVI structure used by SF to purchase and sell standing timber assets could be challenged by the relevant Chinese authorities as the undertaking of "business activities" within China by foreign companies, which may only be undertaken by entities established within China with the requisite approvals. However, there is no clear definition of what constitutes "business activities" under Chinese law and there are different views among the IC's Chinese counsel and the Company's Chinese counsel as to whether the purchase and sale of timber in China as

undertaken by the BVIs could be considered to constitute “business activities” within China. In the event that the relevant Chinese authorities consider the BVIs to be undertaking “business activities” within China, they may be required to cease such activities and could be subject to other regulatory action. As regularization of foreign businesses in China is an ongoing process, the government has in the past tended to allow foreign companies time to restructure their operations in accordance with regulatory requirements (the cost of which is uncertain), rather than enforcing the laws strictly and imposing penalties without notice. See Section II.B.2

C. Challenges

Throughout its process, the IC has encountered numerous challenges in its attempts to implement a robust independent process which would yield reliable results. Among those challenges are the following:

(a) Chinese Legal Regime for Forestry:

- national laws and policies appear not yet to be implemented at all local levels;
- in practice, none of the local jurisdictions tested in which BVIs hold standing timber appears to have instituted a government registry and documentation system for the ownership of standing timber as distinct from a government registry system for the ownership of plantation land use rights;
- the registration of plantation land use rights, the issue of Plantation Rights Certificates and the establishment of registries, is incomplete in some jurisdictions based on the information available to the IC;
- as a result, *title to standing timber, when not held in conjunction with a land use right, cannot be definitively proven by reference to a government maintained register*; and
- Sino-Forest has requested confirmations from forestry bureaus of its acquisition of timber holdings (excluding land leases) as additional evidence of ownership. Certain forestry bureaus and Suppliers have indicated the confirmation was beyond the typical diligence practice in China for acquisition of timber holdings.

(b) Obtaining Information from Third Parties: For a variety of reasons, all of them outside the control of the IC, it is very difficult to obtain information from third parties in China. These reasons include the following:

- *many of the third parties from whom the IC wanted information (e.g., AIs, Suppliers and forestry bureaus) are not compellable by the Company or Canadian legal processes*;
 - third parties appeared to have concerns relating to disclosure of information regarding their operations that could become public or fall into the hands of
-

Chinese government authorities; *many third parties explained their reluctance to provide requested documentation and information as being "for tax reasons" but declined to elaborate;* and

- awareness of MW allegations, investigations and information gathering by the OSC and other parties, and court proceedings; while not often explicitly articulated, third parties had an awareness of the controversy surrounding SF and a reluctance to be associated with any of these allegations or drawn into any of these processes.

[...]

(e) Corporate Governance/Operational Weaknesses: *Management has asserted that business in China is based upon relationships.* The IC and the IC Advisors have observed this through their efforts to obtain meetings with forestry bureaus, Suppliers and AIs and their other experience in China. The importance of relationships appears to have resulted in dependence on a relatively small group of Management who are integral to maintaining customer relationships, negotiating and finalizing the purchase and sale of plantation fibre contracts and the settlement of accounts receivable and accounts payable associated with plantation fibre contracts. This concentration of authority or lack of segregation of duties has been previously disclosed by the Company as a control weakness. As a result and as disclosed in the 2010 MD&A, senior Management in their ongoing evaluation of disclosure controls and procedures and internal controls over financial reporting, recognizing the disclosed weakness, determined that the design and controls were ineffective. The Chairman and Chief Financial Officer provided annual and quarterly certifications of their regulatory filings. Related to this weakness the following challenges presented themselves in the examination by the IC and the IC Advisors:

- operational and administration systems that are generally not sophisticated having regard to the size and complexity of the Company's business and in relation to North American practices; including:
 - *incomplete or inadequate record creation and retention practices;*
 - contracts not maintained in a central location;
 - significant volumes of data maintained across multiple locations on decentralized servers;
 - *data on some servers in China appearing to have been deleted on an irregular basis, and there is no back-up system;*
 - no integrated accounting system: accounting data is not maintained on a single, consolidated application, which can require extensive manual procedures to produce reports; and

- a treasury function that was centralized for certain major financial accounts, but was not actively involved in the control or management of numerous local operations bank accounts;
- *no internal audit function* although there is evidence the Company has undertaken and continues to assess its disclosure controls and procedures and internal controls over financial reporting using senior Management and independent control consultants;
- *SF employees conduct Company affairs from time to time using personal devices and non-corporate email addresses* which have been observed to be shared across groups of staff and changed on a periodic and organized basis; this complicated and delayed the examination of email data by the IC Advisors; and
- lack of full cooperation/openness in the ICs examination from certain members of Management.

(f) Complexity, Lack of Visibility into, and Limitations of BVIs Model: *The use of AIs and Suppliers as an essential feature of the BVIs standing timber business model contributes to the lack of visibility into title documentation, cash movements and tax liability since cash settlement in respect of the BVIs standing timber transactions takes place outside of the Company's books.*

(g) Cooperation and openness of the Company's executives throughout the process: From the outset, the IC Advisors sought the full cooperation and support of Allen Chan and the executive management team. Initially, the executive management team appeared ill-prepared to address the IC's concerns in an organized fashion and there was perhaps a degree of culture shock as Management adjusted to the IC Advisors' examination. *In any event, significant amounts of material information, particularly with respect to the relationship with Yuda Wood, interrelationships between AIs and/or Suppliers, were not provided to the IC Advisors as requested.* In late August 2011 on the instructions of the IC, interviews of Management were conducted by the IC Advisors in which documents evidencing these connections were put to the Management for explanation. As a result of these interviews (which were also attended by BJ) the Company placed certain members of Management on administrative leave upon the advice of Company counsel. At the same time the OSC made allegations in the CTO of Management misconduct.

[...]

(h) Independence of the IC Process: *The cooperation and collaboration of the IC with Management (operating under the direction of the new Chief Executive Officer) and with Company counsel in completing certain aspects of the IC's mandate has been noted by the OSC and by E&Y. Both have questioned the degree of independence of the IC from Management as a result of this interaction.* The IC has explained the practical impediments to its work in the context of the distinct business culture (and associated issues of privacy) in the

forestry sector in China in which the Company operates. Cooperation of third parties in Hong Kong and China, including employees, depends heavily on relationships and trust. As noted above, the Company's placing certain members of Management on administrative leave, as well as the OSC's allegations in the CTO, further hampered the IC's ability to conduct its process. As a result, the work of the IC was frequently done with the assistance of, or in reliance on, the new Chief Executive Officer and his Management team and Company counsel. Given that Mr. Martin was, in effect, selected by the IC and BJ was appointed in late June 2011, the IC concluded that, while not ideal, this was a practical and appropriate way to proceed in the circumstances. As evidenced by the increased number of scheduled meetings with forestry bureaus, Suppliers and AIs, and, very recently, the delivery to the IC of information regarding AIs and Suppliers and relationships among the Company and such parties, it is acknowledged that Mr. Martin's involvement in the process has been beneficial. It is also acknowledged that in executing his role and assisting the IC he has had to rely on certain of the members of Management who had been placed on administrative leave.

[Emphasis added]

208. On January 31, 2012, Sino released the Final Report. In material part, it read:

This Final Report of the IC sets out the activities undertaken by the IC since mid-November, the findings from such activities and the IC's conclusions regarding its examination and review. The IC's activities during this period have been limited as a result of Canadian and Chinese holidays (Christmas, New Year and Chinese New Year) and the extensive involvement of IC members in the Company's Restructuring and Audit Committees, both of which are advised by different advisors than those retained by the IC. *The IC believes that, notwithstanding there remain issues which have not been fully answered, the work of the IC is now at the point of diminishing returns because much of the information which it is seeking lies with non-compellable third parties, may not exist or is apparently not retrievable from the records of the Company.*

In December 2011, the Company defaulted under the indentures relating to its outstanding bonds with the result that its resources are now more focused on dealing with its bondholders. This process is being overseen by the Restructuring Committee appointed by the Board. Pursuant to the Waiver Agreement dated January 18, 2012 between the Company and the holders of a majority of the principal amount of its 2014 Notes, the Company agreed, among other things, that the final report of the IC to the Board would be made public by January 31, 2012.

Given the circumstances described above, the IC understands that, with the delivery of this Final Report, its review and examination activities are terminated. The IC does not expect to undertake further work other than assisting with responses to regulators and the RCMP as required and engaging in such further specific activities as the IC may deem advisable or the Board may instruct. The

IC has asked the IC Advisors to remain available to assist and advise the IC upon its instructions.

[...]

II. RELATIONSHIPS

The objectives of the IC's examination of the Company's relationships with its AIs and Suppliers were to determine, in light of the MW allegations, if such relationships are arm's length and to obtain, if possible, independent verification of the cash flows underlying the set-off transactions described in Section II.A of the Second Interim Report. *That the Company's relationships with its AIs and Suppliers be arm's length is relevant to SF's ability under GAAP to:*

- *book its timber assets at cost in its 2011 and prior years' financial statements, both audited and unaudited*
- *recognize revenue from standing timber sales as currently reflected in its 2011 and prior years' financial statements, both audited and unaudited.*

A. Yuda Wood

Yuda Wood was founded in April 2006 and was until 2010 a Supplier of SF. Its business with SF from 2007 to 2010 totalled approximately 152,164 Ha and RMB 4.94 billion. Section VI.A and Schedule VI.A.2(a) of the Second Interim Report described the MW allegations relating to Yuda Wood, the review conducted by the IC and its findings to date. The IC concluded that Huang Ran is not currently an employee, and that Yuda Wood is not a subsidiary, of the Company. *However, there is evidence suggesting a close cooperation between SF and Yuda Wood which the IC had asked Management to explain.* At the time the Second Interim Report was issued, the IC was continuing to review Management's explanations of a number of Yuda Wood-related emails and certain questions arising therefrom.

Subsequent to the issuance of its Second Interim Report in mid-November, the IC, with the assistance of the IC Advisors, has reviewed the Management responses provided to date relating to Yuda Wood and has sought further explanations and documentary support for such explanations. This was supplementary to the activities of the Audit Committee of SF and its advisors who have had during this period primary carriage of examining Management's responses on the interactions of SF and Yuda Wood. *While many answers and explanations have been obtained, the IC believes that they are not yet sufficient to allow it to fully understand the nature and scope of the relationship between SF and Yuda Wood. Accordingly, based on the information it has obtained, the IC is still unable to independently verify that the relationship of Yuda Wood is at arm's length to SF.* It is to be noted that Management is of the view that Yuda Wood is unrelated to SF for accounting purposes. The IC remains satisfied that Yuda is not a subsidiary of SF. Management continues to undertake work related to Yuda

Wood, including seeking documentation from third parties and responding to e-mails where the responses are not yet complete or prepared. Management has provided certain banking records to the Audit Committee that the Audit Committee advises support Management's position that SF did not capitalize Yuda Wood (but that review is not yet completed). The IC anticipates that Management will continue to work with the Audit Committee, Company counsel and E&Y on these issues.

B. Other Relationships

Section VI.B.1 of the Second Interim Report described certain other relationships which had been identified in the course of the IC's preparation for certain interviews with AIs and Suppliers. *These relationships include (i) thirteen Suppliers where former SF employees, consultants or secondees are or have been directors, officers and/or shareholders (including Yuda Wood); (ii) an AI with a former SF employee in a senior position; (iii) potential relationships between AIs and Suppliers; (iv) set-off payments for BVI standing timber purchases being made by companies that are not AIs and other setoff arrangements involving non-AI entities; (v) payments by AIs to potentially connected Suppliers; and (vi) sale of standing timber to an AI potentially connected to a Supplier of that timber. Unless expressly addressed herein, the IC has no further update of a material nature on the items raised above.*

On the instructions of the IC, the IC Advisors gave the details of these possible relationships to Management for further follow up and explanation. Just prior to the Second Interim Report, Management provided information regarding AIs and Suppliers relationships among the Company and such parties.

This information was in the form of a report dated November 10, 2011, subsequently updated on November 21, 2011 and January 20, 2012 (the latest version being the "Kaitong Report") prepared by Kaitong Law Firm ("Kaitong"), a Chinese law firm which advises the Company. The Kaitong Report has been separately delivered to the Board. *Kaitong has advised that much of the information in the Kaitong Report was provided by Management and has not been independently verified by such law firm or the IC.*

[...]

The Kaitong Report generally describes certain relationships amongst AIs and Suppliers and certain relationships between their personnel and Sino-Forest, either identified by Management or through SAIC and other searches. The Kaitong Report also specifically addresses certain relationships identified in the Second Interim Report. The four main areas of information in the Kaitong Report are as follows and are discussed in more detail below:

(i) Backers to Suppliers and AIs: The Kaitong Report explains the concept of "backers" to both Suppliers and AIs. The Kaitong Report suggests that backers are individuals with considerable influence in political, social or business circles,

or all three. The Kaitong Report also states that such backers or their identified main business entities do not generally appear in SAIC filings by the Suppliers or AIs as shareholders thereof and, in most instances, in any other capacity.

(ii) *Suppliers and AIs with Former SF Personnel: The appendices to the Kaitong Report list certain Suppliers that have former SF personnel as current shareholders.*

(iii) Common Shareholders Between Suppliers and AIs: The Kaitong Report states that there are 5 Suppliers and 3 AIs with current common shareholders but there is no cross majority ownership positions between Suppliers and AIs.

(iv) Transactions Involving Suppliers and AIs that have Shareholders in common: The Kaitong Report states that, where SF has had transactions with Suppliers and AIs that have certain current shareholders in common as noted above, the subject timber in those transactions is not the same; that is, the timber which SF buys from such Suppliers and the timber which SF sells to such AIs are located in different counties or provinces.

The IC Advisors have reviewed the Kaitong Report on behalf of the IC. The IC Advisors liaised with Kaitong and met with Kaitong and current and former Management. A description of the Kaitong Report and the IC's findings and comments are summarized below. By way of summary, the Kaitong Report provides considerable information regarding relationships among Suppliers and AIs, and between them and SF, but much of this information related to the relationship of each backer with the associated Suppliers and AIs is not supported by any documentary or other independent evidence. *As such, some of the information provided is unverified and, particularly as it relates to the nature of the relationships with the backers, is viewed by the IC to be likely unverifiable by it.*

1. Backers to Suppliers and AIs

[...]

Given the general lack of information on the backers or the nature and scope of the relationships between the Suppliers or AIs and their respective backers and the absence of any documentary support or independent evidence of such relationships, the IC has been unable to reach any conclusion as to the existence, nature or importance of such relationships. *As a result, the IC is unable to assess the implications, if any, of these backers with respect to SF's relationships with its Suppliers or AIs. Based on its experience to date, including interviews with Suppliers and AIs involving persons who have now been identified as backers in the Kaitong Report, the IC believes that it would be very difficult for the IC Advisors to arrange interviews with either the AIs or Suppliers or their respective backers and, if arranged, that such interviews would yield very little, if any, verifiable information to such advisors.* The IC understands Management is continuing to seek meetings with its AIs and Suppliers with the objective of

obtaining information, to the extent such is available, that will provide further background to the relationships to the Audit Committee.

[...]

2. Suppliers and AIs with Former SF Personnel

The Appendices to the Kaitong Report list the Suppliers with former SF personnel as current shareholders. According to the information previously obtained by the IC Advisors, the identification of former SF personnel indicated in the Kaitong Report to be current shareholders of past or current Suppliers is correct.

(a) Suppliers with former SF personnel

The Kaitong Report, which is limited to examining Suppliers where ex-SF employees are current shareholders as shown in SAIC filings, does not provide material new information concerning Suppliers where former SF employees were identified by the IC in the Second Interim Report as having various past or present connections to current or former Suppliers except that the Kaitong Report provides an explanation of two transactions identified in the Second Interim Report. These involved purchases of standing timber by SF from Suppliers controlled by persons who were employees of SF at the time of these transactions. Neither of the Suppliers have been related to an identified backer in the Kaitong Report. The explanations are similar indicating that neither of the SF employees was an officer in charge of plantation purchases or one of SF's senior management at the time of the transactions. The employees in question were Shareholder #14 in relation to a RMB 49 million purchase from Supplier #18 in December 2007 (shown in SAIC filings to be 100% owned by him) and Shareholder #20 in relation to a RMB 3.3 million purchase from Supplier #23 (shown in SAIC filings to be 70% owned by him) in October 2007. *The Kaitong Report indicates Shareholder #20 is a current employee of SF who then had responsibilities in SF's wood board production business.*

The IC is not aware that the employees' ownership positions were brought to the attention of the Board at the time of the transactions or, subsequently, until the publication of the Second Interim Report and understands the Audit Committee will consider such information.

(b) AIs with former SF personnel

The Kaitong Report indicates that no SF employees are listed in SAIC filing reports as current shareholders of AIs. Except as noted herein, the IC agrees with this statement. The Kaitong Report does not address the apparent role of an ex-employee Officer #3 who was introduced to the IC as the person in charge of AI #2 by Backer #5 of AI Conglomerate #1. Backer #5 is identified in the Kaitong Report as a backer of two AIs, including AI#2. (The Kaitong Report properly does not include AI #14, as an AI for this purpose, whose 100% shareholder is former SF employee Officer #3. However, the IC is satisfied that the activities of

this entity primarily relate to certain onshoring transactions that facilitated the transfer of SF BVI timber assets to SF WFOE subsidiaries.)

There was one other instance where a past shareholding relationship has been identified between an AI #10 and persons who were previously or are still shown on the SF human resources records, Shareholder #26 and Shareholder #27. Management has explained that such entity sold wood board processing and other assets to SF and that the persons associated with that company consulted with SF after such sale in relation to the purchased wood board processing assets. *Such entity subsequently also undertook material timber purchases as an AI of SF in 2007-2008 over a time period in which such persons are shown as shareholders of such AI in the SAIC filing reviewed (as to 47.5% for Shareholder #26 and as to 52.5% for Shareholder #27). That time period also intersects the time that Shareholder #26 is shown in such human resources records and partially intersects the time that Shareholder #27 is shown on such records. Management has also explained that Shareholder #26 subsequent to the time of such AI sales became an employee of a SF wood board processing subsidiary. Management has provided certain documentary evidence of its explanations. The IC understands that the Audit Committee will consider this matter.*

3. Common Shareholders between Supplier and AIs

The Kaitong Report states that there are 5 Suppliers and 3 AIs that respectively have certain common current shareholders but also states that there is no cross control by those current shareholders of such Suppliers or AIs based on SAIC filings. The Kaitong Report correctly addresses current cross shareholdings in Suppliers and AIs based on SAIC filings but does not address certain other shareholdings. With the exception of one situation of cross control in the past, the IC has not identified a circumstance in the SAIC filings reviewed where the same person controlled a Supplier at the time it controlled a different AI. *The one exception is that from April 2002 to February 2006, AI #13 is shown in SAIC filings as the 90% shareholder of Supplier/AI #14. AI #13 did business with SF BVIs from 2005 through 2007 and Supplier/AI #14 supplied SF BVIs from 2004 through 2006. However, the IC to date has only identified one contract involving timber bought from Supplier/AI #14 that was subsequently sold to AI #13. It involved a parcel of 2,379 Ha. timber sold to AI #13 in December 2005 that originated from a larger timber purchase contract with Supplier/AI #14 earlier that year. Management has provided an explanation for this transaction. The IC understands that the Audit Committee will consider this matter.*

4. Transactions involving Suppliers and AIs with Current Shareholders in Common

The Kaitong Report states that where SF has had transactions with 5 Suppliers and 3 AIs that have current shareholders in common (but no one controlling shareholder) as shown in SAIC filings, the subject timber in the transactions they

each undertook with SF is not the same; that is, the timber which SF buys from the Suppliers and the timber which SF sells to the AIs where the Supplier and AI have a current common shareholder were located in different areas and do not involve the same plots of timber. The Kaitong Report further states that where SF has had transactions with 5 Suppliers and 3 AIs with current shareholders in common as shown in SAIC filings, SF had transactions with those AIs prior to having transactions with those Suppliers, thus SF was not overstating its transactions by buying and selling to the same counterparties.

[...]

The Kaitong Report does not specifically address historical situations involving common shareholders and potential other interconnections between AIs and Suppliers that may appear as a result of the identification of backers. There is generally no ownership connection shown in SAIC filings between backers and the Suppliers and AIs associated with such backers in the Kaitong Report.

[...]

VI. OUTSTANDING MATTERS

As noted in Section I above, the IC understands that with the delivery of this report, its examination and review activities are terminated. The IC would expect its next steps may include only:

- (a) assisting in responses to regulators and RCMP as required; and
- (b) such other specific activities as it may deem advisable or the Board may instruct.

[Emphasis added]

IX. SINO REWARDS ITS EXPERTS

209. Bowland, Hyde and West are former E&Y partners and employees. They served on Sino's Audit Committee but purported to exercise oversight of their former E&Y colleagues. In addition, Sino's Vice-President, Finance (Corporate), Thomas M. Maradin, is a former E&Y employee.

210. The charter of Sino's Audit Committee required that Ardell, Bowland, Hyde and West "review and take action to eliminate all factors that might impair, or be perceived to impair, the independence of the Auditor." Sino's practice of appointing E&Y personnel to its board – and paying them handsomely (for example, Hyde was paid \$163,623 by Sino in 2010, \$115,962 in 2009, \$57,000 in 2008 and \$55,875 in 2007, plus options and other compensation) – undermined the Audit Committee's oversight of E&Y.

211. E&Y's independence was impaired by the significant non-audit fees it was paid during 2008-2010, which total \$712,000 in 2008, \$1,225,000 in 2009 and \$992,000 in 2010.

212. Further, Andrew Fyfe, the former Asia-Pacific President for Pöyry Forestry Industry Ltd, was appointed Chief Operating Officer of Greenheart, and is the director of several Sino subsidiaries. Fyfe signed the Pöyry valuation report dated June 30, 2004, March 22, 2005, March 23, 2006, March 14, 2008 and April 1, 2009.

213. George Ho, Sino's Vice President, Finance (China), is a former Senior Manager of the BDO.

X. THE DEFENDANTS' RELATIONSHIP TO THE CLASS

214. By virtue of their purported accounting, financial and/or managerial acumen and qualifications, and by virtue of their having assumed, voluntarily and for profit, the role of gatekeepers, the Defendants had a duty at common law, informed by the Securities Legislation and/or the *CBCA*, to exercise care and diligence to ensure that the Impugned Documents fairly and accurately disclosed Sino's financial condition and performance in accordance with GAAP.

215. Sino is a reporting issuer and had an obligation to make timely, full, true and accurate disclosure of material facts and changes with respect to its business and affairs.

216. The Individual Defendants, by virtue of their positions as senior officers and/or directors of Sino, owed a duty to the Class Members to ensure that public statements on behalf of Sino were not untrue, inaccurate or misleading. The continuous disclosure requirements in Canadian securities law mandated that Sino provide the Impugned Documents, including quarterly and annual financial statements. These documents were meant to be read by Class Members who acquired Sino's Securities in the secondary market and to be relied on by them in making investment decisions. This public disclosure was prepared to attract investment, and Sino and the Individual Defendants intended that Class Members would rely on public disclosure for that purpose. With respect to Prospectuses and Offering Memoranda, these documents were prepared for primary market purchasers. They include detailed content as mandated under Canadian securities legislation, national instruments and OSC rules. They were meant to be read by the Class Members who acquired Sino's Securities in the primary market, and to be relied on by them in making decisions about whether to purchase the shares or notes under the Offerings to which these Prospectuses and Offering Memoranda related.

217. Chan and Horsley had statutory obligations under Canadian securities law to ensure the accuracy of disclosure documents and provided certifications in respect of the annual reports, financial statements and Prospectuses during the Class Period. The other Individual Defendants were directors of Sino during the Class Period and each had a statutory obligation as a director under the *CBCA* to manage or supervise the management of the business and affairs of Sino. These Individual Defendants also owed a statutory duty of care to shareholders under section 122 of the *CBCA*. In addition, Poon, along with Chan, co-founded Sino and has been its president since 1994. He is intimately aware of Sino's operations and as a long-standing senior officer, he

had an obligation to ensure proper disclosure. Poon authorized, permitted or acquiesced in the release of the Impugned Documents.

218. BDO and E&Y acted as Sino's auditors and provided audit reports in Sino's annual financial statements that were directed to shareholders. These audit reports specified that BDO and E&Y had conducted an audit in accordance with GAAS, which was untrue, and included their opinions that the financial statements presented fairly, in all material respects, the financial position of Sino, the results of operations and Sino's cash flows, in accordance with GAAP. BDO and E&Y knew and intended that Class Members would rely on the audit reports and assurances about the material accuracy of the financial statements.

219. Dundee, Merrill, Credit Suisse, Scotia, CIBC, RBC, Maison, Canaccord and TD each signed one or more of the Prospectuses and certified that, to the best of its knowledge, information and belief, the particular prospectus, together with the documents incorporated therein by reference, constituted full, true and plain disclosure of all material facts relating to the securities offered thereby. These defendants knew that the Class Members who acquired Sino's Securities in the primary market would rely on these assurances and the trustworthiness that would be credited to the Prospectuses because of their involvement. Further, those Class Members that purchased shares under these Prospectuses purchased their shares from these defendants as principals.

220. Credit Suisse USA, TD and Banc of America acted as initial purchasers or dealer managers for one or more of the note Offerings. These defendants knew that persons purchasing these notes would rely on the trustworthiness that would be credited to the Offering Memoranda because of their involvement.

XI. THE PLAINTIFFS' CAUSES OF ACTION

A. *Negligent Misrepresentation*

221. As against all Defendants except Pöyry and the Underwriters, and on behalf of all Class Members who acquired Sino's Securities in the secondary market, the Plaintiffs plead negligent misrepresentation for all of the Impugned Documents except the Offering Memoranda.

222. Labourers and Wong, on behalf of Class Members who purchased Sino Securities in one of the distributions to which a Prospectus related, plead negligent misrepresentation as against Sino, Chan, Horsley, Poon, Wang, Martin, Mak, Murray, Hyde, BDO, E&Y, Dundee, Merrill, Credit Suisse, Scotia, CIBC, RBC, Maison, Canaccord and TD for the Prospectuses.

223. Grant, on behalf of Class Members who purchased Sino Securities in one of the distributions to which an Offering Memorandum related, pleads negligent misrepresentation as against Sino, BDO and E&Y for the Offering Memoranda.

224. In support of these claims, the sole misrepresentation that the Plaintiffs plead is the Representation. The Representation is contained in the language relating to GAAP particularized above, and was untrue for the reasons particularized elsewhere herein.

225. The Impugned Documents were prepared for the purpose of attracting investment and inducing members of the investing public to purchase Sino securities. The Defendants knew and intended at all material times that those documents had been prepared for that purpose, and that the Class Members would rely reasonably and to their detriment upon such documents in making the decision to purchase Sino securities.

226. The Defendants further knew and intended that the information contained in the Impugned Documents would be incorporated into the price of Sino's publicly traded securities

such that the trading price of those securities would at all times reflect the information contained in the Impugned Documents.

227. As set out elsewhere herein, the Defendants, other than Pöyry, Credit Suisse USA and Banc of America, had a duty at common law to exercise care and diligence to ensure that the Impugned Documents fairly and accurately disclosed Sino's financial condition and performance in accordance with GAAP.

228. These Defendants breached that duty by making the Representation as particularized above.

229. The Plaintiffs and the other Class Members directly or indirectly relied upon the Representation in making a decision to purchase the securities of Sino, and suffered damages when the falsity of the Representation was revealed on June 2, 2011.

230. Alternatively, the Plaintiffs and the other Class Members relied upon the Representation by the act of purchasing Sino securities in an efficient market that promptly incorporated into the price of those securities all publicly available material information regarding the securities of Sino. As a result, the repeated publication of the Representation in these Impugned Documents caused the price of Sino's shares to trade at inflated prices during the Class Period, thus directly resulting in damage to the Plaintiffs and Class Members.

B. *Statutory Claims, Negligence, Oppression, Unjust Enrichment and Conspiracy*

(i) Statutory Liability—Secondary Market under the Securities Legislation

231. The Plaintiffs plead the claim found in Part XXIII.1 of the *OSA*, and, if required, the equivalent sections of the Securities Legislation other than the *OSA*, against all Defendants except the Underwriters.

232. Each of the Impugned Documents except for the December 2009 and October 2010 Offering Memoranda is a “Core Document” within the meaning of the Securities Legislation.

233. Each of these Impugned Documents contained one or more misrepresentations as particularized above. Such misrepresentations and the Representation are misrepresentations for the purposes of the Securities Legislation.

234. Each of the Individual Defendants was an officer and/or director of Sino at material times. Each of the Individual Defendants authorized, permitted or acquiesced in the release of some or all of these Impugned Documents.

235. Sino is a reporting issuer within the meaning of the Securities Legislation.

236. E&Y is an expert within the meaning of the Securities Legislation. E&Y consented to the use of its statements particularized above in these Impugned Documents.

237. BDO is an expert within the meaning of the Securities Legislation. BDO consented to the use of its statements particularize above in these Impugned Documents.

238. Pöyry is an expert within the meaning of the Securities Legislation. Pöyry consented to the use of its statements particularized above in these Impugned Documents.

239. At all material times, each of Sino, Chan, Poon and Horsley, BDO and E&Y knew or, in the alternative, was wilfully blind to the fact, that the Impugned Documents contained the Representation and that the Representation was false, and that the Impugned Documents contained other of the misrepresentations that are alleged above to have been contained therein.

(ii) Statutory Liability – Primary Market for Sino’s Shares under the Securities Legislation

240. As against Sino, Chan, Horsley, Wang, Martin, Mak, Murray, Hyde, Pöyry, BDO, E&Y, Dundee, Merrill, Credit Suisse, Scotia, CIBC, RBC, Maison, Canaccord and TD, and on behalf

of those Class Members who purchased Sino shares in one of the distributions to which the June 2009 or December 2009 Prospectuses related, Labourers and Wong assert the cause of action set forth in s. 130 of the *OSA* and, if necessary, the equivalent provisions of the Securities Legislation other than the *OSA*.

241. Sino issued the June 2009 and December 2009 Prospectuses, which contained the Representation and the other misrepresentations that are alleged above to have been contained in those Prospectuses or in the Sino disclosure documents incorporated therein by reference.

(iii) Statutory Liability – Primary Market for Sino’s Notes under the Securities Legislation

242. As against Sino, and on behalf of those Class Members who purchased or otherwise acquired Sino’s notes in one of the offerings to which the July 2008, June 2009, December 2009, and October 2010 Offering Memoranda related, Grant asserts the cause of action set forth in s. 130.1 of the *OSA* and, if necessary, the equivalent provisions of the Securities Legislation other than the *OSA*.

243. Sino issued the July 2008, June 2009, December 2009 and October 2010 Offering Memoranda, which contained the Representation and the other misrepresentations that are alleged above to have been contained in those Offering Memoranda or in the Sino disclosure documents incorporated therein by reference.

(iv) Negligence Simpliciter – Primary Market for Sino’s Securities

244. Sino, Chan, Poon, Horsley, Wang, Martin, Mak, Murray, Hyde, BDO, E&Y, Pöyry and the Underwriters (collectively, the “**Primary Market Defendants**”) acted negligently in connection with one or more of the Offerings.

245. As against Sino, Chan, Horsley, Poon, Wang, Martin, Mak, Murray, Hyde, BDO, E&Y, Pöyry, Dundee, Merrill, Credit Suisse, Scotia, CIBC, RBC, Maison, Canaccord and TD, and on

behalf of those Class Members who purchased Sino's Securities in one of the distributions to which those Prospectuses related, Labourers and Wong assert negligence simpliciter.

246. As against Sino, BDO, E&Y, Pöyry, Credit Suisse USA, Banc of America and TD, and on behalf of those Class Members who purchased Sino's Securities in one of the distributions to which the Offering Memoranda related, Grant asserts negligence simpliciter.

247. The Primary Market Defendants owed a duty of care to ensure that the Prospectuses and/or the Offering Memoranda they issued, or authorized to be issued, or in respect of which they acted as an underwriter, initial purchaser or dealer manager, made full, true and plain disclosure of all material facts relating to the Securities offered thereby, or to ensure that their opinions or reports contained in such Prospectuses and Offering Memoranda did not contain a misrepresentation.

248. At all times material to the matters complained of herein, the Primary Market Defendants ought to have known that such Prospectuses or Offering Memoranda and the documents incorporated therein by reference were materially misleading in that they contained the Representation and the other misrepresentations particularized above.

249. Chan, Poon, Horsley, Wang, Martin, Mak, Murray and Hyde were senior officers and/or directors at the time the Offerings to which the Prospectuses related. These Prospectuses were created for the purposes of obtaining financing for Sino's operations. Chan, Horsley, Martin and Hyde signed each of the Prospectuses and certified that they made full, true and plain disclosure of all material facts relating to the shares offered. Wang, Mak and Murray were directors during one or more of these Offerings and each had a statutory obligation to manage or supervise the management of the business and affairs of Sino. Poon was a director for the June 2007 share Offering and was president of Sino at the time of the June 2009 and December 2009 Offering.

Poon, along with Chan, co-founded Sino and has been the president since 1994. He is intimately aware of Sino's business and affairs.

250. The Underwriters acted as underwriters, initial purchasers or dealer managers for the Offerings to which the Prospectuses and Offering Memoranda related. They had an obligation to conduct due diligence in respect of those Offerings and ensure that those Securities were offering at a price that reflected their true value or that such distributions did not proceed if inappropriate. In addition, Dundee, Merrill, Credit Suisse, Scotia, CIBC, RBC, Maison, Canaccord and TD signed one or more of the Prospectuses and certified that to the best of their knowledge, information and belief, the Prospectuses constituted full, true and plain disclosure of all material facts relating to the shares offered.

251. E&Y and BDO acted as Sino's auditors and had a duty to maintain or to ensure that Sino maintained appropriate internal controls to ensure that Sino's disclosure documents adequately and fairly presented the business and affairs of Sino on a timely basis.

252. Pöyry had a duty to ensure that its opinions and reports reflected the true nature and value of Sino's assets. Pöyry, at the time it produced each of the 2008 Valuations, 2009 Valuations, and 2010 Valuations, specifically consented to the inclusion of those valuations or a summary at any time that Sino or its subsidiaries filed any documents on SEDAR or issued any documents pursuant to which any securities of Sino or any subsidiary were offered for sale.

253. The Primary Market Defendants have violated their duties to those Class Members who purchased Sino's Securities in the distributions to which a Prospectus or an Offering Memorandum related.

254. The reasonable standard of care expected in the circumstances required the Primary Market Defendants to prevent the distributions to which the Prospectuses or the Offering Memoranda related from occurring prior to the correction of the Representation and the other misrepresentations alleged above to have been contained in the Prospectuses or the Offering Memoranda, or in the documents incorporated therein by reference. Those Defendants failed to meet the standard of care required by causing the Offerings to occur before the correction of such misrepresentations.

255. In addition, by failing to attend and participate in Sino board and board committee meetings to a reasonable degree, Murray and Poon effectively abdicated their duties to the Class Members and as directors of Sino.

256. Sino, E&Y, BDO and the Individual Defendants further breached their duty of care as they failed to maintain or to ensure that Sino maintained appropriate internal controls to ensure that Sino's disclosure documents adequately and fairly presented the business and affairs of Sino on a timely basis.

257. Had the Primary Market Defendants exercised reasonable care and diligence in connection with the distributions to which the Prospectuses related, then securities regulators likely would not have issued a receipt for any of the Prospectuses, and those distributions would not have occurred, or would have occurred at prices that reflected the true value of Sino's shares.

258. Had the Primary Market Defendants exercised reasonable care and diligence in connection with the distributions to which the Offering Memoranda related, then those distributions would not have occurred, or would have occurred at prices that reflected the true value of Sino's notes.

259. The Primary Market Defendants' negligence in relation to the Prospectuses and the Offering Memoranda resulted in damage to Labourers, Grant and Wong, and to the other Class Members who purchased Sino's Securities in the related distributions. Had those Defendants satisfied their duty of care to such Class Members, then those Class Members would not have purchased the Securities that they acquired under the Prospectuses or the Offering Memoranda, or they would have purchased them at a much lower price that reflected their true value.

(v) *Unjust Enrichment of Chan, Martin, Poon, Horsley, Mak and Murray*

260. As a result of the Representation and the other misrepresentations particularized above, Sino's shares traded, and were sold by Chan, Martin, Poon, Horsley, Mak and Murray, at artificially inflated prices during the Class Period.

261. Chan, Martin, Poon, Horsley, Mak and Murray were enriched by their wrongful acts and omissions during the Class Period, and the Class Members who purchased Sino shares from such Defendants suffered a corresponding deprivation.

262. There was no juristic reason for the resulting enrichment of Chan, Martin, Poon, Horsley, Mak and Murray.

263. The Class Members who purchased Sino shares from Chan, Martin, Poon, Horsley, Mak and Murray during the Class Period are entitled to the difference between the price they paid to such Defendants for such shares, and the price that they would have paid had the Defendants not made the Representation and the other misrepresentations particularized above, and had not committed the wrongful acts and omissions particularized above.

(vi) Unjust Enrichment of Sino

264. Throughout the Class Period, Sino made the Offerings. Such Offerings were made via various documents, particularized above, that contained the Representation and the misrepresentations particularized above.

265. The Securities sold by Sino via the Offerings were sold at artificially inflated prices as a result of the Representation and the others misrepresentations particularized above.

266. Sino was enriched by, and those Class Members who purchased the Securities via the Offerings were deprived of, an amount equivalent to the difference between the amount for which the Securities offered were actually sold, and the amount for which such securities would have been sold had the Offerings not included the Representation and the misrepresentations particularized above.

267. The Offerings violated Sino's disclosure obligations under the Securities Legislation and the various instruments promulgated by the securities regulators of the Provinces in which such Offerings were made. There was no juristic reason for the enrichment of Sino.

(vi) Unjust Enrichment of the Underwriters

268. Throughout the Class Period, Sino made the Offerings. Such Offerings were made via the Prospectuses and the Offering Memoranda, which contained the Representation and the other misrepresentations particularized above. Each of the Underwriters underwrote one or more of the Offerings.

269. The Securities sold by Sino via the Offerings were sold at artificially inflated prices as a result of the Representation and the other misrepresentations particularized above. The Underwriters earned fees from the Class, whether directly or indirectly, for work that they never

performed, or that they performed with gross negligence, in connection with the Offerings, or some of them.

270. The Underwriters were enriched by, and those Class Members who purchased securities via the Offerings were deprived of, an amount equivalent to the fees the Underwriters earned in connection with the Offerings.

271. The Offerings violated Sino's disclosure obligations under the Securities Legislation and the various instruments promulgated by the securities regulators of the Provinces in which such Offerings were made. There was no juristic reason for the enrichment of the Underwriters.

272. In addition, some or all of the Underwriters also acted as brokers in secondary market transactions relating to Sino securities, and earned trading commissions from the Class Members in those secondary market transactions in Sino's Securities. Those Underwriters were enriched by, and those Class Members who purchased Sino securities through those Underwriters in their capacity as brokers were deprived of, an amount equivalent to the commissions the Underwriters earned on such secondary market trades.

273. Had those Underwriters who also acted as brokers in secondary market transactions exercised reasonable diligence in connection with the Offerings in which they acted as Underwriters, then Sino's securities likely would not have traded at all in the secondary market, and the Underwriters would not have been paid the aforesaid trading commissions by the Class Members. There was no juristic reason for that enrichment of those Underwriters through their receipt of trading commissions from the Class Members.

(vii) Oppression

274. The Plaintiffs and the other Class Members had a reasonable and legitimate expectation that Sino and the Individual Defendants would use their powers to direct the company for Sino's

best interests and, in turn, in the interests of its security holders. More specifically, the Plaintiffs and the other Class Members had a reasonable expectation that:

- (a) Sino and the Individual Defendants would comply with GAAP, and/or cause Sino to comply with GAAP;
- (b) Sino and the Individual Defendants would take reasonable steps to ensure that the Class Members were made aware on a timely basis of material developments in Sino's business and affairs;
- (c) Sino and the Individual Defendants would implement adequate corporate governance procedures and internal controls to ensure that Sino disclosed material facts and material changes in the company's business and affairs on a timely basis;
- (d) Sino and the Individual Defendants would not make the misrepresentations particularized above;
- (e) Sino stock options would not be backdated or otherwise mispriced; and
- (f) the Individual Defendants would adhere to the Code.

275. Such reasonable expectations were not met as:

- (a) Sino did not comply with GAAP;
- (b) the Class Members were not made aware on a timely basis of material developments in Sino's business and affairs;
- (c) Sino's corporate governance procedures and internal controls were inadequate;
- (d) the misrepresentations particularized above were made;
- (e) stock options were backdated and/or otherwise mispriced; and
- (f) the Individual Defendants did not adhere to the Code.

276. Sino's and the Individual Defendants' conduct was oppressive and unfairly prejudicial to the Plaintiffs and the other Class Members and unfairly disregarded their interests. These defendants were charged with the operation of Sino for the benefit of all of its shareholders. The value of the shareholders' investments was based on, among other things:

- (a) the profitability of Sino;
- (b) the integrity of Sino's management and its ability to run the company in the interests of all shareholders;
- (c) Sino's compliance with its disclosure obligations;
- (d) Sino's ongoing representation that its corporate governance procedures met with reasonable standards, and that the business of the company was subjected to reasonable scrutiny; and
- (e) Sino's ongoing representation that its affairs and financial reporting were being conducted in accordance with GAAP.

277. This oppressive conduct impaired the ability of the Plaintiffs and other Class Members to make informed investment decisions about Sino's securities. But for that conduct, the Plaintiffs and the other Class Members would not have suffered the damages alleged herein.

(viii) Conspiracy

278. Sino, Chan, Poon and Horsley conspired with each other and with persons unknown (collectively, the "Conspirators") to inflate the price of Sino's securities. During the Class Period, the Conspirators unlawfully, maliciously and lacking bona fides, agreed together to, among other things, make the Representation and other misrepresentations particularized above; and to profit from such misrepresentations by, among other things, issuing stock options in respect of which the strike price was impermissibly low.

279. The Conspirators' predominant purposes in so conspiring were to:

- (a) inflate the price of Sino's securities, or alternatively, maintain an artificially high trading price for Sino's securities;
- (b) artificially increase the value of the securities they held; and
- (c) inflate the portion of their compensation that was dependent in whole or in part upon the performance of Sino and its securities.

280. In furtherance of the conspiracy, the following are some, but not all, of the acts carried out or caused to be carried out by the Conspirators:

- (a) they agreed to, and did, make the Representation, which they knew was false;
- (b) they agreed to, and did, make the other misrepresentations particularized above, which they knew were false;
- (c) they caused Sino to issue the Impugned Documents which they knew to be materially misleading;
- (d) as alleged more particularly below, they caused to be issued stock options in respect of which the strike price was impermissibly low; and
- (e) they authorized the sale of securities pursuant to Prospectuses and Offering Memoranda that they knew to be materially false and misleading.

281. Stock options are a form of compensation used by companies to incentivize the performance of directors, officers and employees. Options are granted on a certain date (the 'grant date') at a certain price (the 'exercise' or 'strike' price). At some point in the future, typically following a vesting period, an options-holder may, by paying the strike price, exercise the option and convert the option into a share in the company. The option-holder will make money as long as the option's strike price is lower than the market price of the security at the

moment that the option is exercised. This enhances the incentive of the option recipient to work to raise the stock price of the company.

282. There are three types of option grants:

- (a) 'in-the-money' grants are options granted where the strike price is lower than the market price of the security on the date of the grant; such options are not permissible under the TSX Rules and have been prohibited by the TSX Rules at all material times;
- (b) 'at-the-money' grants are options granted where the strike price is equal to the market price of the security on the date of the grant or the closing price the day prior to the grant; and
- (c) 'out-of-the-money' grants are options granted where the strike price is higher than the market price of the security on the date of the grant.

283. Both at-the-money and out-of-the-money options are permissible under the TSX Rules and have been at all material times.

284. The purpose of both at-the-money and out-of-the-money options is to create incentives for option recipients to work to raise the share price of the company. Such options have limited value at the time of the grant, because they entitle the recipient to acquire the company's shares at or above the price at which the recipient could acquire the company's shares in the open market. Options that are in-the-money, however, have substantial value at the time of the grant irrespective of whether the company's stock price rises subsequent to the grant date.

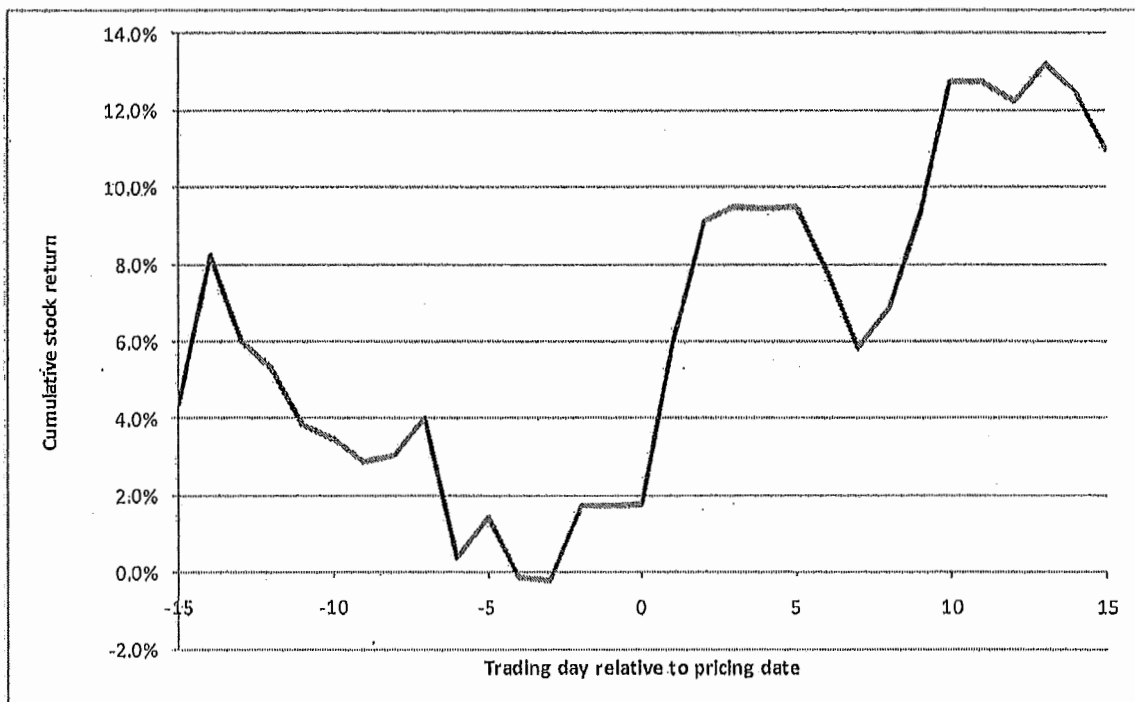
285. At all material times, the Sino Option Plan (the "Plan") prohibited in-the-money options.

286. The Conspirators backdated and/or otherwise mispriced Sino stock options, or caused the backdating and/or mispricing of Sino stock options, in violation of, inter alia: (a) the OSA and the rules and regulations promulgated thereunder; (b) the Plan; (c) GAAP; (d) the Code; (e) the TSX

Rules; and (f) the Conspirators' statutory, common law and contractual fiduciary duties and duties of care to Sino and its shareholders, including the Class Members.

287. The Sino stock options that were backdated or otherwise mispriced included those issued on June 26, 1996 to Chan, January 21, 2005 to Horsley, September 14, 2005 to Horsley, June 4, 2007 to Horsley and Chan, August 21, 2007 to Sino insiders other than the Conspirators, November 23, 2007 to George Ho and other Sino insiders, and March 31, 2009 to Sino insiders other than the Conspirators.

288. The graph below shows the average stock price returns for fifteen trading days prior and subsequent to the dates as of which Sino priced its stock options to its insiders. As appears therefrom, on average the dates as of which Sino's stock options were priced were preceded by a substantial decline in Sino's stock price, and were followed by a dramatic increase in Sino's stock price. This pattern could not plausibly be the result of chance.



289. The conspiracy was unlawful because the Conspirators knowingly and intentionally committed the foregoing acts when they knew such conduct was in violation of, *inter alia*, the *OSA*, the Securities Legislation other than the *OSA*, the Code, the rules and requirements of the TSX (the “**TSX Rules**”) and the *CBCA*. The Conspirators intended to, and did, harm the Class by causing artificial inflation in the price of Sino’s securities.

290. The Conspirators directed the conspiracy toward the Plaintiffs and the other Class Members. The Conspirators knew in the circumstances that the conspiracy would, and did, cause loss to the Plaintiffs and the other Class Members. The Plaintiffs and the Class Members suffered damages when the falsity of the Representation and other misrepresentations were revealed on June 2, 2011.

XII. THE RELATIONSHIP BETWEEN SINO’S DISCLOSURES AND THE PRICE OF SINO’S SECURITIES

291. The price of Sino’s securities was directly affected during the Class Period by the issuance of the Impugned Documents. The Defendants were aware at all material times of the effect of Sino’s disclosure documents upon the price of its Sino’s securities.

292. The Impugned Documents were filed, among other places, with SEDAR and the TSX, and thereby became immediately available to, and were reproduced for inspection by, the Class Members, other members of the investing public, financial analysts and the financial press.

293. Sino routinely transmitted the documents referred to above to the financial press, financial analysts and certain prospective and actual holders of Sino securities. Sino provided either copies of the above referenced documents or links thereto on its website.

294. Sino regularly communicated with the public investors and financial analysts via established market communication mechanisms, including through regular disseminations of their disclosure documents, including press releases on newswire services in Canada, the United States and elsewhere. Each time Sino communicated that new material information about Sino financial results to the public the price of Sino securities was directly affected.

295. Sino was the subject of analysts' reports that incorporated certain of the material information contained in the Impugned Documents, with the effect that any recommendations to purchase Sino securities in such reports during the Class Period were based, in whole or in part, upon that information.

296. Sino's securities were and are traded, among other places, on the TSX, which is an efficient and automated market. The price at which Sino's securities traded promptly incorporated material information from Sino's disclosure documents about Sino's business and affairs, including the Representation, which was disseminated to the public through the documents referred to above and distributed by Sino, as well as by other means.

XIII. VICARIOUS LIABILITY

A. *Sino and the Individual Defendants*

297. Sino is vicariously liable for the acts and omissions of the Individual Defendants particularized in this Claim.

298. The acts or omissions particularized and alleged in this Claim to have been done by Sino were authorized, ordered and done by the Individual Defendants and other agents, employees and representatives of Sino, while engaged in the management, direction, control and transaction of the business and affairs of Sino. Such acts and omissions are, therefore, not only the acts and omissions of the Individual Defendants, but are also the acts and omissions of Sino.

299. At all material times, the Individual Defendants were officers and/or directors of Sino. As their acts and omissions are independently tortious, they are personally liable for same to the Plaintiffs and the other Class Members.

B. E&Y

300. E&Y is vicariously liable for the acts and omissions of each of its officers, directors, partners, agents and employees as set out above.

301. The acts or omissions particularized and alleged in this Claim to have been done by E&Y were authorized, ordered and done by its officers, directors, partners, agents and employees, while engaged in the management, direction, control and transaction of the business and affairs of E&Y. Such acts and omissions are, therefore, not only the acts and omissions of those persons, but are also the acts and omissions of E&Y.

C. BDO

302. BDO is vicariously liable for the acts and omissions of each of its officers, directors, partners, agents and employees as set out above.

303. The acts or omissions particularized and alleged in this Claim to have been done by BDO were authorized, ordered and done by its officers, directors, partners, agents and employees, while engaged in the management, direction, control and transaction of the business and affairs of BDO. Such acts and omissions are, therefore, not only the acts and omissions of those persons, but are also the acts and omissions of BDO.

D. Pöyry

304. Pöyry is vicariously liable for the acts and omissions of each of its officers, directors, partners, agents and employees as set out above.

305. The acts or omissions particularized and alleged in this Claim to have been done by Pöyry were authorized, ordered and done by its officers, directors, partners, agents and employees, while engaged in the management, direction, control and transaction of the business and affairs of Pöyry. Such acts and omissions are, therefore, not only the acts and omissions of those persons, but are also the acts and omissions of Pöyry.

E. *The Underwriters*

306. The Underwriters are vicariously liable for the acts and omissions of each of their respective officers, directors, partners, agents and employees as set out above.

307. The acts or omissions particularized and alleged in this Claim to have been done by the Underwriters were authorized, ordered and done by each of their respective officers, directors, partners, agents and employees, while engaged in the management, direction, control and transaction of the business and affairs such Underwriters. Such acts and omissions are, therefore, not only the acts and omissions of those persons, but are also the acts and omissions of the respective Underwriters.

XIV. REAL AND SUBSTANTIAL CONNECTION WITH ONTARIO

308. The Plaintiffs plead that this action has a real and substantial connection with Ontario because, among other thing:

- (a) Sino is a reporting issuer in Ontario;
- (b) Sino's shares trade on the TSX which is located in Toronto, Ontario;
- (c) Sino's registered office and principal business office is in Mississauga, Ontario;
- (d) the Sino disclosure documents referred to herein were disseminated in and from Ontario;
- (e) a substantial proportion of the Class Members reside in Ontario;

- (f) Sino carries on business in Ontario; and
- (g) a substantial portion of the damages sustained by the Class were sustained by persons and entities domiciled in Ontario.

XV. SERVICE OUTSIDE OF ONTARIO

309. The Plaintiffs may serve the Notice of Action and Statement of Claim outside of Ontario without leave in accordance with rule 17.02 of the Rules of Civil Procedure, because this claim is:

- (a) a claim in respect of personal property in Ontario (para 17.02(a));
- (b) a claim in respect of damage sustained in Ontario (para 17.02(h));
- (c) a claim authorized by statute to be made against a person outside of Ontario by a proceeding in Ontario (para 17.02(n)); and
- (d) a claim against a person outside of Ontario who is a necessary or proper party to a proceeding properly brought against another person served in Ontario (para 17.02(o)); and
- (e) a claim against a person ordinarily resident or carrying on business in Ontario (para 17.02(p)).

XVI. RELEVANT LEGISLATION, PLACE OF TRIAL, JURY TRIAL AND HEADINGS

310. The Plaintiffs plead and rely on the *CJA*, the *CPA*, the Securities Legislation and *CBCA*, all as amended.

311. The Plaintiffs propose that this action be tried in the City of Toronto, in the Province of Ontario, as a proceeding under the *CPA*.

312. The Plaintiffs will serve a jury notice.

313. The headings contained in this Statement of Claim are for convenience only. This Statement of Claim is intended to be read as an integrated whole, and not as a series of unrelated components.

~~April 18, 2012~~

Janag 26/12

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Lawyers for the Plaintiffs

Trustees of the Labourers' Pension Fund of Central and Eastern Canada,
et al.
 Plaintiffs

Sino-Forest Corporation,
et al.
 Defendants

Court File No.: CV-11-431153-00CP

**ONTARIO
 SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

Proceeding under the *Class Proceedings Act, 1992*

**FRESH AS AMENDED STATEMENT OF CLAIM
 (NOTICE OF ACTION ISSUED JULY 20, 2011)**

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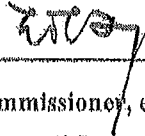
Tel: 416-595.2149

Fax: 416.204.2903

Lawyers for the Plaintiffs

TAB B

This is Exhibit "B" to the
Affidavit of Cosimo Borelli
Sworn before me on 26 April 2015



A Commissioner, etc.

LI SIU FUNG
NOTARY PUBLIC
HONG KONG SAR
Unit 1303, 13/F.,
Tower 1, Admiralty Centre,
18 Harcourt Road,
Hong Kong.

()
CANADA
PROVINCE OF QUEBEC
DISTRICT OF QUÉBEC
NO: 200-06-000132-111

(Class Action)
SUPERIOR COURT

GUINING LIU, residing at 6580
Monkland Ave, Unit 103, Montreal,
Quebec, H4B 2N4;

Petitioner;

V.

SINO-FOREST CORPORATION, legal
person established pursuant to the Canada
Business Corporations Act, having its head
office at 1208-90 Burnhamthorpe Rd W,
Mississauga, Ontario, L5B 3C3 ;

and

ERNST & YOUNG LLP, legal person
having its head office at 222 Bay Street,
Toronto, Ontario, M5K 1J7 ;

and

ALLEN T.Y. CHAN, Sino-Forest
Corporation, 1208-90 Burnhamthorpe Rd
W, Mississauga, Ontario, L5B 3C3 ;

and

W. JUDSON MARTIN, Sino-Forest
Corporation, 1208-90 Burnhamthorpe Rd
W, Mississauga, Ontario, L5B 3C3 ;

and

KAI KIT POON, Sino-Forest Corporation,
1208-90 Burnhamthorpe Rd W,
Mississauga, Ontario, L5B 3C3 ;

and

DAVID J. HORSLEY, Sino-Forest
Corporation, 1208-90 Burnhamthorpe Rd
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and .

WILLIAM E. ARDELL, Sino-Forest Corporation, 1208-90 Burnhamthorpe Rd W, Mississauga, Ontario, L5B 3C3 ;

and

JAMES P. BOWLAND, Sino-Forest Corporation, 1208-90 Burnhamthorpe Rd W, Mississauga, Ontario, L5B 3C3 ;

and

JAMES M.E. HYDE, Sino-Forest Corporation, 1208-90 Burnhamthorpe Rd W, Mississauga, Ontario, L5B 3C3 ;

and

EDMUND MAK, Sino-Forest Corporation, 1208-90 Burnhamthorpe Rd W, Mississauga, Ontario, L5B 3C3 ;

and

SIMON MURRAY, Sino-Forest Corporation, 1208-90 Burnhamthorpe Rd W, Mississauga, Ontario, L5B 3C3 ;

PETER WANG, Sino-Forest Corporation, 1208-90 Burnhamthorpe Rd W, Mississauga, Ontario, L5B 3C3 ;

and

GARRY J. WEST, Sino-Forest Corporation, 1208-90 Burnhamthorpe Rd W, Mississauga, Ontario, L5B 3C3 ;

and

PÖYRY (BEIJING) CONSULTING COMPANY LIMITED, legal person having its head office at 2208-2210 Cloud 9 Plaza, No. 1118 West Yan'an Road, Shanghai 200052, PR China ;

Defendants;

**MOTION TO AUTHORIZE THE BRINGING OF A CLASS ACTION AND TO OBTAIN THE
STATUS OF REPRESENTATIVE
(Article 1002 C.C.P. and following)**

**TO ONE OF THE HONOURABLE JUSTICES OF THE QUEBEC SUPERIOR COURT,
SITTING IN AND FOR THE DISTRICT OF QUEBEC, YOUR PETITIONER STATES AS
FOLLOWS :**

General presentation

1. The Petitioner wishes to institute a class action on behalf of the following group, of which he is a member (the "Group"):

"All persons or entities domiciled in Quebec (other than the Defendants, their past and present subsidiaries, affiliates, officers, directors, senior employees, partners, legal representatives, heirs, predecessors, successors and assigns, and any individual who is an immediate member of the families of the individual named defendants) who purchased or otherwise acquired, whether in the secondary market, or under a prospectus or other offering document in the primary market, equity, debt or other securities of or relating to Sino-Forest Corporation, from and including August 12, 2008 to and including June 2, 2011 (the "Class Period")."

or such other group definition as may be approved by the Court.

2. Sino-Forest Corporation (along with its subsidiaries, "Sino") is a public company and its shares were listed for trading at all material times on the Toronto Stock

Exchange (the "TSX") under the ticker symbol "TRE," on the Berlin exchange as "SFJ GR," on the OTC market in the United States as "SNOFF" and on the TradeGate market as "SFJ TH."

3. At all material times, Sino purported to be a legitimate enterprise operating as a commercial forest plantation operator in the People's Republic of China ("PRC"). At all material times, Sino overstated the nature of its forestry operations and misrepresented the fact that its financial reporting had complied with Canadian GAAP, when in fact it had not done so.
4. The relief that the Petitioner seeks includes the following:
 - a) damages in an amount equal to the losses that it and the other Members of the Group suffered as a result of purchasing or acquiring the securities of Sino at inflated prices during the Class Period;
 - b) a declaration that every prospectus, management's discussion and analysis, annual information form, information circular, annual financial statement, interim financial report, Form 52-109F2 and Form 52-109F1 issued by Sino-Forest Corporation after August 12, 2008 (the "Impugned Documents") contained one or more misrepresentations;
 - c) a declaration that Sino-Forest Corporation is vicariously liable for the acts and/or omissions of Allen T.Y. Chan, W. Judson Martin, Kai Kit Poon, David J. Horsley, William E. Ardell, James P. Bowland, James M.E. Hyde, Edmund Mak, Simon Murray, Peter Wang, Garry J. West

(the "Individual Defendants"), and of its other officers, directors and employees;

d) a declaration that Ernst and Young LLP is vicariously liable for the acts and/or omissions of each of its officers, directors, partners and employees; and

e) a declaration that Pöyry (Beijing) Consulting Company Limited is vicariously liable for the acts and/or omissions of each of its officers, directors and employees.

The Petitioner

5. The Petitioner is one of thousands of investors who purchased shares of Sino during the Class Period and continued to hold shares of Sino when the price of Sino's securities declined due to the correction of the misrepresentations alleged herein.

6. During the Class Period, the Petitioner made net purchases of 1,000 Sino shares over the TSX. **[Particulars of the Petitioner's Class Period transactions are attached hereto as P-1].**

The Defendants

7. The defendant Sino purports to be a commercial forest plantation operator in the PRC. Sino is a corporation formed under the *Canada Business Corporations Act*, RSC 1985, c C-44 (the "CBCA").

8. At the material times, Sino was a reporting issuer in all provinces of Canada, and had its registered office located in Mississauga, Ontario. At the material times, Sino's shares were listed for trading on the TSX under the ticker symbol "TRE," on the Berlin exchange as "SFJ GR," on the OTC market in the United States as "SNOFF" and on the Tradedgate market as "SFJ TH." Sino securities are also listed on alternative trading systems in Canada and elsewhere including, without limitation, AlphaToronto and PureTrading. Sino also has various debt instruments, derivatives and other securities which are publicly traded in Canada and elsewhere.
9. The defendants Allen T.Y. Chan, W. Judson Martin, Kai Kit Poon, David J. Horsley, William E. Ardell, James P. Bowland, James M.E. Hyde, Edmund Mak, Simon Murray, Peter Wang and Garry J. West (the "D&Os") are officers and/or directors of Sino. Each of them are directors and/or officers of Sino within the meaning of the *Securities Act*, RSQ c V-1.1 (the "*Securities Act*").
10. The defendant Ernst & Young LLP ("E&Y") is Sino's auditor. E&Y is an expert of Sino within the meaning of the *Securities Act*.
11. The defendant Pöyry (Beljing) Consulting Company Limited ("Pöyry") is an international forestry consulting firm. Pöyry is an expert of Sino within the meaning of the *Securities Act*.

Sino's Continuous Disclosure Obligations

12. As a reporting issuer in Québec, Sino was required throughout the Class Period to issue and file with SEDAR:

- within 60 days of the end of each quarter, quarterly interim financial statements prepared in accordance with GAAP including a comparative statement to the end of each of the corresponding periods in the previous financial year;
 - within 140 days of the end of the fiscal year, annual financial statements prepared in accordance with GAAP, including comparative financial statements relating to the period covered by the preceding financial year; and
 - contemporaneously with each of the above, management's discussion and analysis of each of the above financial statements.
13. The Defendants issued the disclosure documents referenced herein pursuant to their statutory obligation to do so, and also for the specific purpose of attracting investment in Sino's securities, and inducing members of the public to purchase those securities.

The Defendants' Misrepresentations

14. Throughout the Class Period, Sino falsely purported to be a legitimate enterprise operating as a commercial forest plantation operator in the PRC. As part of its obligations as a reporting issuer in Quebec (and elsewhere), Sino issued the Impugned Documents. In those documents, Sino made statements concerning the nature of its business, its revenues, profitability, future prospects and compliance with the laws of the PRC and of Canada, implicitly and explicitly and through documents incorporated by reference.

- ()
15. In fact, such statements were materially false and/or misleading. During the Class Period, Sino overstated its forestry assets, misrepresented its revenue recognition practices, falsely maintained that its financial statements complied with Canadian GAAP and issued materially misleading statements regarding Chinese law and Sino's compliance therewith, among other misrepresentations.
 16. On June 2, 2011, however, the truth was at least partially revealed. As a result, the market value of Sino's securities fell dramatically, and the market value for Sino's shares in particular fell by in excess of 70% on extraordinarily heavy trading volume. Trading of Sino common shares was halted on the TSX after a decline in excess of 24% on June 2. When trading resumed on the TSX on June 3, Sino shares fell in excess of a further 63%, for a two-day drop in excess of nearly 73%.

The Defendants' Fault

The Defendants Owed Duties to the Members of the Group

17. The Defendants owed a duty to the Petitioner and to persons and entities similarly situated, at law and under provisions of the *Securities Act* (chapter V-1.1), to disseminate promptly, or to ensure that prompt dissemination of truthful, complete and accurate statements regarding Sino's business and affairs, and promptly to correct previously-issued, materially inaccurate information, so that the price of Sino's publicly-traded securities was based on complete, accurate and truthful information.
18. At all times material to the matters complained of herein, each of the Defendants knew or ought reasonably to have known that the trading price of Sino's publicly

traded securities was directly influenced by the statements disseminated by the Defendants concerning the business and affairs of Sino.

19. As such, the Defendants knew or ought reasonably to have known that a failure to ensure that Sino's disclosures referenced herein were materially accurate and materially complete would cause Sino's securities to become inflated, and thus would cause damage to persons who invested in Sino's securities while their price remained inflated by such false statements.

The Defendants Violated their Duties

20. Certain statements made by Sino and the D&Os in the Impugned Documents were materially false and/or misleading. The Petitioner and the Members of the Group relied on such statements directly or indirectly or via the instrumentality of the markets on which Sino securities traded. When the truth was revealed and true value of Sino's securities became clear, the Petitioner and the Members of the Group were injured thereby. The Petitioner and the Group plead negligent misrepresentation as against Sino and the D&Os.
21. Sino's internal controls, which were designed and/or maintained by the D&Os, were inadequate or ignored. The D&Os owed a duty of care to the Petitioner and the Members of the Group to properly design and/or maintain such internal controls. The Petitioner and the Group plead negligence as against the D&Os in connection thereto.
22. E&Y made statements in certain of the Impugned Documents that were continuous disclosure documents that the audited financial statements contained or incorporated by reference therein "present fairly, and in all material respects,

the financial position of [Sino] [...] and the results of its operations and cash flows [...] in accordance with Canadian generally accepted accounting principles" (or similar language). Such statements were materially false and/or misleading, and E&Y lacked a reasonable basis to make such statements when E&Y made them. E&Y knowingly prepared its reports for use by Sino's security holders and prospective security holders. The Petitioner and the Group relied on such statements directly or indirectly or via the instrumentality of the markets on which Sino securities traded. When the truth was revealed and the true value of Sino's securities became clear, the Petitioner and the Group were injured thereby. In respect of Sino's continuous disclosure documents, the Petitioner and the Group plead negligence and negligent misrepresentation as against E&Y.

23. E&Y made statements in those of the Impugned Documents that are prospectuses that the Sino financial statements contained or incorporated by reference therein "complied with Canadian generally accepted standards for an auditor's involvement with offering documents" (or similar language). Such statements were materially false and/or misleading, and E&Y lacked a reasonable basis to make such statements when E&Y made them. E&Y knowingly prepared its reports for use by Sino's security holders and prospective security holders. The Petitioner and the Group relied on such statements directly or indirectly or via the instrumentality of the markets on which Sino securities traded. When the truth was revealed and true value of Sino's securities became clear, the Petitioner and the Group were injured thereby. The Petitioner and the Group plead negligence and negligent misrepresentation as against E&Y in respect of Sino's Class Period prospectuses.

24. Pöyry made statements regarding the nature of Sino's operations in reports dated on or about May 31, 2011, May 27, 2011, April 23, 2010 and April 2, 2009. Such statements were materially false and/or misleading, and Pöyry lacked a reasonable basis to make such statements when Pöyry made such statements. Pöyry knowingly prepared its reports for use by Sino's security holders and prospective security holders. The Petitioner and the Members of the Group relied on such statements directly or indirectly or via the instrumentality of the markets on which Sino securities traded. When the truth was revealed and true value of Sino's securities became clear, the Petitioner and the Members of the Group were injured thereby. The Petitioner and the Members of the Group plead negligence and negligent misrepresentation as against Pöyry.
25. At all times material to the matters complained of herein, each of the Defendants ought to have known that Sino's disclosure documents described herein were materially misleading as detailed above. Accordingly, the Defendants have violated their duties to the Petitioner and to persons or entities similarly situated.
26. The reasonable standard of care expected in the circumstances required the Defendants to act fairly, reasonably, honestly, candidly and in the best interests of the Petitioner and the other Members of the Group.
27. The Defendants failed to meet the standard of care required by issuing Sino's disclosure documents during the relevant period, which were materially false and/or misleading as described above.
28. The negligence of the Defendants resulted in the damage to the Petitioner and Members of the Group as pleaded.

The Relationship Between Sino's Disclosures and the Price of Sino's Securities

29. The price of Sino's securities was directly affected during the Class Period by the issuance of the disclosure documents described herein. The Defendants were aware at all material times of the effect of Sino's disclosures upon the price of its Sino's securities.
30. The disclosure documents referenced above were filed, among other places, with SEDAR and the TSX and thereby became immediately available to, and were reproduced for inspection by, the Members of the Group, other members of the investing public, financial analysts and the financial press.
31. Sino routinely transmitted the documents referred to above to the financial press, financial analysts and certain prospective and actual holders of Sino's securities. Sino provided either copies of the above referenced documents or links thereto on its website.
32. Sino regularly communicated with the public investors and financial analysts via established market communication mechanisms, including through regular disseminations of press releases on newswire services in Canada, the United States and elsewhere. The price of Sino's securities was directly affected each time SINO communicated new material information about Sino's financial results to the public.
33. Sino was the subject of analysts' reports that incorporated material information contained in the disclosure documents referred to above, with the effect that any recommendations in such reports during the Class Period were based, in whole or in part, upon that information.

34. Sino's securities were and are traded on efficient and automated markets. The price at which Sino's securities traded promptly incorporated material information about Sino's business and affairs, including the omissions and/or misrepresentations described herein, which were disseminated to the public through the documents referred to above and distributed by Sino, as well as by other means.

Statutory Liability for Misrepresentations – Secondary Market

35. Each of the Impugned Documents is a "Core Document" within the meaning of the *Securities Act*.
36. Each of the Impugned Documents contained one or more misrepresentations.
37. Each of the D&Os was an officer and/or director of Sino at all material times. Each of the D&Os authorized, permitted or acquiesced in the release of some or all of the Impugned Documents.
38. Sino is a reporting issuer within the meaning of the *Securities Act*.
39. Pöyry is an expert within the meaning of the *Securities Act*.
40. E&Y is an expert within the meaning of the *Securities Act*.
41. The Petitioner and the Group assert the causes of action set forth in Title VIII, Chapter II, Division II of the *Securities Act* as against Sino, Pöyry, the D&Os and E&Y and will seek leave, if and as required, in connection therewith.

Statutory Liability for Misrepresentations – Primary Market

42. Sino Issued prospectuses on December 11, 2009 and June 1, 2009 (the "Prospectuses," both of which are Impugned Documents).
43. The defendants E&Y, Chan, Horsley, Martin and Hyde signed the Prospectuses.
44. The Prospectuses contained one or more misrepresentations within the meaning of the *Securities Act*.
45. The Petitioner and the Group plead the cause of action found in Title VIII, Chapter II, Division I of the *Securities Act* as against all Defendants.

Vicarious Liability of Sino

46. Sino is vicariously liable for the acts and omissions of the Individual Defendants particularized in this Claim.
47. The acts or omissions particularized and alleged herein to have been done by Sino were authorized, ordered and done by the Defendants and other agents, employees and representatives of Sino, while engaged in the management, direction, control transaction of the business and affairs of Sino. Such acts and omissions are, therefore, not only the acts and omissions of the Individual Defendants, but are also the acts and omissions of Sino.

Damages

48. As a result of the acts and omissions described above, the Petitioner and the other Members of the Group were induced to over-pay substantially for Sino's

securities. Such persons and entities have suffered damages equivalent to the loss in market value that occurred when Sino corrected the Misrepresentations.

49. The Petitioner and other Members of the Group are also entitled to recover, as damages or costs, the costs of administering the plan to distribute the recovery in this action.

Conditions required to institute a class action

50. The composition of the Group makes the application of article 59 or 67 C.C.P. Impracticable for the following reasons:

- The number of persons included in the group is estimated to be several thousand;
- The names and addresses of persons included in the group are not known to the Petitioner (but are likely to be known to Defendants);
- All the facts alleged in the preceding paragraphs make the application of articles 59 or 67 C.C.P. impossible.

51. The claims of the Members of the Group raise identical, similar or related questions of fact or law, namely:

- Did the Defendants authorize or issue false and/or misleading public information?
- Did the Defendants' Misrepresentations cause the share price of Sino's stock to be artificially inflated during the Class Period?

- Did the Defendants therefore commit a fault towards the Petitioner and the Members of the Group, thereby engaging their liability?
- What prejudice was sustained by the Petitioner and the Members of the Group as a result of the Defendants' faults?
- Are the Defendants jointly responsible for the damages sustained by each of the members?

52. The interests of justice weigh in favour of this motion being granted in accordance with its conclusions.

Nature of the action and conclusions sought

53. The action that the Petitioner wishes to institute for the benefit of the Members of the Group is an action in damages;

54. The conclusions that the Petitioner wishes to introduce by way of a motion to institute proceedings are:

GRANT the Petitioner's action against the Defendants;

CONDEMN Defendants to pay to the Members of the Group compensatory damages for all monetary losses;

GRANT the class action of the Petitioner on behalf of all the Members of the Group;

ORDER the treatment of individual claims of each Member of the Group in accordance with articles 1037 to 1040 C.C.P.;

THE WHOLE with interest and additional indemnity provided for in the *Civil Code of Quebec* and with full costs and expenses including expert fees and notice expenses;

55. The Petitioner suggests that this class action be exercised before the Superior Court in the district of Quebec for the following reasons:

- A great number of the Members of the Group resides in the judicial district of Montreal and in the appeal district of Quebec;
- The Petitioner and his lawyers are domiciled in the district of Quebec.

56. The Petitioner, who is requesting to obtain the status of representative, will fairly and adequately protect and represent the interest of the Members of the Group for the following reasons:

- He understands the nature of the action;
- He is available to dedicate the time necessary for an action to collaborate with Members of the Group; and
- His interests are not antagonistic to those of other Members of the Group.

57. The present motion is well-founded in fact and in law.

FOR THESE REASONS, MAY IT PLEASE THE COURT:

GRANT the present motion;

AUTHORIZE the bringing of a class action in the form of a motion to institute proceedings in damages;

ASCRIBE the Petitioner the status of representative of the persons included in the group herein described as:

"All persons or entities domiciled in Quebec (other than the Defendants, their past and present subsidiaries, affiliates, officers, directors, senior employees, partners, legal representatives, heirs, predecessors, successors and assigns, and any individual who is an immediate member of the families of the individual named defendants) who purchased or otherwise acquired, whether in the secondary market, or under a prospectus or other offering document in the primary market, equity, debt or other securities of or relating to Sino-Forest Corporation, from and including August 12, 2008 to and including June 2, 2011 (the "Class Period")."

or such other class definition as may be approved by the Court.

IDENTIFY the principle questions of fact and law to be treated collectively as the following:

- Did the Defendants authorize or issue false and/or misleading public information?
- Did the Defendants' Misrepresentations cause the share price of Sino's stock to be artificially inflated during the Class Period?
- Did the Defendants therefore commit a fault towards the Petitioner and the Members of the Group, thereby engaging their liability?

- What prejudice was sustained by the Petitioner and the Members of the Group as a result of the Defendants' faults?
- Are the Defendants jointly responsible for the damages sustained by each of the Members of the Group?

IDENTIFY the conclusions sought by the class action to be instituted as being the following:

GRANT the Petitioner's action against the Defendants;

DECLARE that the Defendants made the Misrepresentations during the Class Period;

DECLARE that the Defendants made the Misrepresentations negligently;

DECLARE that Sino is vicariously liable for the acts and/or omissions of the Individual Defendants;

CONDEMN Defendants to pay to the Members of the Group compensatory damages in the amount of 4 billion\$, or such other sum as this Court finds appropriate for all monetary losses;

GRANT the class action of the Petitioner on behalf of all the Members of the Group;

ORDER the treatment of Individual claims of each Member of the Group in accordance with articles 1037 to 1040 C.C.P.;

THE WHOLE with interest and additional Indemnity provided for in the *Civil Code of Quebec* and with full costs and expenses including expert fees and notice fees;

DECLARE that all Members of the Group that have not requested their exclusion from the Group in the prescribed delay to be bound by any judgement to be rendered on the class action to be Instituted;

FIX the delay of exclusion at 30 days from the date of the publication of the notice to the Members of the Group;

ORDER the publication of a notice to the Members of the Group in accordance with article 1006 C.C.P.;

THE WHOLE with costs to follow.

Quebec, June 9, 2011

(s) SISKINDS, DESMEULES

SISKINDS, DESMEULES, AVOCATS

(Me Simon Hébert)

Lawyer for the Petitioner

SCHEDULE 1**NOTICE TO DEFENDANT**

Take notice that the plaintiff has filed this action or application in the office of the Superior Court of the judicial district of Québec.

To file an answer to this action or application, you must first file an appearance, personally or by advocate, at the courthouse of Québec located at 300, boul. Jean-Lesage, Québec, G1K 8K6 within 10 days of service of this motion.

If you fail to file an appearance within the time limit indicated, a judgment by default may be rendered against you without further notice upon the expiry of the 10 day period.

If you file an appearance, the action or application will be presented before the court on September 23, 2011, at 9h00 a.m., in room 3.14 of the courthouse. On that date, the court may exercise such powers as are necessary to ensure the orderly progress of the proceeding or the court may hear the case, unless you have made a written agreement with the plaintiff or the plaintiff's advocate on a timetable for the orderly progress of the proceeding. The timetable must be filed in the office of the court.

These exhibits are available on request.

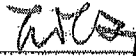
Quebec City June 9, 2011

(s) SISKINDS, DESMEULES

SISKINDS, DESMEULES, AVOCATS
(Me Simon Hébert)
Lawyers for the Petitioner

TAB C

This is Exhibit "C" to the
Affidavit of Cosimo Borelli
Sworn before me on 26 April 2015



A Commissioner, etc.
LI SIU FUNG
NOTARY PUBLIC
HONG KONG SAR
Unit 1303, 13/F.,
Tower 1, Admiralty Centre,
18 Harcourt Road,
Hong Kong.

Q.B. No. 2088 of 2011CANADA)
PROVINCE OF SASKATCHEWAN)

IN THE QUEEN'S BENCH JUDICIAL CENTRE OF REGINA

Between:

ALLAN HAIGH

Plaintiff,

and

SINO-FOREST CORPORATION,
ALLEN T. Y. CHAN, and DAVID J. HORSLEY,

Defendants

Brought under *The Class Actions Act***STATEMENT OF CLAIM****NOTICE TO DEFENDANT**

1. The plaintiff may enter judgment in accordance with this Statement of Claim or such judgment as may be granted pursuant to the Rules of Court unless

- within 20 days if you were served in Saskatchewan;
- within 30 days if you were served elsewhere in Canada or in the United States of America;
- within 40 days if you were served outside Canada and the United States of America

~~(excluding the day of service) you serve a Statement of Defense on the plaintiff and file a copy thereof~~
in the office of the local registrar of the Court for the judicial centre abovenamed.

2. In many cases a defendant may have the trial of the action held at a judicial centre other than the one at which the Statement of Claim is issued. Every defendant should consult his lawyer as to his rights.

3. This Statement of Claim is to be served within six months from the date on which it is issued.

4. This Statement of Claim is issued at the above-named judicial centre the 1st day of December, 2011.

T. LANGFORD
DY. LOCAL REGISTRAR

Local Registrar

SEAL

DEFINED TERMS

1. In this Statement of Claim, in addition to the terms that are defined elsewhere herein, the following terms have the following meanings:

- (a) "AI" means Authorized Intermediary;
- (b) "AIF" means Annual Information Form;
- (c) "CAA" means *The Class Actions Act*, S.S. 2001, c. C-12.01, as amended;
- (d) "CBCA" means the *Canada Business Corporations Act*, RSC 1985, c. C-44, as amended;
- (e) "Chan" means the defendant Allen T.Y. Chan;
- (f) "Class" and "Class Members" means all persons and entities wherever they may reside who acquired securities of Sino during the Class Period either by primary distribution in Canada or an acquisition on the TSX or other secondary market in Canada, other than the Defendants, their past and present subsidiaries, affiliates, officers, directors, senior employees, partners, legal representatives, heirs, predecessors, successors and assigns, and any individual who is an immediate member of the family of an Individual Defendant;
- (g) "Class Period" means the period from and including March 19, 2007 to and including June 2, 2011;
- (h) "Code" means Sino's Code of Business Conduct;
- (i) "Defendants" means Sino and the Individual Defendants;
- (j) "~~December 2009 Prospectus~~" means Sino's ~~Final Short Form Prospectus, dated December~~ 10, 2009, which Sino filed on SEDAR on December 11, 2009;
- (k) "E&Y" means Ernst and Young LLP;
- (l) "GAAP" means Canadian generally accepted accounting principles;
- (m) "Globe" means *The Globe and Mail*;
- (n) "Horsley" means the defendant David J. Horsley;
- (o) "Impugned Documents" means the 2006 Annual Consolidated Financial Statements (filed on SEDAR on March 19, 2007), 2006 AIF (filed on SEDAR on March 30, 2007), 2006 Annual MD&A (filed on SEDAR on March 19, 2007), Management Information Circular dated April 27, 2007 (filed on SEDAR on May 4, 2007), Q1 2007 MD&A (filed on SEDAR

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on May 14, 2007), Q1 2007 Financial Statements (filed on SEDAR on May 14, 2007), June 2007 Prospectus, Q2 2007 MD&A (filed on SEDAR on August 13, 2007), Q2 2007 Financial Statements (filed on SEDAR on August 13, 2007), Q3 2007 MD&A (filed on SEDAR on November 12, 2007), Q3 2007 Financial Statements (filed on SEDAR on November 12, 2007), 2007 Annual Consolidated Financial Statements (filed on SEDAR on March 18, 2008), 2007 AIF (filed on SEDAR on March 28, 2008), 2007 Annual MD&A (filed on SEDAR on March 18, 2008), Amended 2007 Annual MD&A (filed on SEDAR on March 28, 2008), Management Information Circular dated April 28, 2008 (filed on SEDAR on May 6, 2008), Q1 2008 MD&A (filed on SEDAR on May 13, 2008), Q1 2008 Financial Statements (filed on SEDAR on May 13, 2008), Q2 2008 MD&A (filed on SEDAR on August 12, 2008), Q2 2008 Financial Statements (filed on SEDAR on August 12, 2008), Q3 2008 MD&A (filed on SEDAR on November 13, 2008), Q3 2008 Financial Statements (filed on SEDAR on November 13, 2008), 2008 Annual Consolidated Financial Statements (filed on SEDAR on March 31, 2009), 2008 Annual MD&A (filed on SEDAR on March 16, 2009), Amended 2008 Annual MD&A (filed on SEDAR on March 17, 2009), 2008 AIF (filed on SEDAR on March 31, 2009), Management Information Circular dated April 28, 2009 (filed on SEDAR on May 4, 2009), Q1 2009 MD&A (filed on SEDAR on May 11, 2009), Q1 2009 Financial Statements (filed on SEDAR on May 11, 2009), June 2009 Prospectus, Q2 2009 MD&A (filed on SEDAR on August 10, 2009), Q2 2009 Financial Statements (filed on SEDAR on August 10, 2009), Q3 2009 MD&A (filed on SEDAR on November 12, 2009), Q3 2009 Financial Statements (filed on SEDAR on November 12, 2009), December 2009 Prospectus, 2009 Annual MD&A (filed on SEDAR on March 16, 2010), 2009 Audited Annual Financial Statements (filed on SEDAR on March 16, 2010), 2009 AIF (filed on SEDAR on March 31, 2010), Management Information Circular dated May 4, 2010 (filed on SEDAR on May 11, 2010), Q1 2010 MD&A (filed on SEDAR on May 12, 2010), Q1 2010 Financial Statements (filed on SEDAR on May 12, 2010), Q2 2010 MD&A (filed on SEDAR on August 10, 2010), Q2 2010 Financial Statements (filed on SEDAR on August 10, 2010), Q3 2010 MD&A (filed on SEDAR on November 20, 2010), Q3 2010 Financial Statements (filed on SEDAR on

November 20, 2010), 2010 Annual MD&A (March 15, 2011), 2010 Annual Audited Financial Statements (filed on SEDAR on March 15, 2011), 2010 AIF (filed on SEDAR on March 31, 2011) and Management Information Circular dated May 2, 2011 (filed on SEDAR on May 10, 2011);

(p) "Individual Defendants" means Chan and Horsley;

(q) "June 2007 Prospectus" means Sino's Short Form Prospectus, dated June 5, 2007, which Sino filed on SEDAR on June 5, 2007;

(r) "June 2009 Prospectus" means Sino's Final Short Form Prospectus, dated June 1, 2009, which Sino filed on SEDAR on June 1, 2009;

(s) "MD&A" means Management's Discussion and Analysis;

(t) "Muddy Waters" means Muddy Waters LLC;

(u) "OSC" means the Ontario Securities Commission;

(v) "Plaintiff" means the plaintiff Allan Haigh;

(w) "PRC" means the People's Republic of China;

(x) "Representation" means the statement that Sino's financial statements complied with GAAP;

(y) "SEDAR" means the system for electronic document analysis and retrieval of the Canadian Securities Administrators;

(z) "Sino" means the defendant, Sino-Forest Corporation;

(aa) "SSA" means *The Securities Act*, S.S. 1988-89, c. S-42.2, as amended;

(bb) "TSX" means the Toronto Stock Exchange;

(cc) "WFOE" means wholly foreign owned enterprise or an enterprise established in China in accordance with the relevant PRC laws, with capital provided solely by foreign investors.

CLAIM

(1) *the parties*

(a) plaintiff

2. The Plaintiff, Allan Haigh, resides in Saskatoon, Saskatchewan. Mr. Haigh purchased 200 shares of Sino on November 3rd, 2010, at a cost of \$20.14 per share.

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(b) defendants

3. The Defendant Sino-Forest Corporation ("Sino-Forest"), is incorporated pursuant to the laws of Canada, with its head office at 1208-90 Burnhamthorpe Rd W, Mississauga, Ontario, L5B 3C3.

4. The Defendant Chan resides in Ontario. At all material times, Chan was Sino's Chairman, Chief Executive Officer, and a director of the company.

5. The Defendant Horsley resides in Ontario. At all material times, Horsley was Sino's Chief Financial Officer.

(2) the class

6. The Plaintiff brings this action on behalf of all persons or entities who held common shares of Sino between March 19th, 2007 and June 2, 2011 (the "Class Period") either by primary distribution in Canada or an acquisition on the Toronto Stock Exchange or other secondary market in Canada.

(3) particulars

7. At all material times, Sino was a reporting issuer in all provinces of Canada, and had its registered office located in Mississauga, Ontario.

8. From the time of its establishment in 1994, Sino has claimed to be a legitimate business operating in the commercial forestry industry in the PRC and elsewhere.

9. In 1994, Sino entered Canada's capital markets by way of a "reverse takeover." This allowed Sino to avoid the scrutiny of an Initial Public Offering.

10. At all material times, Sino's shares were listed for trading on:
(a) the Toronto Stock Exchange (the "TSX") under the ticker symbol "TRE";

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- (b) on the Berlin exchange as "SFJ GR";
- (c) on the OTC market in the United States as "SNOFF";
- (d) on the Tradegate market as "SFJ TH";
- (e) on alternative trading systems in Canada and elsewhere including, without limitation, AlphaToronto and PureTrading.

11. At all material times, Sino had various debt instruments, derivatives and other securities that were publicly traded in Canada and elsewhere.

12. The price of Sino's securities was directly affected during the Class Period by the issuance of the Impugned Documents. The Defendants were aware at all material times of the effect of Sino's disclosure documents upon the price of its Sino's securities.

13. The Impugned Documents were filed, among other places, with SEDAR and the TSX, and thereby became immediately available to, and were reproduced for inspection by, the Plaintiff, Class Members, other members of the investing public, financial analysts and the financial press.

14. Sino routinely transmitted the documents referred to above to the financial press, financial analysts and certain prospective and actual holders of Sino securities. Sino provided either copies of the Impugned Documents or links thereto on its website.

15. Sino regularly communicated with the public investors and financial analysts via established market communication mechanisms, including through regular disseminations of their disclosure documents, including press releases on newswire services in Canada, the United States and elsewhere. Each time Sino communicated that new material information about Sino financial results to the public the price of Sino securities was directly affected.

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16. Sino was the subject of analysts' reports that incorporated certain of the material information contained in the Impugned Documents, with the effect that any recommendations to purchase Sino securities in such reports during the Class Period were based, in whole or in part, upon that information.

17. The price at which Sino's securities traded promptly incorporated material information from Sino's disclosure documents about Sino's business and affairs, including the Representation, which was disseminated to the public through the documents referred to above and distributed by Sino, as well as by other means.

18. In Sino's Initial Proxy Circular of February 11th, 1994, Sino purported to operate through six joint ventures formed in the PRC. By the early 2000's, Sino's business structure changed to include wholly-owned subsidiaries and so called authorized intermediaries ("AIs"). By early 2011, Sino purported to conduct business through more than 60 subsidiaries, at least 16 of which were formed in the British Virgin Islands, and at least 40 of which were formed in the PRC.

19. Sino conducted seven offerings during the Class Period (the "Offerings"), raising an aggregate of more than \$2.7 billion from investors:

(a) by short form prospectus dated June 5, 2007 (filed with SEDAR), Sino conducted an offering of 15,900,000 common shares at a price of \$12.65 per share, resulting in gross proceeds of \$201,135,000;

(b) by way of an "Offering Memorandum", Sino sold through private placement US\$345 million in aggregate principal amount of convertible senior notes due 2013;

(c) by short form prospectus dated June 1, 2009 (filed with SEDAR), Sino conducted an offering of 34,500,000 common shares for \$11.00 per share, resulting in gross proceeds of \$379,500,000;

(d) by way of an Exchange Offer Memorandum, Sino exchanged certain of its then outstanding senior notes with new notes, pursuant to which Sino issued US\$212,330,000 in aggregate principal amount of guaranteed senior notes due 2014;

(e) by way of a final Offering Memorandum, Sino sold through private placement US\$460,000,000 in aggregate principal amount of convertible senior notes due 2016;

(f) by short form prospectus dated December 11th, 2009 (filed with SEDAR on December 11, 2009), Sino conducted an offering of 21,850,000 common shares for \$16.80 per shares, resulting in proceeds of \$367,080,000;

(g) On February 8th, 2010, Sino closed the acquisition of substantially all of the outstanding common shares of Mandra Forestry Holdings Limited. Concurrent with this acquisition, Sino completed an exchange with holders of 99.7% of the USD\$195 million notes issued by Mandra Forestry Financial Limited and 96.7% of the warrants issued by Mandra Forestry Holdings Limited, for new guaranteed senior notes issued by Sino in the aggregate principal amount of USD\$187,177,375 with a maturity date of July 28, 2014.

(g) On October 14, 2010, Sino issued a final Offering Memorandum pursuant to which Sino sold through private placement US\$600,000,000 in aggregate principal amount of guaranteed senior notes due 2017.

20. The offering documents referenced in the preceding paragraph included and incorporated other documents by reference that included the Representation and other misrepresentations that are particularized below. Had the truth in regard to Sino's management, business and affairs been timely disclosed, securities regulators likely would not have accepted the Prospectuses and the offerings would not have occurred.

(A) Sino's class period misrepresentations

21. During the class period, Sino misrepresented:

(a) Its 2006 Results and AIF;

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- (b) Its May 2007 Management Information Circular;
- (c) Its tax-related risks arising from its use of AIs;
- (d) Its Yunnan Forestry Assets;
- (e) Its Suriname Forestry Assets;
- (f) Its Jiangxi Forestry Assets;
- (g) Its related parties;
- (h) Its sales of standing timber;
- (i) Its purchases of Forestry Assets; and
- (j) Its margins and taxes.

Sino's 2006 Results and AIF

22. Prior to the opening of markets on March 19th, 2007, Sino issued and filed on SEDAR its 2006 Annual Consolidated Financial Statements and 2006 Annual MD&A. Each document contained the Representation, which was false.

23. In particular, Sino materially overstated its results for 2006, and its assets as at year-end 2006. Sino reported in each such document, on a GAAP basis, that its revenues and net income for the year ended December 31st, 2006 were, respectively, US\$634.0 million and US\$111.6 million, and further reported, on a GAAP basis, that its assets as at December 31st, 2006 were US\$1.2 billion.

24. Over the ten trading days following the issuance of Sino's inflated 2006 results, Sino's share price rose substantially on unusually heavy trading volume. At the close of trading on March 16th, 2007 (the trading day prior to March 19th, 2007), Sino's shares traded at \$10.10 per share. At the close of trading on March 29th, 2007, Sino's shares traded at \$13.42 per share, which constituted an increase of approximately 33% from the March 19th closing price.

Sino's May 2007 Management Information Circular

25. On March 30, 2007, Sino issued and filed on SEDAR its 2006 AIF. In that AIF, Sino stated:

...PRC laws and regulations require foreign companies to obtain licenses to engage in any business activities in the PRC. As a result of these requirements, we currently engage in our trading activities through PRC authorized intermediaries that have the requisite business licenses. There is no assurance that the PRC government will not take action to restrict our ability to engage in trading activities through our authorized intermediaries. **In order to reduce our reliance on the authorized intermediaries, we intend to use a WFOE in the PRC to enter into contracts directly with suppliers of raw timber, and then process the raw timber, or engage others to process raw timber on its behalf, and sell logs, wood chips and wood-based products to customers, although it would not be able to engage in pure trading activities.** [Emphasis added.]

26. In its 2007 AIF, which Sino filed on March 28, 2008, Sino again declared its intention to reduce its reliance upon AIs.

27. These statements were false and materially misleading when made, as Sino had no intention of reducing materially its reliance on AIs, because AIs were critical to Sino's ability to inflate its revenue and net income. Rather, these statements had the effect of mitigating any investor concern arising from Sino's extensive reliance upon AIs.

28. Throughout the Class Period, Sino continued to depend heavily upon AIs for its purported sales of standing timber and Sino's reliance on AIs in fact *increased* during the Class Period.

Sino's tax-related risks arising from its use of AIs

29. Throughout the Class Period, Sino materially understated the tax-related risks arising from its use of AIs.

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30. Tax evasion penalties in the PRC are severe and depending on the severity of the offense can be punishable with unlimited fines.

31. During the Class Period, Sino professed to be unable to determine whether its AIs had paid required taxes and so the tax-related risks arising from Sino's use of AIs were potentially devastating. Sino failed to disclose these risks in its Class Period disclosure documents, including and particularly in its discussions of its tax provisioning set forth in its Class Period financial statements and AIFs.

32. Based upon Sino's reported results, Sino's tax accruals in its 2007, 2008, 2009 and 2010 Audited Annual Financial Statements were materially deficient and Sino's inadequate tax accruals violated GAAP.

33. Sino also violated GAAP in its 2009 Audited Annual Financial Statements by failing to apply to its 2009 financial results the PRC tax guidance that was issued in February 2010. Although that guidance was issued after year-end 2009, GAAP required that Sino apply that guidance to its 2009 financial results, because that guidance was issued in the subsequent events period.

34. Based upon Sino's reported profit margins on its dealings with AIs, which margins are extraordinary both in relation to the profit margins of Sino's peers, and in relation to the limited risks that Sino purports to assume in its transactions with its AIs, Sino's AIs were not satisfying their tax obligations, a fact that was either known to the Defendants or ought to have been known. If Sino's extraordinary profit margins are real, then Sino and its AIs must be dividing the gains from non-payment of taxes to the PRC.

35. During the Class Period, Sino also failed to disclose the risks relating to the repatriation of its earnings from the PRC. In 2010, Sino added two new sections to its AIF regarding the risk that it would not be able to repatriate earnings from its BVI subsidiaries (which deal with the AIs). The amount of retained earnings that may not be able to be repatriated is stated therein to be US\$1.4 billion. Notwithstanding this disclosure, Sino did not disclose that it would be unable to repatriate *any* earnings absent proof of payment of PRC taxes, which it has admitted that it lacks.

36. In addition, there are material discrepancies in Sino's descriptions of its accounting treatment of its AIs. Beginning in the 2003 AIF, Sino described its AIs as follows:

Because of the provisions in the Operational Procedures that specify when we and the authorized intermediary assume the risks and obligations relating to the raw timber or wood chips, as the case may be, we treat these transactions for accounting purposes as providing that we take title to the raw timber when it is delivered to the authorized intermediary. Title then passes to the authorized intermediary once the timber is processed into wood chips. *Accordingly, we treat the authorized intermediaries for accounting purposes as being both our suppliers and customers in these transactions.* [Emphasis added.]

37. Sino's disclosures were consistent in that regard up to and including Sino's first AIF issued in the Class Period, which states:

Because of the provisions in the Operational Procedures that specify when we and the AI assume the risks and obligations relating to the raw timber or wood chips, as the case may be, we treat these transactions for accounting purposes as providing that we take title to the raw timber when it is delivered to the AI. Title then passes to the AI once the timber is processed into wood chips. *Accordingly, we treat the AI for accounting purposes as being both our supplier and customer in these transactions.* [Emphasis added.]

38. In subsequent AIFs, Sino ceased without explanation to disclose whether it treated AIs for accounting purposes as being both the supplier and the customer.

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39. Following the issuance of Muddy Waters' report on the last day of the Class Period, however, Sino declared publicly that Muddy Waters was "wrong" in its assertion that, for accounting purposes, Sino treated its AIs as being both supplier and customer in transactions. This claim by Sino implies either that Sino misrepresented its accounting treatment of AIs in its 2006 AIF (and in its AIFs for prior years), or that Sino changed its accounting treatment of its AIs after the issuance of its 2006 AIF. If the latter is true, then Sino was obliged by GAAP to disclose its change in its accounting treatment of its AIs. It failed to do so.

Sino Overstates its Yunnan Forestry Assets

40. In a press release issued by Sino and filed on SEDAR on March 23, 2007, Sino announced that it had entered into an agreement to sell 26 million shares to several institutional investors for gross proceeds of US\$200 million, and that the proceeds would be used for the acquisition of standing timber, including pursuant to a new agreement to purchase standing timber in Yunnan Province. It further stated in that press release that Sino-Panel (Asia) Inc. ("Sino-Panel"), a wholly-owned subsidiary of Sino, had entered on that same day into an agreement with Gengma Dai and Wa Tribes Autonomous Region Forestry Company Ltd., ("Gengma Forestry") established in Lincang City, Yunnan Province in the PRC, and that, under that Agreement, Sino-Panel would acquire approximately 200,000 hectares of non-state owned commercial standing timber in Lincang City and surrounding cities in Yunnan for US\$700 million to US\$1.4 billion over a 10-year period.

41. These same terms of Sino's Agreement with Gengma Forestry were disclosed in Sino's Q1 2007 MD&A. Moreover, throughout the Class Period, Sino discussed its purported Yunnan acquisitions in the Impugned Documents.

42. However, the reported acquisitions did not take place. As the *Globe* later revealed, Sino "substantially overstated the size and value of its forestry holdings in China's Yunnan Province, according to figures provided by senior forestry officials and a key business partner there." Sino simply does not own the trees it claims to own in Yunnan.

Sino Overstates its Suriname Forestry Assets

43. In mid-2010, Sino became a majority shareholder of Greenheart Group Ltd., a Bermuda corporation having its headquarters in Hong Kong and a listing on the Hong Kong Stock Exchange ("Greenheart").

44. In August 2010, Greenheart issued an aggregate principal amount of US\$25,000,000 convertible notes for gross proceeds of US\$24,750,000. The sole subscriber of these convertible notes was Greater Sino Holdings Limited. Chan became a member of Greenheart's Board and the Board's Chairman. Other officers and directors of Sino became officers and directors of Greenheart.

45. On August 24, 2010 and December 28, 2010, Greenheart granted to Chan options to purchase approximately 6.8 million. The options are exercisable for a five-year term.

46. As at March 31, 2011, General Enterprise Management Services International Limited, a company in which some of Sino's officers and directors have an indirect interest, held 7,000,000 shares of Greenheart, being 0.9% of the total issued and outstanding shares of Greenheart.

47. As a result of the aforesaid transactions and interests, Sino, Chan, and other officers and directors of Sino, stood to profit handsomely from any inflation in the market price of Greenheart's shares.

48. At all material times, Greenheart purported to have forestry assets in New Zealand and Suriname. On March 1, 2011, Greenheart issued a press release in which it announced that:

**Greenheart acquires certain rights to additional 128,000 hectare
concession in Suriname**

**312,000 hectares now under Greenheart management Hong Kong, March
1, 2011 - Greenheart Group Limited ("Greenheart" or "the Company")**

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(HKSE: 00094), an investment holding company with forestry assets in Suriname and New Zealand (subject to certain closing conditions) today announced that *the Company has acquired 60% of Vista Marine Services N.V. ("Vista"), a private company based in Suriname, South America that controls certain harvesting rights to a 128,000 hectares hardwood concession. Vista will be rebranded as part of the Greenheart Group. This transaction will increase Greenheart's concessions under management in Suriname to approximately 312,000 hectares.* The cost of this acquisition is not material to the Company as a whole but the Company is optimistic about the prospects of Vista and the positive impact that it will bring. *The concession is located in the Sipalawhi district of Suriname, South America, bordering Lake Brokopondo and has an estimated annual allowable cut of approximately 100,000 cubic meters.* Mr. Judson Martin, Chief Executive Officer of Greenheart and Vice-Chairman of Sino-Forest Corporation, the Company's controlling shareholder said, "This acquisition is in line with our growth strategy to expand our footprint in Suriname. In addition to increased harvestable area, this acquisition will bring synergies in sales, marketing, administration, financial reporting and control, logistics and overall management. *I am pleased to welcome Mr. Ty Wilkinson to Greenheart as our minority partner. Mr. Wilkinson shares our respect for the people of Suriname and the land and will be appointed Chief Executive Officer of this joint venture and be responsible for operating in a sustainable and responsible manner.* This acquisition further advances Greenheart's strategy of becoming a global agri-forestry company. We will continue to actively seek well-priced and sustainable concessions in Suriname and neighboring regions in the coming months."

About Ty Wilkinson

Mr. Wilkinson has over twenty years of experience in the agricultural and forestry business. He was awarded the prestigious "Farmer and Rancher of the year" award in the USA, in recognition of his work on water conservation, perfecting the commercial use of drip irrigation and maximizing crop yield through the use of technical soil research and analysis. Mr. Wilkinson also has extensive knowledge in sustainable forestry management, forestry planning, infrastructure development, harvest schedules, lumber drying, lumber processing, extensive local knowledge as well as regional business networks. He has been living in Suriname since 2001. [Emphasis added.]

49. In its 2010 AIF, filed on SEDAR on March 31, 2011, Sino stated:

We hold a majority interest in Greenheart Group which, together with its subsidiaries, owns certain rights and *manages approximately 312,000 hectares of hardwood forest concessions in the Republic of Suriname, South America ("Suriname")* and 11,000 hectares of a radiata pine plantation on 13,000 hectares of freehold land in New Zealand as at March 31, 2011. *We believe that our ownership in Greenheart Group will strengthen our global sourcing network in supplying wood fibre for China in a sustainable and responsible manner.* [Emphasis added].

50. In its Annual Report for 2010, which Sino filed on SEDAR on May 10, 2011, Sino's Vice-Chairman stated:

I am honored to report to you for the first time as Vice Chairman of Sino-Forest and Chief Executive Officer of Greenheart Group [...] Greenheart's strategy is to be Sino-Forest's international growth vehicle for acquiring sustainable and profitable forestry assets located outside China to serve the growing wood deficit within China while at the same time maintaining the ability to manage and operate in other markets around the world. At the end of 2010, Greenheart had three primary assets; a 60% interest in a 184,000 hectare hardwood concession located in western Suriname (Sino-Forest currently owns the remaining 40% minority interest); a commitment to acquire 13,000 hectares of freehold land including 11,000 hectares of softwood radiata pine plantations in New Zealand (which was completed subsequent to year end); and US\$78 million in cash. *In the first quarter of 2011, we acquired 60% of Vista Marine Services N.V., which holds certain harvesting rights to a 128,000-hectare concession in eastern Suriname. This acquisition expands Greenheart's land under management in Suriname to approximately 312,000-hectare. We are currently building two large-scale wood processing facilities, which we expect to complete late this year, which will allow us to process logs into lumber and other value-added products such as flooring, decking and special millwork. Greenheart's strategy in Suriname is to continue to expand our concession footprint and be the leader in the sustainable timber industry. We are committed to low-impact harvesting and silviculture methods as prescribed by Suriname's Centre for Agricultural Research ("CELOS"), and we will be working towards Forest Stewardship Council ("FSC") certification in all our operations. The responsible care of people and the environment is our corporate policy but also our state of mind.* [Emphasis added.]

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51. The foregoing statements were false or materially misleading when made, for the reasons set out below.

52. Shortly before Greenheart's purported acquisition of Vista Marine Services N.V. ("Vista"), Vista was founded by Ty Wilkinson, an American citizen who formerly resided in Sarasota, Florida. Although Greenheart saw fit to disclose in its March 1, 2011 press release that Mr. Wilkinson, Greenheart's new Suriname CEO, was once named "Farmer and Rancher of the year," Greenheart failed to disclose that the Circuit Court of Sarasota County, Florida, had issued a warrant for Mr. Wilkinson's arrest in October 2009, and that Mr. Wilkinson abandoned residence in the United States at least in part to avoid arrest, and also to avoid paying various debts Wilkinson owes to a former business associate and others.

53. There is no record of Greenheart in the Suriname Trade Register maintained by the Chamber of Commerce in Suriname, nor is there any record of Greenheart with the Suriname Foundation for Forest Management and Production Control.

54. In addition, under the Suriname *Forest Management Act*, it is prohibited for one company or a group of companies in which one person or company has a majority interest to control more than 150,000 hectares of land under concession.

55. Finally, Vista's forestry concessions are located in a region of Suriname populated by the Saramaka, an indigenous people. Pursuant to the American Convention on Human Rights and a decision of the Inter-American Court of Human Rights, the Saramaka people must have effective control over their land, including the management of their reserves, and must be effectively consulted by the State of Suriname. Neither Sino nor Greenheart has disclosed that Vista's purported concessions in Suriname, if they exist at all, are impaired due to the unfulfilled rights of the indigenous peoples of Suriname.

Jiangxi Forestry Assets

56. On June 11, 2009, Sino issued a press release in which it stated:

Sino-Forest Corporation (TSX: TRE), a leading commercial forest plantation operator in China, announced today that its wholly-owned subsidiary, Sino-Panel (China) Investments Limited ("Sino-Panel"), has entered into a Master Agreement for the Purchase of Pine and Chinese Fir Plantation Forests (the "Jiangxi Master Agreement") with Jiangxi Zhonggan Industrial Development Company Limited ("Jiangxi Zhonggan"), which will act as the authorized agent for the original plantation rights holders. Under the Jiangxi Master Agreement, Sino-Panel will, through PRC subsidiaries of Sino-Forest, acquire between 15 million and 18 million cubic metres (m³) of wood fibre located in plantations in Jiangxi Province over a three-year period with a price not to exceed RMB300 per m³, to the extent permitted under the relevant PRC laws and regulations. *The plantations in which such amount of wood fibre to acquire is between 150,000 and 300,000 hectares* to achieve an estimated average wood fibre yield of approximately 100 m³ per hectare, and include tree species such as pine, Chinese fir and others. Jiangxi Zhonggan will ensure plantation forests sold to Sino-Panel and its PRC subsidiaries are non-state-owned, non-natural, commercial plantation forest trees. In addition to securing the maximum tree acquisition price, Sino-Panel has pre-emptive rights to lease the underlying plantation land at a price, permitted under the relevant PRC laws and regulations, not to exceed RMB450 per hectare per annum for 30 years from the time of harvest. The land lease can also be extended to 50 years as permitted under PRC laws and regulations. The specific terms and conditions of purchasing or leasing are to be determined upon the execution of definitive agreements between the PRC subsidiaries of Sino-Panel and Jiangxi Zhonggan upon the authorisation of original plantation rights holders, and subject to the requisite governmental approval and in compliance with the relevant PRC laws and regulations.

Sino-Forest Chairman and CEO Allen Chan said, "We are fortunate to have been able to capture and support investment opportunities in China's developing forestry sector by locking up a large amount of fibre at competitive prices. The Jiangxi Master Agreement is Sino-Forest's fifth, long-term, fibre purchase agreement during the past two years. These five agreements cover a total plantation area of over one million hectares in five of China's most densely forested provinces." [Emphasis added].

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57. According to Sino's 2010 Annual MD&A, as of December 31, 2010, Sino had acquired 59,700 ha of plantation trees from Jiangxi Zhonggan Industrial Development Company Limited ("Zhonggan") for US\$269.1 million under the terms of the master agreement. (In its interim report for the second quarter of 2011, which was issued after the Class Period, Sino claims that, as at June 30, 2011, this number had increased to 69,100 ha, for a purchase price of US\$309.6 million).

58. However, as was known to Sino, Chan, and Horsley, Sino's plantation acquisitions through Zhonggan are far smaller than Sino has claimed.

59. In August 2011, a supervisor of the Forestry Bureau of Nanchang, the capitol of Jiangxi Province, affirmed that he had never heard of Zhonggan. In that same month, the Jiangxi Forestry Bureau, which has jurisdiction over the Province of Jiangxi, was able to confirm only that Zhonggan had rented the land use rights of 3,333 ha from local farmers.

60. Zhonggan's offices belie the purported scope and nature of Zhonggan's business. During a visit to Zhonggan's offices in August 2011, no personnel were present during business hours, there was no signage outside the office, and there was a CCTV camera and a fingerprint entry machine installed near the office entrance.

61. Zhonggan was formed in January 2008, only 18 months before agreeing to sell to Sino's subsidiary up to 300,000 ha of plantation forest. Moreover, when it was established, Zhonggan was capitalized with a mere ¥5 million.

62. Irrespective of the true extent of Zhonggan's transactions in Jiangxi forestry plantations, Sino failed to disclose, in violation of GAAP, that Zhonggan was a related party of Sino. More particularly, according to AIC records, the legal representative of Zhonggan is Lam Hong Chiu, who is an executive vice president of Sino. Lam Hong Chiu is also a director

and a 50% shareholder of China Square Industrial Limited, a BVI corporation which, according to AIC records, owns 80% of the equity of Zhonggan.

Misrepresentations Regarding Related Parties other than Zhonggan

63. On January 12, 2010, Sino issued a press release in which it announced the acquisition by one of its wholly-owned subsidiaries of Homix Limited ("Homix"), which it described as a 48 company engaged in research and development and manufacturing of engineered-wood products in China, for an aggregate amount of US\$7.1 million. That press release stated:

HOMIX has an R&D laboratory and two engineered-wood production operations based in Guangzhou and Jiangsu Provinces, covering eastern and southern China wood product markets. The company has developed a number of new technologies with patent rights, specifically suitable for domestic plantation logs including poplar and eucalyptus species. HOMIX specializes in curing, drying and dyeing methods for engineered wood and has the know-how to produce recomposed wood products and laminated veneer lumber. Recomposed wood technology is considered to be environment-friendly and versatile as it uses fibre from forest plantations, recycled wood and/or wood residue. This reduces the traditional use of large-diameter trees from natural forests. There is growing demand for recomposed wood technology as it reduces cost for raw material while increases the utilization and sustainable use of plantation fibre for the production of furniture and interior/exterior building materials.

[...]

Mr. Allen Chan, Sino-Forest's Chairman & CEO, said, "As we continue to ramp up our replanting programme with improved eucalyptus species, it is important for Sino-Forest to continue investing in the research and development that maximizes all aspects of the forest product supply chain. Modernization and improved productivity of the wood processing industry in China is also necessary given the country's chronic wood fibre deficit. Increased use of technology improves operation efficiency, and maximizes and broadens the use of domestic plantation wood, which reduces the need for logging domestic natural forests and for importing logs from strained tropical forests. HOMIX has significant technological capabilities in engineered-wood processing."

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Mr. Chan added, "By acquiring HOMIX, we intend to use six-year eucalyptus fibre instead of 30-year tree fibre from other species to produce quality lumber using recomposed technology. We believe that this will help preserve natural forests as well as improve the demand for and pricing of our planted eucalyptus trees."

64. Sino's 2009 Annual Audited Financial Statements, Q1/2010 Unaudited Interim Financial Statements, 2010 Annual Audited Financial Statements, the MD&As related to each of the aforementioned financial statements, and Sino's AIFs for 2009 and 2010, each discussed the acquisition of Homix, but nowhere disclosed that Homix was in fact a party related to Sino.

65. More particularly, Hua Chen, a Senior Vice President, Administration & Finance, of Sino in the PRC, and who joined Sino in 2002, is a 30% shareholder of an operating subsidiary of Homix, Jiangsu Dayang Wood Co., Ltd.

66. Pursuant to GAAP, Sino was required to provide, among other things, a description of the relationship between the transacting parties when dealing with related parties. GAAP recognizes that detail on related party transactions is crucial.

~~67. Thus, Sino's failure to disclose that Homix was a related party was a violation of GAAP, and a misrepresentation.~~

68. Finally, Homix has no patent designs registered with the PRC State Intellectual Property Office, a fact also not disclosed by Sino at the time of the Homix acquisition or subsequently.

Misrepresentations Regarding Sales of Standing Timber

69. Every financial statement and MD&A issued during the Class Period overstates Sino's sales of standing timber to a material degree, and overstates to a material degree Sino's reported revenues and net income for the period in question.

70. Throughout the Class Period, Sino purported to sell "standing timber." As particularized above, such sales did not occur, or did not occur in a manner such that revenue could be recorded pursuant to GAAP.

Misrepresentations Regarding Purchases of Forestry Assets

71. As particularized above, Sino overstated its acquisition of forestry assets in Yunnan and Jiangxi Provinces in the PRC and in Suriname. Accordingly, Sino's total assets are overstated to a material degree in the Impugned Documents in violation of GAAP, and each such statement of Sino's total assets constitutes a misrepresentation.

72. In addition, during the Class Period, Sino caused statements to be made that are misrepresentations in regard to Sino's Yunnan Province "assets," namely:

(a) in a report dated March 15, 2008, filed on SEDAR on March 31, 2008, Sino:

(a) caused to be stated that it had determined the valuation of the Sino forest assets to be US\$3.2 billion as at 31 December 2007;

(b) caused tables and figures regarding Yunnan to be published;

(c) caused to be stated that "Stands in Yunnan range from 20 ha to 1000 ha," that "In 2007 Sino-Forest purchased an area of mixed broadleaf forest in Yunnan Province," that "Broadleaf forests already acquired in Yunnan are all mature," and that "Sino-Forest is embarking on a series of forest acquisitions/expansion efforts in Hunan, Yunnan and Guangxi;" and

(d) provided a detailed outline of Sino's Yunnan "holdings" at Appendixes 3 and 5;

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(b) In a report dated April 1, 2009 and filed on SEDAR on April 2, 2009, Sino caused to be stated that:

“[t]he area of forest owned in Yunnan has quadrupled from around 10 000 ha to almost 40 000 ha over the past year;”

provided figures and tables regarding Yunnan, and stated that:

“Sino-Forest has increased its holding of broadleaf crops in Yunnan during 2008, with this province containing nearly 99% of its broadleaf resource;”

(c) In a “Final Report” dated April 23, 2010, and filed on SEDAR on April 30, 2010, Sino caused to be stated that:

“Guangxi, Hunan and Yunnan are the three largest provinces in terms of Sino-Forest’s holdings. The largest change in area by province, both in absolute and relative terms [sic] has been Yunnan, where the area of forest owned has almost tripled, from around 39 000 ha to almost 106 000 ha over the past year;”

provided figures and tables regarding Yunnan, and stated that:

“Yunnan contains 106 000 ha, including 83 000 ha or 99% of the total broadleaf forest,” stated that “the three provinces of Guangxi, Hunan and Yunnan together contain 391 000 ha or about 80% of the total forest area of 491 000 ha” and that “[a]lmost 51.97% of the broadleaf forest is in Yunnan;”

and provided a detailed discussion of Sino’s Yunnan “holdings” at Appendixes 3 and 4;

(d) In a “Summary Valuation Report” regarding “Valuation of Purchased Forest Crops as at 31 December 2010” and dated May 27, 2011, Sino caused to be published tables and figures regarding Yunnan, and stated that:

“[t]he major changes in area by species from December 2009 to 2010 has been in Yunnan pine, with acquisitions in Yunnan and Sichuan provinces”

and that:

“[a]nalysis of [Sino’s] inventory data for broadleaf forest in Yunnan, and comparisons with an inventory that Pöyry undertook there in 2008 supported the upwards revision of prices applied to the Yunnan broadleaf large size log;”

and stated that:

“[t]he yield table for Yunnan pine in Yunnan and Sichuan provinces was derived from data collected in this species in these provinces by Pöyry during other work;”

and

(e) In a press release titled "Summary of Sino-Forest's China Forest Asset 2010 Valuation Reports" and which was "jointly prepared by Sino-Forest and Pöyry to highlight key findings and outcomes from the 2010 valuation reports," Sino caused to be reported that the estimated market value of Sino's forest assets on the 754,816 ha to be approximately US\$3.1 billion as at December 31, 2010.

73. Statements caused to be made by Sino regarding the value of Sino's forestry "assets" that were misrepresentations were incorporated into the 2007 Annual MD&A, the Amended 2007 Annual MD&A, each of the 2008 Q1, Q2, Q3, Annual and amended Annual MD&As, each of the 2009 Q1, Q2, Q3 and Annual MD&As, and each of the 2010 Q1, Q2 and Q3 MD&As.

Misrepresentations Regarding Sino's Margins and Taxes

74. Sino never disclosed the true source of its elevated profit margins and the true nature of the tax-related risks to which it was exposed, as particularized above. This omission rendered each of the following statements a misrepresentation:

(a) In the 2006 Annual Financial Statements, note 11 [b] "Provision for tax related liabilities" and associated text;

(b) In the 2006 Annual MD&A, the subsection "Provision for Tax Related Liabilities" in the section "Critical Accounting Estimates," and associated text;

(c) In the AIF dated March 30, 2007, the section "Estimation of the Company's provision for income and related taxes," and associated text;

(d) In the Q1 and Q2 2007 Financial Statements, note 5 "Provision for Tax Related Liabilities," and associated text;

(e) In the Q3 2007 Financial Statements, note 6 "Provision for Tax Related Liabilities," and associated text;

(f) In the 2007 Annual Financial Statements, note 13 [b] "Provision for tax related liabilities," and associated text;

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(g) In the 2007 Annual MD&A and Amended 2007 Annual MD&A, the subsection "Provision for Tax Related Liabilities" in the section "Critical Accounting Estimates," and associated text;

(h) In the AIF dated March 28, 2008, the section "Estimation of the Corporation's provision for income and related taxes," and associated text;

(i) In the Q1, Q2 and Q3 2008 Financial Statements, note 12 "Provision for Tax Related Liabilities," and associated text;

(j) In the Q1, Q2 and Q3 2008 MD&As, the subsection "Provision for Tax Related Liabilities" in the section "Critical Accounting Estimates," and associated text;

(k) In the 2008 Annual Financial Statements, note 13 [d] "Provision for tax related liabilities," and associated text;

(l) In the 2008 Annual MD&A and Amended 2008 Annual MD&A, the subsection "Provision for Tax Related Liabilities" in the section "Critical Accounting Estimates," and associated text;

(m) In the AIF dated March 31, 2009, the section "We may be liable for income and related taxes to our business and operations, particularly our BVI Subsidiaries, in amounts greater than the amounts we have estimated and for which we have provisioned," and associated text;

(n) In the Q1, Q2 and Q3 2009 Financial Statements, note 13 "Provision for Tax Related Liabilities," and associated text;

(o) In the Q1, Q2 and Q3 2009 MD&As, the subsection "Provision for Tax Related Liabilities" in the section "Critical Accounting Estimates," and associated text;

(p) In the 2009 Annual Financial Statements, note 13 [d] "Provision for tax related liabilities," and associated text;

(q) In the 2009 Annual MD&A, the subsection "Provision for Tax Related Liabilities" in the section "Critical Accounting Estimates," and associated text;

(r) In the AIF dated March 31, 2010, the section "We may be liable for income and related taxes to our business and operations, particularly our BVI Subsidiaries, in amounts greater than the amounts we have estimated and for which we have provisioned," and associated text;

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- (s) In the Q1 and Q2 2010 Financial Statements, note 14 "Provision for Tax Related Liabilities," and associated text;
- (t) In the Q1 and Q2 2010 MD&As, the subsection "Provision for Tax Related Liabilities" in the section "Critical Accounting Estimates," and associated text;
- (u) In the Q3 2010 Financial Statements, note 14 "Provision and Contingencies for Tax Related Liabilities," and associated text; and
- (v) In the Q3 2010 MD&As, the subsection "Provision and Contingencies for Tax Related Liabilities" in the section "Critical Accounting Estimates," and associated text;
- (w) In the 2010 Annual Financial Statements, note 18 "Provision and Contingencies for Tax Related Liabilities," and associated text;
- (x) In the 2010 Annual MD&A, the subsection "Provision and Contingencies for Tax Related Liabilities" in the section "Critical Accounting Estimates," and associated text; and
- (y) In the AIF dated March 31, 2011, the section "We may be liable for income and related taxes to our business and operations, particularly our BVI Subsidiaries, in amounts greater than the amounts we have estimated and for which we have provisioned," and associated text.

75. In every Impugned Document that is a financial statement, the line item "Accounts payable and accrued liabilities" and associated figures on the Consolidated Balance Sheets fails to properly account for Sino's tax accruals and is a misrepresentation.

CEO AND CFO FALSE CERTIFICATIONS

76. Pursuant to National Instrument 52-109, the defendants Chan, as CEO, and Horsley, as CFO, were required at the material times to certify Sino's annual and quarterly MD&As and Financial Statements as well as the AIFs (and all documents incorporated into the AIFs). Such certifications included statements that the filings "do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made" and that the reports "fairly present in all material respects the financial condition, results of operations and cash flows of the issuer."

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77. As particularized elsewhere herein, however, the Impugned Documents contained the Representation, which was false, as well as the other misrepresentations alleged above. Accordingly, the certifications given by Chan and Horsley were false and were themselves misrepresentations. Chan and Horsley made such false certifications knowingly or, at a minimum, recklessly.

THE TRUTH IS REVEALED

78. On June 2, 2011, Muddy Waters issued its initial report on Sino, and stated in part therein:

Sino-Forest Corp (TSE: TRE) is the granddaddy of China RTO frauds. It has always been a fraud – reporting excellent results from one of its early joint ventures – even though, because of TRE's default on its investment obligations, the JV never went into operation. TRE just lied.

The foundation of TRE's fraud is a convoluted structure whereby it claims to run most of its revenues through "authorized intermediaries" ("AI"). AIs are supposedly timber trader customers who purportedly pay much of TRE's value added and income taxes. At the same time, these AIs allow TRE a gross margin of 55% on standing timber merely for TRE having speculated on trees.

The sole purpose of this structure is to fabricate sales transactions while having an excuse for not having the VAT invoices that are the mainstay of China audit work. If TRE really were processing over one billion dollars in sales through AIs, TRE and the AIs would be in serious legal trouble. No legitimate public company would take such risks – particularly because this structure has zero upside.

[...]

On the other side of the books, TRE massively exaggerates its assets. TRE significantly falsifies its investments in plantation fiber (trees). It purports to have purchased \$2.891 billion in standing timber under master agreements since 2006

[...]

Valuation Because TRE has \$2.1 billion in debt outstanding, which we believe exceeds the potential recovery, we value its equity at less than \$1.00 per share.

79. Muddy Waters also disclosed in its initial report that Sino had failed to disclose various related party transactions, including its dealings with Jiangxi Zhonggan Industrial Development Company Ltd.

80. After Muddy Waters' initial report became public, Sino shares fell to \$14.46, at which point trading was halted (a decline of 20.6% from the pre-disclosure close of \$18.21). When trading was allowed to resume the next day, Sino's shares fell to a close of \$5.23 (a decline of 71.3% from June 1).

81. On June 3, 2011, Sino announced the formation of an "Independent Committee," comprised of William E. Ardell (Chair), James P. Bowland and James M.E. Hyde, to investigate Muddy Waters' allegations and report to Sino's Board in that regard.

82. On June 14, Sino issued its Q1 2011 Financial Statements. Those financial statements contained the following notice:

Notice of no auditor review of the condensed interim consolidated financial statements.

The accompanying unaudited condensed interim consolidated financial statements (the "Interim Financial Statements") have not been reviewed by the Company's external auditors. On June 2, 2011, Muddy Waters, LLC issued a report (the "Report") containing various allegations regarding the Company, its assets, operations and financial results. As a result of such report, on June 2, 2011, the Board of Directors of the Company appointed a committee of independent directors (the "Independent Committee") to thoroughly examine and review the allegations contained in the Report, and report back to the Board of Directors. The Independent Committee has retained independent legal counsel in Canada, Hong Kong and China as well as independent accounting firm Pricewaterhouse Coopers LLP to assist with the examination. The Company's external auditors were initially engaged to conduct a review of the accompanying Interim Financial Statements in accordance with Canadian standards for the auditor review of interim financial statements. The Company's auditors have advised that they are unable to complete a review of these financial statements until the completion of the examination and review by the Independent Committee and the auditors' consideration of the results

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thereof. The Board of Directors and management believe that, based on information currently available to them, the Interim Financial Statements were compiled in accordance with International Financial Reporting Standards ("IFRS") and fairly depict the financial condition and results of operations of the Company. However, in the event that the allegations set forth in the Report prove to be accurate, in whole or in part, the information set forth in the Interim Financial Statements may differ materially and the Interim Financial Statements could be subject to restatement. As a result, readers should exercise caution in reviewing such financial statements. See Note 2.1 of the Interim Financial Statements.

83. That same day, Sino held its Q1 2011 Earnings Call. On that call, Ardell stated that "particular reference was made to a number of the directors that this is an opportunity for them to be in and buying significant amounts of shares to demonstrate strong belief in the company. *And I can assure you that if we had the choice, we certainly would at this stage*" (emphasis added). Ardell thereby confirmed that he had prejudged the outcome of his committee's investigation, and that his committee was not independent.

84. On Saturday June 18 and Sunday June 19, 2011, the *Globe* published an in-depth investigative report on Sino.

85. The June 18 article, titled "Key partner casts doubt on Sino-Forest claim," read, in material part:

Embattled Sino-Forest Corp., once Canada's biggest publicly-traded timber company, appears to have substantially overstated the size and value of its forestry holdings in China's Yunnan province, according to figures provided by senior forestry officials and a key business partner there.

During two weeks of on-the-ground reporting that included interviews with Chinese government officials, forestry experts, local business operators and brokers, The Globe and Mail uncovered a number of glaring inconsistencies that raise doubts about the company's public statements regarding the value of the assets that lie at the centre of the company's core business of buying and selling Chinese timber rights.

[...]

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The Globe's investigation raises particularly hard questions about a key agreement in March, 2007, that Sino-Forest says gave it the right to buy timber rights for up to 200,000 hectares of forest in Yunnan over a 10-year period for between \$700-million (U.S.) and \$1.4-billion. The trees were to be bought through a series of agreements with an entity called Gengma Dai and Wa Tribes Autonomous Region Forestry Co. Ltd., also known as Gengma Forestry.

The company says it has fulfilled virtually all of the agreement with Gengma and now owns more than 200,000 hectares in Yunnan.

But officials with Gengma Forestry, including the chairman, dispute the company's account of the deal, telling The Globe and Mail that the actual numbers are much smaller.

Xie Hongting, the chairman of Gengma Forestry, said in an interview that the transactions carried out so far by Sino-Forest amounted to less than 14,000 hectares.

Asked how many deals Gengma had conducted with Sino-Forest, Mr. Xie said: "I've told you that we sold them almost 200,000 mu." (Mu is a Chinese unit of land measurement; 15 mu equals one hectare.) Mr. Xie's account corroborates the assertions of senior forestry officials in the province. Speaking on condition of anonymity, these officials challenged the company's statements that it controls more than 200,000 hectares of Yunnan trees, and said they are now investigating.

[...]

While Gengma Forestry officials question Sino-Forest's account of the 2007 deal, local land brokers said it would be difficult to find 200,000 hectares of quality land leases to complete that agreement.

[...]

Senior forestry officials in the province challenged the company's assertion that it controls about 200,000 hectares of forest in the region. Speaking on condition they not be identified, they said their records showed Sino-Forest manages far less than that and said the Yunnan Forestry Bureau would begin an investigation aimed at determining the company's true holdings. In addition to the questions about Sino-Forest's disclosures on the size of its holdings, forestry officials, as well as local timber brokers who spoke to The Globe raised questions regarding the value Sino-Forest attributes to its Yunnan assets.

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"It's very hard for anyone to say what the value of their property is," said one forestry official, adding that forested land in Yunnan needed to be evaluated by a special body jointly appointed by the Forestry Bureau and the Ministry of Finance. Sino-Forest has not requested such an official valuation of its land, he said. "(The valuation) must have two chops (official seals) and two forestry resource evaluation experts and two licensed evaluators... . Even I can't just go there and give it a value."

[...]

86. The June 19 article, titled "On the trail of the truth behind Sino-Forest," stated in part:

The deepening mystery surrounding Canadian timber company Sino-Forest Corp. leads to the regional capital of Kunming in China's Yunnan province and down Huashan West Road -- to an address that doesn't exist.

That address, No. 125 - 129 Huashan West Rd., is listed as the office of a forestry company that sold 1,600 hectares of timber in Yunnan province to a Sino-Forest subsidiary in March. But the odd-numbered side of Huashan West Road ends at 81.

Finding the buyer, the Sino-Forest subsidiary, proves almost as elusive. The office is in a white three-storey building with a green Sino-Panel sign on Bai Tai Road on the northern edge of Lincang, the administrative centre of the region's forestry industry. But it's empty.

The curious transactions totaling \$6-million and inked on March 7 between a Sino-Forest subsidiary with an empty office and a seller with no address highlight the bigger questions surrounding Sino-Forest's dealings in southern China. Trying to penetrate Sino-Forest's complicated business in Yunnan can be like trying to spot the sun through the thick forests of oak, birch, pine and other timber that carpet the mountains in this sprawling region along China's border with Myanmar.

[...]

Senior forestry bureaucrats also told The Globe and Mail that there's no official valuation of Sino-Forest's properties, since the company has never applied to have an evaluation conducted by the local government. The Yunnan Forestry Bureau has since launched an investigation into the company's claims.

[...]

Two weeks of travelling by car and plane to visit Sino-Forest offices, properties and partners in Yunnan, Hunan and Beijing -- and interviews with forestry officials, industry experts and local residents -- led to as many new questions as answers.

In the series of deals inked on March 7, the buyer was named as Sino-Panel (Yunnan) Forestry Co., the local affiliate of Sino-Forest, and the seller was listed as Yunnan Shunxuan Forestry Co. Ltd. of Huashan West Road.

No one on Huashan West Road recalls a forestry company ever having an office in the area. "If there was a company like this on Huashan West Road, I would know about it," said a member of the neighbourhood committee (a hyperlocal and usually omniscient arm of the ruling Communist Party) that is responsible for the street.

At the same time, neighbours say the office of Sino-Panel on Bai Tai Road sat empty until Thursday, June 2 -- hours before Muddy Waters released the report that rocked investor confidence in Sino-Forest and sent its share price spiralling downwards. Then a moving van arrived at the long-vacant building and began unloading desks, chairs, power bars and Internet cables. A week later, however, there was still no evidence of anyone working there, other than a squashed cigarette butt and a caulking gun that lay on the dirty tile floor amid the bare workstations.

"We wouldn't have noticed, but (on June 2) my car was blocking the moving van (and had to be moved). Before that, the building was empty," said Wu Jie, manager of the regional office of Fanhua Forestry Investments Development Co., which sits beside a massage parlour and an English training centre across the street from the deserted Sino-Panel building.

[...]

87. In the latter article, the *Globe* also discussed Sino's failure to disclose certain related party transactions.

88. On June 20, 2011, Muddy Waters released a follow-up report, "The Ties that Bind, Part 1: Huailhua Yuda," which provided further detail on Sino's undisclosed transactions with related parties Huailhua Yuda and Sonio Jita.

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89. When the market closed on June 20, 2011, Sino's shares traded at \$2.73 (a decline of 85% from June 1, 2011).

90. After the close of markets on June 20, 2011, it was revealed that certain entities affiliated with Paulson & Co., which had been Sino's largest shareholder, had sold all of its holdings and thereby realized a loss, on a mark-to-market basis, in excess of \$560-million. Only five days earlier, Horsley had sought to reassure investors, saying "I've spoken to [Paulson & Co.] and they are very supportive."

91. The next day, Sino shares closed at \$1.99 a decline of \$16.22 or 89% from their closing price on June 1, 2011.

92. On July 14, 2011, Fitch Ratings withdrew its ratings of Sino's debt securities, stating:

Fitch Ratings has withdrawn Sino-Forest Corporation's (Sino-Forest) Foreign Currency Issuer Default Rating and senior unsecured debt rating of 'BB-'. The ratings were on Negative Watch at the point of withdrawal. Fitch has withdrawn the ratings as it is unable to obtain sufficient information to maintain them.

[...]

~~Since placing Sino-Forest on Negative Watch on 20 June 2011, Fitch had~~
 requested from the company a more frequent and regular update of its offshore cash balances, as well as updates on management's progress/intentions with regard to the future onshore/offshore structure of the business. Fitch viewed this information as critical to monitoring the position of Sino-Forest offshore creditors, particularly given that under the current business structure offshore obligors are unable to directly access the company's onshore cash flows. *Management has informed Fitch that the company is unwilling to provide any further information* until the Committee of Independent Board Members — which was formed to investigate the allegations made by Muddy Waters LLC — publishes its findings. The company has not provided a date for the publication. *Fitch does not consider these actions commensurate with being able to maintain the rating for investors.*

Fitch will no longer provide ratings or analytical coverage of this issuer.
[Emphasis added.]

93. At the close of trading on August 25, 2011, Sino's shares traded at \$4.81 per share. Shortly prior to the commencement of trading on August 26, 2011, the OSC issued a cease-trade order in relation to Sino's securities, and also took the unprecedented step of ordering, without a hearing, that Chan and various other Sino officers resign.

94. In its order, the OSC stated that in part:

[...]

3. Albert Ip ("Ip") is the Senior Vice President Development and Operations North-East and South-West China of Sino-Forest;

4. Alfred C.T. Hung ("Hung") is Vice-President Corporate Planning and Banking of Sino-Forest;

5. George Ho ("Ho") is Vice-President Finance of Sino-Forest;

6. Simon Yeung ("Yeung") is Vice President - Operation within the Operation / Project Management group of Sino-Panel (Asia) Inc., a subsidiary of Sino-Forest ("Yeung");

7. Since 2003, Sino-Forest has raised approximately \$2.986 billion from public investment and/or debt securities issues including four public offerings between 2004 and 2009 which approximately raised \$1.05 billion;

8. Sino-Forest has over 150 subsidiaries, the majority of which are registered in the British Virgin Islands and Peoples Republic of China ("PRC");

9. Sino-Forest's operations are predominately in the PRC and its management has offices in Hong Kong primarily and also in the PRC and Ontario;

10. Staff of the Commission is conducting an investigation into the activities and business of Sino-Forest and its subsidiaries and their management;

11. The Independent Committee of Sino-Forest has also been conducting an investigation into the activities and business of Sino-Forest and its subsidiaries

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and their management. As a result, Sino-Forest has recently suspended Ho, Hung, and Yeung temporarily and curtailed Ip's duties and responsibilities.

12. Sino-Forest, through its subsidiaries, appears to have engaged in significant nonarm's length transactions which may have been contrary to Ontario securities laws and the public interest;

13. Sino-Forest and certain of its officers and directors appear to have misrepresented some of its revenue and/or exaggerated some of its timber holdings by providing information to the public in documents required to be filed or furnished under Ontario securities laws which may have been false or misleading in a material respect contrary to section 122 or 126.2 of the Act and contrary to the public interest;

14. Sino-Forest and certain of its officers and directors including Chan appear to be engaging or participating in acts, practices or a course of conduct related to its securities which it and/or they know or reasonably ought to know perpetuate a fraud on any person or company contrary to section 126.1 of the Act and contrary to the public interest...

95. Several hours later, the OSC rescinded its order that Chan and the other Sino officers referenced in the preceding paragraph resign, but maintained its cease-trade order.

96. On August 28, 2011, Sino announced that Chan had resigned "voluntarily" from the positions of Sino's CEO and Board Chairman and as a member of the Sino Board.

(6) the Plaintiff's causes of action

Negligent Misrepresentation

97. As against all Defendants, and on behalf of all Class Members, the Plaintiff pleads negligent misrepresentation. In support of that cause of action, the sole misrepresentation that the Plaintiff pleads is the Representation. The Plaintiff does not plead any other misrepresentation in support of their negligent misrepresentation claim.

98. The Representation is contained in the phrase "[e]xcept where otherwise indicated, all financial information reflected herein is determined on the basis of Canadian generally accepted accounting principles ("GAAP")." This phrase appears in the every annual and quarterly MD&A that is an Impugned Document. Sino and the Individual Defendants made this statement or caused it to be made.

99. The Representation is also contained in the phrase "[t]he consolidated financial statements of Sino-Forest Corporation (the "Company") have been prepared [...] in accordance with Canadian generally accepted accounting principles." This phrase appears in every Audited Annual Financial Statement that is an Impugned Document. Every Interim Financial Statement that is an Impugned Document incorporated by reference that section of the relevant Audited Annual Financial Statement which contained that phrase. Sino and the Individual Defendants made this statement, approved it or caused it to be made.

100. The Representation is also contained in the phrase "[t]he consolidated financial statements contained in this Annual Report have been prepared by management in accordance with Canadian generally accepted accounting principles." This phrase appears in every Audited Annual Financial Statement that is an Impugned Document. That statement was made by Sino, Chan and Horsley in the "Management's Report."

101. The Representation is contained in the phrase "[w]e prepare our financial statements in accordance with Canadian GAAP" found in the AIFs filed on March 31, 2009 and 2010. The Representation is also contained in the phrase "[p]rior to January 1, 2011, we have prepared our financial statements in accordance with Canadian GAAP" found in the AIF filed on March 31, 2011. The Impugned Documents that are Management Information Circulars incorporated the most recent AIF, Annual MD&A and Annual Financial Statements by reference and thus the Representation. Sino and the Individual Defendants made these statements, approved it, and caused them to be made.

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102. The Representation is further contained in the phrase "[t]he Corporation prepares its financial statements in accordance with Canadian GAAP" found in the Prospectuses. Sino and the Individual Defendants made this statement, approved it, and caused it to be made. The Representation is contained in the phrase "[I]n our opinion, these consolidated financial statements present fairly, in all material respects, the financial position of the Company as at December 31, [years vary between documents] and the results of its operations and its cash flows for the year[s] then ended in accordance with Canadian generally accepted accounting principles," made by E&Y in every Audited Annual Financial Statement that is an Impugned Document.

103. The Representation was untrue: the Impugned Documents violated GAAP by, among other things, overstating to a material degree Sino's revenues, net income and assets, failing to disclose changes in accounting policies, understating Sino's tax accruals, and failing to disclose related party transactions.

104. The Impugned Documents were prepared for the purpose of attracting investment and inducing members of the investing public to purchase Sino securities, and all of the Defendants knew at all material times that those documents had been prepared for that purpose, and that the Class Members would rely reasonably and to their detriment upon such documents in making the decision to purchase Sino securities.

105. The Defendants further knew that the information contained in the Impugned Documents would be incorporated into the price of Sino's publicly traded securities such that the trading price of those securities would at all times reflect the information contained in the Impugned Documents.

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106. By virtue of their purported accounting, financial, and managerial acumen, the Defendants had a duty at common law, informed by the Securities Legislation, to exercise care and diligence to ensure that the Impugned Documents fairly and accurately disclosed Sino's financial condition and performance in accordance with GAAP.

107. The Defendants or some of them breached that duty by making the Representation as particularized above.

108. The Plaintiff and the other Class Members directly or indirectly relied upon the Representation in making a decision to purchase the securities of Sino.

109. Alternatively, the Plaintiff and the other Class Members relied upon the Representation by the act of purchasing Sino securities in an efficient market that promptly incorporated into the price of those securities all publicly available material information regarding the securities of Sino. As a result, Sino's repeated publication of the Representation in the Impugned Documents caused the price of Sino's shares to trade at inflated prices during the Class Period, thus directly resulting in damage to the Plaintiff and Class Members.

Statutory Liability - Secondary Market

110. The Plaintiff intends to deliver a notice of motion seeking, among other things, an order granting leave to bring the statutory causes of action found in Part XXIII.1 of the *SSA*, against all Defendants.

Statutory Liability - Primary Market

111. As against Chan and Horsley who signed the June 2009 and December 2009 Prospectuses, and on behalf of those Class Members who purchased Sino shares in one of the distributions to which those Prospectuses related, the Plaintiff asserts the cause of action set forth in s. 137 of the *SSA*.

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112. Sino issued the June 2009 and December 2009 Prospectuses, which contained the Representation and the other misrepresentations that are alleged above to have been contained in those Prospectuses or in the Sino disclosure documents incorporated therein by reference.

Unjust Enrichment of Chan and Horsley

113. As a result of the Representation and the other misrepresentations particularized above, Sino's shares traded, and were sold by Chan and Horsley at artificially inflated prices during the Class Period.

114. Accordingly, Chan and Horsley were enriched by their wrongful acts and omissions during the Class Period, and the Class Members who purchased Sino shares from such Defendants suffered a corresponding deprivation.

115. There was no juristic reason for the resulting enrichment.

116. Accordingly, the Class Members who purchased Sino shares from Chan and Horsley during the Class Period are entitled to the difference between the price they paid to such Defendants for such shares, and the price that they would have paid had the Defendants not made the Representation and the other misrepresentations particularized above, and had not committed the wrongful acts and omissions particularized above.

Unjust Enrichment of Sino

117. Throughout the Class Period, Sino made the Offerings. Such Offerings were made via various documents, particularized above, that contained the Representation and the misrepresentations particularized above.

118. The securities sold by Sino via the Offerings were sold at artificially inflated prices as a result of the Representation and the others misrepresentations particularized above.

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119. Sino was enriched by, and those Class Members who purchased securities via the Offerings were deprived of, an amount equivalent to the difference between the amount for which the securities offered were actually sold, and the amount for which such securities would have been sold had the Offerings not included the Representation and the misrepresentations particularized above.

120. The Offerings violated Sino's disclosure obligations under the Securities Legislation and the various Instruments promulgated by the securities regulators of the Provinces in which such Offerings were made. There was no justiciable reason for the enrichment of Sino.

Oppression

121. In the circumstances alleged herein, the Plaintiff and the other Class Members had a reasonable and legitimate expectation that Sino and the Individual Defendants would use their powers to direct the company for Sino's best interests and, in turn, in the interests of its security holders. More specifically, the Plaintiff and the other Class Members had a reasonable expectation that:

- (a) Sino and the Individual Defendants would comply with GAAP, and cause Sino to comply with GAAP;
- (b) Sino and the Individual Defendants would take reasonable steps to ensure that the Class Members were made aware on a timely basis of material developments in Sino's business and affairs;
- (c) Sino and the Individual Defendants would implement adequate corporate governance procedures and internal controls to ensure that Sino disclosed material facts and material changes in the company's business and affairs on a timely basis;
- (d) Sino and the Individual Defendants would not make the misrepresentations particularized above;
- (e) Sino stock options would not be backdated or otherwise mispriced; and
- (f) the Individual Defendants would adhere to the Code.

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122. Such reasonable expectations were not met as:

- (a) Sino did not comply with GAAP;
- (b) the Class Members were not made aware on a timely basis of material developments in Sino's business and affairs;
- (c) Sino's corporate governance procedures and internal controls were inadequate;
- (d) the misrepresentations particularized above were made;
- (e) stock options were backdated and otherwise mispriced; and
- (f) the Individual Defendants did not adhere to the Code

123. Sino's and the Individual Defendants' conduct was oppressive and unfairly prejudicial to the Plaintiff and the other Class Members and unfairly disregarded their interests. These defendants were charged with the operation of Sino for the benefit of all of its shareholders. The value of the shareholders' investments was based on, among other things:

- (a) the profitability of Sino;
- (b) the integrity of Sino's management and its ability to run the company in the interests of all shareholders;
- (c) Sino's compliance with its disclosure obligations;
- (d) Sino's ongoing representation that its corporate governance procedures met with reasonable standards, and that the business of the company was subjected to reasonable scrutiny; and
- (e) Sino's ongoing representation that its affairs and financial reporting were being conducted in accordance with GAAP.

124. This oppressive conduct impaired the ability of the Plaintiff and other Class Members to make informed investment decisions about Sino's securities. But for that conduct, the Plaintiff and the other Class Members would not have suffered the damages alleged herein.

(6) general

125. The Plaintiff pleads and relies on:

- (a) *The Class Actions Act*, S.S. 2001, c. C-12.01, as amended;
- (b) *The Canada Business Corporations Act*, R.S. 1985, c. C-44, as am., including ss. 238 and 241;
- (c) *The Pre-Judgment Interest Act*, S.S. 1984-85-85, c. P.22.2, as am., including s. 5(1);
- (d) *The Securities Act*, S.S. 1988-89, c. S-42.2, as amended; and
- (d) *The Queen's Bench Rules*, including rules 388 and 394.

(7) relief sought

126. The Plaintiff therefore claims, on behalf of himself and the Class:

- (a) an order that Sino's affairs have been conducted in a manner that is oppressive, unfairly prejudicial to and which unfairly disregards the interests of Class Members, within the meaning of s. 241;
- (b) aggravated and compensatory damages against the Defendants in an amount to be determined at trial;
- (c) punitive damages against the Defendants;
- (d) prejudgment interest;
- (e) costs including the costs of notice and of administering the plan of distribution of the recovery in this action plus applicable taxes; and
- (f) such further and other relief as this Honourable Court deems just.

DATED at Regina, Saskatchewan, on the 1st day of December, 2011.

Delivered By:


MERCHANT LAW GROUP LLP,

Address for Service:

100-2401 Saskatchewan Drive
Regina, Saskatchewan
S4P 4H8,

Lawyer in Charge:

E. F. Anthony Merchant, Q.C.
Tel: (306) 359-7777
Fax: (306) 522-3299,
Counsel for the Plaintiffs.

H:\Wpdtn\Clerk\Aclton\Shir Perestis of Qwpd

TAB D

This is Exhibit "D" to the
Affidavit of Cosimo Borelli
Sworn before me on 26 April 2015



A Commissioner, etc.

LI SIU FUNG
NOTARY PUBLIC
HONG KONG SAR
Unit 1303, 13/F.,
Tower 1, Admiralty Centre,
18 Harcourt Road,
Hong Kong.

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

DAVID LEAPARD and IMF FINANCE SA on their
own behalf and on behalf of all others similarly situated,)

Plaintiffs,)

v.)

ALLEN T.Y. CHAN, DAVID J. HORSLEY, KAI KIT
POON, BANC OF AMERICA SECURITIES LLC,
CREDIT SUISSE SECURITIES (USA) LLC, SINO-
FOREST CORPORATION, ERNST & YOUNG
GLOBAL LIMITED, and ERNST & YOUNG LLP,)

Defendants.)

INDEX NO.

**VERIFIED CLASS ACTION
COMPLAINT**

JURY TRIAL DEMANDED

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Plaintiffs, David Leopard and IMF Finance SA, on behalf of themselves and all others similarly situated (the “Class” or “Class Members”), allege the following upon personal knowledge as to themselves and their own acts and upon information and belief as to all other matters. Plaintiffs’ information and belief is based on the investigation of counsel including, inter alia, review and analysis of (i) government and regulatory documents relating to Defendant Sino-Forest Corporation (“Sino-Forest” or the “Company”); (ii) press releases, Company filings and other public statements by Sino-Forest; (iii) reports of securities analysts; and (iv) other publicly available materials. Many of the facts related to Plaintiffs’ allegations are known only to Defendants or are exclusively within their custody or control. Plaintiffs believe that substantial additional evidentiary support for the allegations set forth below will be developed after reasonable opportunity for discovery.

I. INTRODUCTION

1. Plaintiffs bring this class action on behalf of (i) all persons or entities who, from March 19, 2007 through August 26, 2011 (the “Class Period”) purchased the common stock of Sino-Forest on the Over-the-Counter (“OTC”) market and who were damaged thereby; and (ii) all persons or entities who, during the Class Period, purchased debt securities issued by Sino-Forest other than in Canada and who were damaged thereby.

2. Sino-Forest is a Canadian company engaged in the commercial forest plantation business whose principal operations are in the People’s Republic of China (“PRC” or “China”). Among Sino-Forest’s businesses are the ownership and management of forest plantation trees, sales of standing timber and wood logs, and the manufacture of related wood products. Substantially all of the Company’s sales for 2008, 2009 and 2010 were supposedly generated in the PRC. The Company maintains offices in Toronto, Hong Kong and the PRC. Its common

stock is registered in Canada and trades on the Toronto Stock Exchange, and also trades in the United States on the OTC market. Sino-forest's debt securities are also traded in the open market.

3. Sino-Forest portrayed itself as one of the world's largest and most successful forestry companies. According to the Company's Annual Information Form for the year ended December 31, 2010 (the "2010 Annual Form") Sino-Forest "had approximately 788,700 hectares of forest plantations under management which are located primarily in southern and eastern China." Between 2006 and 2010, Sino-Forest's assets (primarily plantation acreage) purportedly grew nearly five-fold from approximately \$1.2 billion to over \$5.7 billion, while revenues grew from \$555 million to \$1.9 billion and net income more than tripled from \$113 million to \$395 million as reflected in the Company's financial statements¹. From 2007 through 2010, the Company's financial statements were audited by Defendant Ernst & Young LLP which certified they had been prepared in accordance with Canadian Generally Accepted Accounting Principles ("Canadian GAAP") and that the audit had been conducted in conformance with Canadian Generally Accepted Auditing Standards ("Canadian GAAS").

4. Sino-Forest's tremendous growth was ostensibly fueled by increasingly large acquisitions of valuable tree plantations and revenues generated from operations relating to that business. In addition, the Company's escalating growth allowed it to raise enormous sums of capital from investors around the world through the sale of debt securities and common stock, including the sale of \$600 million in notes which occurred in October 2010 (the "Note Offering") that will come due in 2017 (the "2017 Notes"). The Note Offering was underwritten

¹ Except where otherwise indicated, all amounts in this Complaint are in U.S. dollars.

by Defendants Banc of America Securities LLC and Credit Suisse Securities (USA) LLC. In total, the Company issued *over \$1.8 billion* in debt instruments during the Class Period.

5. However, in stark contrast to the investing public's perception of an enormously successful forestry business in the fast growing PRC market, Sino-Forest was, in fact, materially misleading both investors and regulators. Sino-Forest's assets, revenues and income were all materially overstated. In addition, the Company's financial statements and other disclosures were materially misleading because they failed to disclose that many of Sino-Forest's significant business transactions were with unknown or related parties. Further, Sino-Forest had misrepresented and failed to disclose the true terms of certain agreements it had entered into in the PRC for the acquisition of plantation acreage, vastly overstating the amount of timber it had acquired during the Class Period. In many instances, no documentation or inadequate documentation existed to support Sino-Forest's timber holdings and related assets and the valuations attributed to those properties on Sino-Forest's financial statements. Sino-Forest failed to disclose that the Company lacked adequate internal controls to substantiate its financial performance or verify its assets and contractual relationships; that its operations were permeated by unsubstantiated and undisclosed related party transactions; and that its financial statements were misleading and not prepared in accordance with the applicable accounting standards.

6. Information regarding Sino-Forest's fraud first came to light on June 2, 2011, when Muddy Waters, a firm that specializes in analyzing Chinese companies whose stock trades in the U.S. and Canada, published a detailed report alleging improper and illegal conduct at the Company. Over the ensuing weeks, there was a flurry of articles, investigations, and news reports about the Company's misconduct, as well as denials by the Company of the allegations published by Muddy Waters. On June 18, 2011, *The Globe and Mail* reported on its own

investigation regarding some of the allegations against Sino-Forest, finding that there were “doubts about the company’s public statements regarding the value of [its] assets” and “broader questions about its business practices.”

7. Ultimately, in late August 2011, the Ontario Stock Commission (“OSC”) confirmed that there was evidence of fraud at Sino-Forest and ordered a halt in trading of Sino-Forest’s common stock on the Toronto Stock Exchange, effective August 26th. Reportedly, the OSC accused Sino-Forest of “fraudulently inflating its revenues and exaggerating the extent of its timber holdings.” The OSC also noted that the Company had “engaged in significant non-arms-length transactions.” Similarly, trading of Sino-Forest common stock was halted in the U.S. on the OTC Bulletin Board. Two days later it was reported that the Company’s CEO, Defendant Chan, had resigned; that three of the Company’s vice-presidents were placed on leave; and that another senior vice-president was relieved of most of his duties. Sino-Forest has since not filed any required periodic reports or issued financial statements for the third quarter of 2011. On November 11, 2011, the Company announced that it was also the subject of a criminal investigation by the Royal Canadian Mounted Police with respect to the allegations surrounding its business and finances. Sino-Forest has failed to make the most recent payments due on its outstanding debt, been forced to seek waivers of default from its debt holders and has now belatedly advised the investing public that its historical financial statements and audit reports should not be relied upon.

8. The disclosures relating to Defendants’ misconduct caused the trading prices of the Company’s stock and its debt securities to decline dramatically, thereby damaging Class Members. Sino-Forest’s common stock, which traded as high as \$26.64, last traded at \$1.38

before trading was halted in the U.S. Moreover, Sino-Forest's debt securities are now priced at a fraction of their original value.

9. The Individual Defendants earned millions of dollars in compensation because of Sino-Forest's artificially inflated stock price. Moreover, their misleading portrayal of the Company's finances allowed Sino-Forest to raise billions of dollars by issuing debt and equity securities to investors. This was critical to the Company's survival since the Company had a negative cash flow -- it was spending more money than it was taking in -- yet was spending enormous sums purportedly to purchase new assets. Sino-Forest's inflated stock price also allowed it to use its shares as currency to acquire other companies and assets.

10. It was only because of Defendants' concealment of Sino-Forest's true financial condition that the Company was able to complete the \$600 million Note Offering in October 2010. Investors would not have purchased these notes or would not have purchased them at the prices they did, if the truth about Sino-Forest had been known.

11. Thus, during the Class Period, Defendants, acting in concert with others, made materially false statements and misleading statements and omitted material facts about the true financial condition and business operations of Sino-Forest, causing the prices of Sino-Forest's common stock and Debt Securities to be artificially inflated during the Class Period. With respect to the claims asserted against the Banc of America Securities LLC, Credit Suisse Securities (USA) LLC, Ernst & Young Global Limited, and Ernst & Young LLP, which are based on negligence, negligent misrepresentation, gross negligence and breach of fiduciary duty, Plaintiffs specifically disclaim any allegations of fraud or fraudulent intent.

II. PARTIES

A. Plaintiffs

12. Plaintiff **David Leopard** is a resident of South Carolina and purchased the common stock of Sino-Forest during the Class Period in the OTC market and suffered damages when the price of those shares declined as a result of Defendants' misconduct.

13. Plaintiff **IMF Finance SA** ("IMF") is an entity with offices in the British Virgin Islands and purchased 2017 Notes pursuant to the October 2010 Note Offering and suffered damages when the price of the 2017 Notes declined as a result of Defendants' misconduct. Plaintiff IMF asserts claims on behalf of purchasers of Sino-Forest debt securities including purchasers of the 2017 Notes.

B. Defendants

14. Defendant **Sino-Forest** purports to be a commercial forest plantation operator, principally in the PRC but with additional operations in other locations. At all material times, Sino-Forest had its registered office located in Mississauga, Ontario and its common stock traded on the OTC market in the United States using the symbol "SNOFF." As a reporting issuer in Ontario, Canada, Sino-Forest was required to file certain periodic reports regarding its business and operations, including audited financial statements, which were made available to investors. Sino-Forest's common stock and various debt instruments are traded in Canada, the United States and elsewhere.

15. Sino-Forest derives substantial revenue from interstate or international commerce.

16. Defendant **Allen T. Y. Chan** is a co-founder of Sino-Forest and was the Chairman, Chief Executive Officer and a director of the Company from 1994 until his recent resignation in the wake of the disclosure of the misconduct described in this Complaint. As

Sino-Forest's CEO, Chan certified the accuracy of the Company's securities filings, including its financial statements, during the Class Period. Chan signed each of the Company's Annual Consolidated Financial Statements issued from 2006 through 2010. Chan is a resident of Hong Kong and, on information and belief, is a citizen of the PRC.

17. During the Class Period, Chan received substantial compensation from the Company. For example, for 2008 to 2010, Chan's total compensation was, respectively, \$5.0 million, \$7.6 million, and \$9.3 million. In addition, during the Class Period, while in possession of material adverse information regarding the business and finances of Sino-Forest, Chan sold nearly \$3 million worth of Sino-Forest common stock to unsuspecting investors.

18. As of May 1, 1995, shortly after Sino-Forest became a reporting issuer, Chan held 18.3% of Sino-Forest's outstanding common shares and 37.5% of its preference shares. As of April 29, 2011, he held 2.7% of Sino-Forest's common shares.

19. Defendant **David J. Horsley** has been Sino-Forest's Chief Financial Officer ("CFO"), since October 2005. In his position as Sino-Forest's CFO, Horsley was responsible for the Company's accounting, internal controls and financial reporting, including the preparation of the Company's financial statements. Horsley signed and certified the Company's disclosure documents during the Class Period. Horsley resides in Ontario.

20. During the Class Period, Horsley received substantial compensation from Sino-Forest. For 2008 to 2010, Horsley's total compensation was, respectively, \$1.7 million, \$2.5 million, and \$3.1 million. During the Class Period, while in possession of material adverse information concerning the business and finances of Sino-Forest, Horsley sold almost \$11 million worth of shares of Sino-Forest common stock.

21. Defendant **Kai Kit Poon** is a co-founder of Sino-Forest, a member of its Board of Directors and has been President of the Company since 1994. Poon resides in Hong Kong and, on information and belief, is a citizen of the PRC. During the Class Period, while in possession of material adverse information concerning the business and finances of Sino-Forest, Poon sold almost \$30 million worth of shares of Sino-Forest common stock.

22. Defendants Chan, Horsley and Poon are collectively referred to as the **Individual Defendants**. The Individual Defendants and Sino-Forest are collectively referred to as the **Sino-Forest Defendants**.

23. Defendant **Banc of America Securities LLC** (“BOA”) is a financial services company which, using the name “BofA Merrill Lynch,” acted as one of two “Joint Global Coordinators and Lead Bookrunning Managers” for the Offering. In this capacity, BOA acted as an underwriter for the Offering. BOA operates in and has its principal place of business in New York County, New York. Defendant BOA and Defendant Credit Suisse Securities (USA) LLC are collectively referred to as the **Underwriter Defendants**. This Complaint seeks damages on behalf of the purchasers of the 2017 Notes against any and all Bank of America entities that may be liable for the misconduct described herein.

24. Defendant **Credit Suisse Securities (USA) LLC** (“Credit Suisse”) is a financial services company which acted as one of two “Joint Global Coordinators and Lead Bookrunning Managers” for the Note Offering. In this capacity, Credit Suisse acted as an underwriter for this offering. Credit Suisse operates in and has offices in New York County, New York. This Complaint seeks damages on behalf of the purchasers of the 2017 Notes against any and all Credit Suisse entities that may be liable for the misconduct described herein.

25. BOA and Credit Suisse are collectively referred to as the **Underwriter Defendants**. The Underwriter Defendants who are located in New York, NY, offered and sold the 2017 Notes pursuant to a materially false and misleading Offering Memorandum dated October 14, 2010 (the “Offering Memorandum”) to certain Class Members in the United States who purportedly satisfied the requirements to be considered a “qualified institutional buyer” pursuant to Rule 144 of the U.S. Securities and Exchange Commission (“SEC”). The Underwriter Defendants also sold certain notes in the offering to foreign investors relying on the exemption set forth in SEC Regulation S.

26. Defendant **Ernst & Young Global Limited** is a UK private company limited by guarantee which operates worldwide and which, through affiliated entities, provides audit, accounting and other services. Defendant **Ernst & Young LLP**, a part of Ernst & Young Global Limited, has offices in Toronto, Canada, has been Sino-Forest’s auditor since August 13, 2007 and was also Sino-Forest’s auditor from 2000 to 2004. This Complaint seeks damages against any and all Ernst & Young entities that may be liable for the misconduct described herein.

27. Ernst & Young Global Limited and Ernst & Young LLP are collectively referred to as “**E&Y**” or as “**the E&Y Defendants**.” E&Y does business in New York.

28. For Sino-Forest’s 2007 through 2010 fiscal years, E&Y provided an “Auditor’s Report” addressed directly to Sino-Forest’s shareholders, which gave the Company a “clean” audit opinion on its financial statements. At all material times, E&Y knew that its audit opinion was directed to Sino-Forest’s shareholders, prospective shareholders and prospective purchasers of Sino-forest’s securities, and that investors would and did rely on E&Y’s statements relating to Sino-Forest in making their investment decisions. E&Y’s opinion informed the Company’s investors and the purchasers of its securities that, based on its audit, Sino-Forest’s financial

statements were presented in accordance with Canadian GAAP and that it had performed its audit in accordance with applicable auditing standards. E&Y's audit opinion was materially false and misleading and was recklessly or negligently issued to investors, including Plaintiffs and Class Members.

29. The Individual Defendants, as the most senior officers of Sino-Forest, are liable to Plaintiffs and the Class because they knew of, directed and participated in the misconduct described in this Complaint and also assisted and conspired with others involved in the misconduct. Sino-Forest is liable for the misconduct of its employees and agents. Furthermore, the representations made in the financial statements and in the Offering Memorandum were materially inaccurate and inconsistent with the truth such that their falsity would have been discovered with minimal due diligence. Nevertheless, despite the obviously false and misleading nature of these statements, E&Y and the Underwriter Defendants recklessly or negligently facilitated the improper conduct of Sino-Forest and the Individual Defendants; E&Y by certifying the Company's financial statements; and the Underwriter Defendants by failing to perform adequate due diligence and disseminating the misleading Offering Memorandum to investors.

C. Jurisdiction and Venue

30. The Court possesses jurisdiction over this action pursuant to NYCPLR §§ 301 and 302(a).

31. This court has jurisdiction, and venue is proper because, in connection with the Note Offering, Sino-Forest "... irrevocably and unconditionally submits to the non-exclusive jurisdiction of any New York State or United States Federal court sitting in the Borough of Manhattan, New York City over any suit, action or proceeding arising out of or relating to this

Indenture, any Note or any Subsidiary Guarantee.” In addition, the Indenture provides that “[a]s long as any of the Notes remain Outstanding, the Company and each of the Subsidiary Guarantors will at all times have an authorized agent in New York City, upon whom process may be served in any legal action or proceeding arising out of or relating to this Indenture, any Note or any Subsidiary Guarantee.” Finally, as contemplated by the Indenture, “[e]ach of the Notes, the Subsidiary Guarantees and the Indenture shall be governed by, and construed in accordance with, the laws of the State of New York.”

32. In addition, the Underwriter Defendants are located in New York and all Defendants do substantial business in New York. All Defendants participated in certain transactions and activities in New York relating to the Note Offering. Also, purchases and sales of Sino-Forest common stock occurred on the OTC market in the United States, including New York. Moreover, the trustee for the 2017 Notes is the Law Debenture Trust Company of New York which is located at 400 Madison Avenue, Suite 4D, New York, New York 10017.

III. BACKGROUND

33. Although ostensibly a forestry company, Sino-Forest’s purported business was, in many respects, more that of a trader or financial intermediary than of a traditional forestry company. The Company seldom sold wood products to end-user customers. Instead, it claimed that most of its earnings came from buying logs and buying the right to harvest trees and then reselling these logs and rights to harvest trees at higher prices.

34. Sino-Forest’s corporate structure is a complex web of dozens of interconnected Canadian, Chinese, Hong Kong, Cayman Islands and British Virgin Islands subsidiaries, most of which are wholly-owned or in which the Company has a majority interest. Sino-Forest’s most

recently released corporate organizational chart, attached as Exhibit A, illustrates in part, the complexity.

35. One specific example of this complexity is Sino-Forest's relationship with one of its most important subsidiaries, Greenheart Group Ltd. ("Greenheart"). Sino-Forest's 64 percent interest in Greenheart was acquired using shares of Company stock. Greenheart trades on the Hong Kong Stock Exchange. Greenheart controls most of Sino-Forest's supposedly substantial forestry assets outside of China. But, Sino-Forest also holds a 39.6 percent stake in Greenheart Resources Holdings Ltd. ("GRH"), a subsidiary of Greenheart. GRH, in turn, indirectly owns 100 percent of Greenheart's forest assets and operations in the western part of Suriname, supposedly one of Sino-Forest's principal timber holdings.

36. Sino-Forest's business model is further complicated by the fact that much of its business is done through what it describes as "Authorized Intermediaries" ("AIs"), supposedly independent companies which are largely responsible for the actual sale of forestry products to the users of these products. Despite the critical role that these Authorized Intermediaries play in its business, little is known of the financial relationships with these AIs and Sino-Forest has, with one exception, refused to disclose the identity of these companies.

37. Because Sino-Forest principally operates in China, Sino-Forest's convoluted structure and business practices did not initially arouse investor suspicions. Because of the unusual aspects of doing business in China, which tightly regulates foreign investment, a number of legitimate foreign companies who operate in that country have unusually complex structures. But, unbeknownst to investors, there was little or no business justification for the way Sino-Forest structured itself and its operations. Sino-Forest's structure was not meant to facilitate

compliance with Chinese law, but to make it easier for Defendants to materially mislead investors about the Company's, operations, revenue, earnings and assets.

38. Investors were further assured of the legitimacy of Sino-Forest's finances and operations because of annually issued clean audit opinions from E&Y and by the due diligence purportedly conducted by BOA and Credit Suisse in connection with the Company's offering of the 2017 Notes.

39. The purported steady and impressive growth of Sino-Forest helped fuel a series of capital raising activities by the Company. By making the Company appear to be on a much more economically sound footing than was actually the case, Sino-Forest was able to raise the funds it needed to finance its rapid expansion. Because the Company's cash flow did not cover its operating expenses, the Company would not have been able to continue to operate absent cash infusions from debt and equity investors.

40. During the Class Period, Sino-Forest conducted numerous debt and equity offerings, issuing over \$1.8 billion in debt securities to investors and also sold investors hundreds of millions of dollars of common stock. Specifically, the following securities were issued to investors:

- On July 17, 2008, the Company closed an offering of convertible guaranteed senior notes (the "2013 Convertible Notes") for gross proceeds of \$300,000,000. On August 6, 2008, the Company issued an additional \$45,000,000 of 2013 Convertible Notes pursuant to the exercise of an over-allotment option granted to the underwriters in connection with the offering, increasing the gross proceeds to \$345,000,000.

- On June 24, 2009, the Company offered to eligible holders of outstanding Senior Notes due in 2011 (the “2011 Senior Notes”) to exchange these notes for up to \$300,000,000 of new guaranteed senior notes due 2014 (the “2014 Senior Notes”). On July 27, 2009, the Company completed this exchange offer, issuing an aggregate principal amount of \$212,330,000 of 2014 Senior Notes, representing approximately 70.8% of the aggregate principal amount of the 2011 Senior Notes.
- In June 2009, the Company completed a public offering and international private placement of 34,500,000 common shares (including 4,500,000 common shares issued upon the exercise of the underwriters’ over-allotment option) for gross proceeds of approximately \$339,810,000.
- On December 17, 2009, the Company closed an offering of convertible guaranteed senior notes (the “2016 Convertible Notes”) for gross proceeds of \$460,000,000.
- In December 2009, the Company completed a public offering of 21,850,000 common shares (including an over-allotment exercise) for gross proceeds of approximately \$345,318,000.
- In May 2010, Sino-Forest issued 1,990,566 shares of common stock as a \$33.3 million payment to acquire 34% of Greenheart Resources.
- In August 2010, the Company issued \$2.3 million shares of common stock in partial payment of its acquisition of Mandra Forestry Holdings Limited, a company which supposedly owned the rights to technology relevant to the Company’s business. In connection with this acquisition of Mandra, the

Company also exchanged nearly \$195 million of Mandra notes for Sino-Forest notes—the Sino-Forest notes had a longer duration and lower interest rate than the Mandra notes for which they were exchanged.

- On October 21, 2010, the Company completed the \$600,000,000 Note Offering of the 2017 Notes.

41. Thus, during the Class Period, while Defendants were issuing materially false and misleading financial statements and other reports to investors, Sino-Forest was taking advantage of the illusory growth portrayed to investors through these large debt and equity offerings, which in less than three years, cumulatively totaled over \$2.5 billion.

IV. FALSE AND MISLEADING STATEMENTS

42. During the Class Period, Defendants made numerous statements that were materially false and misleading and which had the effect of artificially inflating the value of Sino-Forest's securities. These false statements were contained in the Company's public filings, press releases, reports and other statements to the investing public. In general, during the Class Period, the Company reported steadily increasing holdings of timber assets (mostly in the PRC) achieved through acquisitions and purchases, and increasing revenues and earnings, all of which contributed to the Company's rising stock price and its ability to issue additional debt and equity securities to investors.

A. Misrepresentations and Omissions With Respect to Sino-Forest's Financial Statements

43. Sino-Forest's financial statements, which it published to investors on a quarterly and annual basis via press releases and public filings, consistently portrayed Sino-Forest as a profitable and rapidly expanding company. As set forth in Sino-Forest's 2006 Annual

Consolidated Financial Statements, dated March 19, 2007; its 2007 Annual Consolidated Financial Statements dated March 18, 2008; its 2008 Annual Consolidated Financial Statements dated March 16, 2009; its 2009 Annual Consolidated Financial Statements dated March 16, 2010; and its 2010 Annual Consolidated Financial Statements dated March 15, 2011, the Company's revenue, earnings and assets supposedly grew during the Class Period as follows:

	2006	2007	2008	2009	2010
Assets	\$1,207,255,000	\$1,837,497,000	\$2,603,924,000	\$3,963,899,000	\$5,729,033,000
Revenue	\$555,480,000	\$713,866,000	\$896,045,000	\$1,238,185,000	\$1,923,536,000
Net Income	\$113,480,000	\$152,273,000	\$228,593,000	\$286,370,000	\$395,426,000

44. Each of the annual financial statements, except for the 2006 statements, were accompanied by an audit opinion from E&Y stating that E&Y had conducted annual audits in accordance with Canadian GAAS and that these financial statements were presented in accordance with Canadian GAAP. Defendant Chan signed each annual financial statement.

45. The Company also issued materially false and misleading unaudited "Interim Financial Statements," during the Class Period, which incorporated prior period audited financial statements and similarly overstated the Company's revenue, earnings and assets. The Company's materially false and misleading quarterly financial statements (through 2010) which, like the annual financial statements, showed increasing revenue, earnings and assets, were released on the following dates:

Document	Date of Filing
2007 Q-1 Interim Financial Statements	5/14/2007
2007 Q-2 Interim Financial Statements	8/13/2007
2007 Q-3 Interim Financial Statements	11/12/2007
2008 Q-1 Interim Financial Statements	5/13/2008
2008 Q-2 Interim Financial Statements	8/12/2008
2008 Q-3 Interim Financial Statements	11/13/2008

Document	Date of Filing
2009 Q-1 Interim Financial Statements	5/11/2009
2009 Q-2 Interim Financial Statements	8/10/2009
2009 Q-3 Interim Financial Statements	11/12/2009
2010 Q-1 Interim Financial Statements	5/12/2010
2010 Q-2 Interim Financial Statements	8/10/2010
2010 Q-3 Interim Financial Statements	11/10/2010

46. Sino-Forest's quarterly and annual financial statements (through December 31, 2010) were materially false and misleading because they failed to comply with Canadian GAAP. Specifically, at the time each of these financial statements was issued, they overstated the Company's assets, inflated the reported revenue and earnings and misled investors regarding the Company's then current financial situation and its future prospects. Because, among other things, the Company lacked adequate internal controls to substantiate its financial performance, and its operations were permeated by unsubstantiated and undisclosed related party transactions, these financial statements were not prepared in accordance with the applicable accounting standards. Sino-Forest's quarterly financial statements for the first two quarters of fiscal year 2011 also overstated the Company's assets, revenues and net earnings at the time they were issued and were not presented in accordance with the applicable Canadian accounting standards.

B. Other Misrepresentations and Omissions In Annual And Quarterly Filings

47. In addition to filing false and misleading financial statements, the Company also made numerous other false and misleading statements to investors in other periodic securities filings made pursuant to Canadian disclosure regulations. During the Class Period, the Sino-Forest Defendants repeatedly made statements in Sino-Forest's periodic filings that falsely and misleadingly described the Company as a fast-growing, legitimate business which followed good corporate governance practices.

48. The Company's periodic reports to investors included (in addition to the separately filed financial statements) a "Management Discussion and Analysis" ("MD&A") that Sino-Forest filed each quarter during the Class Period, "Annual Information Forms" ("AIFs") and annual reports. These documents provided narrative explanations of the Company's business, operations and financial performance for the specific period, and of the Company's financial condition and future prospects. Canadian law specifically requires that the MD&A discuss important trends and risks that have affected the Company and that are reasonably likely to affect it in future. The dates of these false and misleading statements are set out in the table below.

Document	Date of Filing
2006 MD&A	3/19/2007
2006 AIF	3/30/2007
2006 Annual Report	5/4/2007
2007 Q-1 MD&A	5/14/2007
2007 Q-2 MD&A	8/13/2007
2007 Q-3 MD&A	11/12/2007
2007 MD&A	3/18/2008
2007 AIF	3/28/2008
2007 Annual Report	5/6/2008
2008 Q-1 MD&A	5/13/2008
2008 Q-2 MD&A	8/12/2008
2008 Q-3 MD&A	11/13/2008
2008 MD&A	3/16/2009
2008 AIF	3/31/2009
2008 Annual Report	5/4/2009
2009 Q-1 MD&A	5/11/2009
2009 Q-2 MD&A	8/10/2009
2009 Q-3 MD&A	11/12/2009
2009 MD&A	3/16/2010

Document	Date of Filing
2009 AIF	3/31/2010
2009 Annual Report	5/11/2010
2010 Q-1 MD&A	5/12/2010
2010 Q-2 MD&A	8/10/2010
2010 Q-3 MD&A	11/10/2010
2010 MD&A	3/15/2011
2010 AIF	3/31/2011
2010 Annual Report	5/10/2011

49. Thus, beginning at least as early as March 19, 2007, the Company's MD&A and annual filings were materially false and misleading with respect to the Company's operations and financial performance because they described the Company as a fast-growing, legitimate business which followed good corporate governance practices, while failing to disclose that the Company lacked adequate internal controls to substantiate its financial performance or verify its assets and contractual business relationships, that its operations were permeated by unsubstantiated and undisclosed related party transactions and that the Company's actual financial condition and future prospects were much worse than these public statements indicated.

C. False Certifications

50. Each annual financial statement, AIF and MD&A filing was accompanied by separate certifications signed by Chan and Horsley which asserted the following:

1. Review: I have reviewed the AIF, if any, annual financial statements and annual MD&A, including, for greater certainty, all documents and information that are incorporated by reference in the AIF (together, the "annual filings") of Sino-Forest Corporation (the "issuer") for the financial year ended December 31...
2. No misrepresentations: Based on my knowledge, having exercised reasonable diligence, the annual filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement

not misleading in light of the circumstances under which it was made, for the period covered by the annual filings.

3. Fair presentation: Based on my knowledge, having exercised reasonable diligence, the annual financial statements together with the other financial information included in the annual filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer, as of the date of and for the periods presented in the annual filings.

51. Similarly, each of the quarterly interim financial statements and quarterly MD&As were accompanied by separate certifications signed by Chan and Horsley which also asserted the following:

1. Review: I have reviewed the interim financial report and interim MD&A (together, the “interim filings”) of Sino-Forest Corporation (the “issuer”) for the interim period ended....

2. No misrepresentations: Based on my knowledge, having exercised reasonable diligence, the interim filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the interim filings.

3. Fair presentation: Based on my knowledge, having exercised reasonable diligence, the interim financial report together with the other financial information included in the interim filings fairly present in all material respects the financial condition, financial performance and cash flows of the issuer, as of the date of and for the periods presented in the interim filings.

52. However, these publicly filed certifications were materially false and misleading because the Company’s quarterly and annual financial statements overstated its assets, revenues and earnings, and the narrative statements were materially false and misleading. These statements failed to disclose that the Company lacked adequate internal controls to substantiate its financial performance or verify its assets and contractual business relationships, that the Company and its operations were permeated by unsubstantiated and undisclosed related party

transactions, and that the document being certified contained materially false and misleading information which materially overstated the Company's current financial situation and its future prospects.

D. Misrepresentations and Omissions Relating To Yunnan Forestry Assets

53. On March 23, 2007 Sino-Forest issued a press release announcing that it had entered into an agreement to sell 26 million shares to several institutional investors for gross proceeds of \$200 million and that the proceeds would be used for the acquisition of standing timber including, pursuant to a new agreement, the purchase of standing timber in China's Yunnan Province. The press release further stated that Sino-Forest-Panel (Asia) Inc. ("Sino-Forest-Panel"), a wholly-owned subsidiary of Sino-Forest, had entered into (on that same day) an agreement with Gengma Dai and Wa Tribes Autonomous Region Forestry Company Ltd., ("Gengma Forestry") in Lincang City, Yunnan Province in the PRC. Under that Agreement, Sino-Forest-Panel would acquire approximately 200,000 hectares of non-state owned commercial standing timber in Lincang City and surrounding cities in Yunnan for \$700 million to \$1.4 billion over a 10-year period.

54. Similar representations regarding the acquisition of these assets were also made in Sino-Forest's Q1 2007 MD&A. Moreover, throughout the Class Period, Sino-Forest discussed its purported Yunnan acquisitions in other filings and public statements. In the Company's 2010 AIF, filed on March 31, 2010, the Company asserted that "[a]s of December 31, 2010, we have acquired approximately 190,300 hectares of plantation trees for US\$925.9 million under the terms of the master agreement" which had been entered into in March 2007. It made a similar statement in its 2010 annual report, which was filed on May 10, 2011.

55. However, as subsequently disclosed, Sino-Forest's and Defendants' statements concerning the acquisition of assets in Yunnan Province were materially false and misleading because, among other reasons, Sino-Forest had acquired the rights to far less timber than the Company had claimed and/or the value attributed to the timber assets purportedly owned by Sino-Forest was materially overstated. As a result, the Company's representations relating to its financial results and business were materially misleading as Defendants failed to disclose the true amount of timber acquired from Gengma Forestry, thereby overstating the assets carried on the balance sheet.

E. Misrepresentations and Omissions Relating to the Offering of 2017 Notes

56. On October 14, 2010, Sino-Forest, through the Underwriter Defendants, offered and sold the 2017 Notes. The Underwriter Defendants served as Joint Global Coordinators and Lead Bookrunning Managers. The 2017 Notes were purportedly exempt from registration under the U.S. Securities Act because they were offered, pursuant to SEC Rule 144A, to qualified institutional buyers (including those in the U.S.), and in offshore transactions to investors other than U.S. persons under SEC Regulation S.

57. The 2017 Notes were sold pursuant to the Offering Memorandum, which was materially false and misleading as described below, and which was prepared by the Sino-Forest Defendants and the Underwriter Defendants. The Offering Memorandum specifically incorporates by reference Sino-Forest's misleading 2007, 2008 and 2009 annual financial statements, its unaudited interim financial statements for the six months ended June 30, 2009 and June 30, 2010, and Defendant E&Y's audit reports dated March 13, 2009 and March 16, 2010 (with E&Y's consent). The Offering Memorandum states that the documents incorporated by reference "form [an] integral part of [the] Offering Memorandum."

58. As underwriters of the Note Offering, the Underwriter Defendants had a duty to investors to conduct an adequate due diligence with respect to the representations in the Offering Memorandum. The Underwriter Defendants were reckless or negligent in performing due diligence on the Note Offering by failing, among other things, to determine the legitimacy of the multiple related party transactions at the Company or to ascertain the true value of the assets, properties and business of Sino-Forest, resulting in the issuance of a materially false and misleading Offering Memorandum.

59. The Offering Document was signed by the Underwriter Defendants and contained both Sino-Forest's misleading financial statements and the misleading narrative description of the Company and its future prospects, including the portrayal of the Company as a fast-growing, legitimate business which followed good corporate governance practices with positive future prospects for growth. In particular, the Offering Memorandum cited the Company's competitive strengths including, among others, the following: (i) "Leading commercial forest plantation operator in the PRC with established track record;" (ii) "First mover advantage with strong track record of obtaining and developing commercial tree plantations and ability to leverage our industry foresight;" (iii) "Future growth supported by long-term master agreements at agreed capped prices;" (iv) "Strong research and development capability, with extensive forestry management expertise in the PRC;" and (v) "Diversified revenue and asset base."

60. As described above, the statements in the Offering Document were materially false and misleading because, contrary to the financial results reported in its financial statements, and contrary to the description of Company with major strengths as a forest plantation operator, the Company was engaged in fraudulent practices, resulting in the overstatement of assets, revenues and earnings, and misleading statements about its contractual relationships with certain

parties in the PRC related to the purchase of timber acreage. Thus, at the time of the Note Offering, investors were misled because the Company's actual financial condition and future prospects were much worse than these public statements indicated.

F. Misrepresentations and Omissions Relating to Code of Business Conduct

61. At all material times, Sino-Forest maintained it had in place a Code of Business Conduct (the "Code"), which governed its employees, officers and directors. The full text of the code was posted on the Company's Internet site and available to investors. It stated that the members of senior management "are expected to lead according to high standards of ethical conduct, in both words and actions." The Code further required that Sino-Forest representatives act in the best interests of shareholders, that corporate opportunities not be used for personal gain, that insiders not trade in Sino-Forest securities based on undisclosed knowledge stemming from their position or employment with Sino-Forest, that the Company's books and records be honest and accurate, that conflicts of interest be avoided, and that any violations or suspected violations of the Code, and any concerns regarding accounting, financial statement disclosure, internal accounting or disclosure controls or auditing matters, be reported.

62. Nonetheless, as explained in this Complaint, the publicly disclosed Code contained materially false and misleading statements because, as described herein, Sino-Forest's top executives did not actually follow the provisions of the Code.

V. INITIAL DISCLOSURE OF FRAUD AT SINO-FOREST

63. A report published on June 2, 2011 by Muddy Waters (the "Report"), a research firm that specializes in analyzing Chinese companies traded in the United States and Canada, reported that Sino-Forest and its financial statements were permeated by fraud.

64. The Report detailed the extensive investigative effort and resources that Muddy Waters had undertaken to discover the truth about the Company:

In order to conduct our research, we utilized a team of 10 persons who dedicated most to all of their time over two months to analyzing [Sino-Forest]. The team included professionals who focus on China from the disciplines of accounting, law, finance, and manufacturing. Our team read over 10,000 pages of documents in Chinese pertaining to the company. We deployed professional investigators to five cities. We retained four law firms as outside counsel to assist with our analysis.

65. The Muddy Waters report concluded that the Company was extensively involved in business practices that were “blatantly illegal” and that the Company’s financial statements and other reports to investors were permeated by fraud. According to the Report, Sino-Forest’s remarkably consistent growth during the Class Period was illusory – simply the result of “a Ponzi scheme,” rather than a real expansion in Sino-Forest’s business. According to Muddy Waters, the Company used its supposed growth and profitability to raise money from private lenders and the financial markets. This money, in turn, was used to bolster an appearance of further growth and increased profitability, which in turn opened the door to additional funding from private lenders and the capital markets. According to the Report, however, the capital raised by Sino-Forest was not used to expand the Company’s business, but was instead largely siphoned off by insiders in undisclosed related party transactions.

66. At the heart of the misconduct at Sino-Forest, according to Muddy Waters, is the Company’s use of AIs. The Report noted that AIs apparently act as both buyers and sellers in Sino-Forest transactions. For example, in one case uncovered by Muddy Waters, an AI purchased logs from Sino-Forest and delivered them to a chipping facility. Once the logs reached the facility they were sold back to Sino-Forest. Sino-Forest then turned around and sold the logs back to the AI who then proceeded to turn the logs into wood chips. The purpose of

these transactions, which were pointless from a business perspective, was to create the appearance of additional revenue for Sino-Forest.

67. The Report also disclosed that Sino-Forest had vastly overstated its forestry assets. In China's Yunnan Province alone the overstatement is potentially hundreds of millions of dollars. As noted above, in March 2007 Sino-Forest publicly announced that it had entered into an agreement to purchase up to 200,000 hectares of trees in Lincang City in Yunnan for \$700 million to \$1.4 billion, but a review of relevant government documents by Muddy Waters indicated that the actual size of this purchase was about 40,000 hectares.

68. Furthermore, although Sino-Forest generally does not identify the companies from which it purchases forestry assets, Muddy Waters was able to identify many of these companies by means that included careful review of government records. Muddy Waters visited many of these entities, finding that they "generally operated out of apartments while purportedly each doing annual revenue in the hundreds of millions from TRE [Sino-Forest] alone." This discovery supports Muddy Waters' conclusion that a substantial portion of the Company's reported purchases of forestry assets were greatly exaggerated or never occurred at all.

69. The Report also noted that Sino-Forest had engaged in substantial transactions with undisclosed related parties, transactions which are in violation of the applicable accounting rules and which require disclosure of related party transactions. An example is Jiangxi Zhonggan Industrial Development Company Ltd., which was incorporated just months before Sino-Forest entered into an approximately \$700 million contract with it in June 2009. The legal representative and President of this company is Sino-Forest Executive Vice President, Lam Hong Chiu. According to Muddy Waters, Zhonggan's 2008 and 2009 audit report shows "numerous large transactions between the Company, TRE, and other parties." Separately, Muddy Waters

identified Huaihua Yuda Wood Company Ltd., as “an undisclosed TRE subsidiary that has been receiving massive amounts of money from TRE’s subsidiaries.”

70. On publication of the Muddy Waters Report, the price of Sino-Forest’s securities dropped dramatically. On June 2, 2011, the Company’s shares, which had ended trading at \$18.64 on June 1, ended trading on the OTC market at \$7.33 and then fell further, to \$5.41 on June 3, a price drop of 71% over two days on substantially larger volume than normal. The prices of the Company’s debt securities also declined significantly.

VI. SINO-FOREST’S DENIALS AND FURTHER MISLEADING STATEMENTS

71. Soon after publication of the Muddy Waters Report, Defendants began an organized campaign to further mislead investors by falsely claiming that there was no misconduct at the Company. These misleading statements (¶¶ 72-76) continued to prop up the prices of Sino-Forest securities until trading was halted on August 26, 2011.

72. In a June 3, 2011 press release, the Company asserted that “[t]he Board of Directors and management of Sino-Forest wish to state clearly that there is no material change in its business or inaccuracy contained in its corporate reports and filings that needs to be brought to the attention of the market. Further we recommend shareholders take extreme caution in responding to the Muddy Waters report.” The release also quoted Chan as saying the following: “let me say clearly that the allegations contained in this report [by Muddy Waters] are inaccurate and unfounded.” The release quoted Horsley as saying “I am confident that the [Sino-Forest Board of Directors’] independent committee’s examination will find these allegations to be demonstrably wrong.”

73. In a June 6, 2011 press release, Sino-Forest further stated that “The Company believes Muddy Waters’ report to be inaccurate, spurious and defamatory.” The press release

quoted Chan as saying the following: “I stand by our audited financial statements, including the revenue and assets shown therein. All material related party transactions are appropriately disclosed in our financial statements. We do business with the parties identified in the report at arm’s length. Those parties are not related or connected to the Company or any of its management.”

74. During a June 14 conference call with investors, Chan suggested that the Muddy Waters allegations were entirely inaccurate, accusing Muddy Waters of a “pattern of sloppy diligence and gross inaccuracy.”

75. Moreover, even after the release of the Muddy Waters Report, the Sino-Forest Defendants continued their practice of making false and misleading statements about Sino-Forest’s financial condition and future prospects. On both June 14, 2011 and August 15, 2011, Sino-Forest filed, respectively, its Interim Financial Statements and its MD&A covering the first quarter. These filings (which investors were later told they should not rely upon) contained material misrepresentations and omissions similar to those made in filings earlier in the Class Period: they falsely portrayed the Company as a fast-growing, legitimate business which followed good corporate governance practices with positive future prospects for growth and they materially overstated the Company’s revenue, earnings and assets.

76. The August 15, 2011 MD&A also made the following false statement: “[u]nder the master agreement entered in March 2007 to acquire 200,000 hectares of plantation trees over a 10-year period in Yunnan, the Company has actually acquired 230,200 hectares of plantation trees for \$1,193,459,000 as at March 31, 2011.” In fact, as the Muddy Waters Report had disclosed, the Company had vastly overstated the value of its holdings in Yunnan under the March 2007 agreement.

VII. CONFIRMATION OF THE FRAUD

77. After publication of the Muddy Waters Report, additional investigations and disclosures evidence that numerous statements by Sino-Forest during the Class Period were materially false and misleading or omitted material information.

A. *The Globe and Mail Investigation*

78. A June 18, 2011 article in the highly respected Globe and Mail, Canada's largest-circulation national newspaper, confirmed that Sino-Forest had provided materially inaccurate information about the Company's holdings in Yunnan, which comprised a substantial portion of the Company's supposed forestry assets. The article stated, in part:

The Globe's investigation raises particularly hard questions about a key agreement in March, 2007, that Sino-Forest says gave it the right to buy timber rights for up to 200,000 hectares of forest in Yunnan over a 10-year period for between \$700-million (U.S.) and \$1.4-billion. The trees were to be bought through a series of agreements with an entity called Gengma Dai and Wa Tribes Autonomous Region Forestry Co. Ltd., also known as Gengma Forestry.

The company says it has fulfilled virtually all of the agreement with Gengma and now owns more than 200,000 hectares in Yunnan.

But officials with Gengma Forestry, including the chairman, dispute the company's account of the deal, telling *The Globe and Mail* that the actual numbers are much smaller.

79. *The Globe and Mail* article reported that in an interview with officials involved in the Sino-Forest transactions indicated that it had acquired less than 14,000 hectares. The article went on to say:

Mr. Xie's account corroborates the assertions of senior forestry officials in the province. Speaking on condition of anonymity, these officials challenged the company's statements that it controls more than 200,000 hectares of Yunnan trees, and said they are now investigating.

80. *The Globe and Mail* further reported:

In a written response to questions from *The Globe*, Sino-Forest said it stands by its public statements regarding its Yunnan holdings. The company said it has purchased about 13,300 hectares of 'forestry assets and leased land' directly from Gengma Forestry, and another 180,000 hectares of 'forestry assets only' from other sellers, using Gengma as a purchasing agent.

'The agreement has not been yet fulfilled as we have not completed the purchase of 200,000 hectares,' the company said.²

That statement from Sino-Forest appears to contradict its own publicly filed financial reports. In its first quarter 2011 report, the company said that 'under the master agreement entered in March 2007 to acquire 200,000 hectares of plantation trees over a 10-year period in Yunnan, the Company has actually acquired 230,200 hectares of plantation trees for \$1,193,459,000 as at March 31, 2011.'

The company's 2010 annual information form filed with regulators earlier this year said that as of December 31, 2010, Sino-Forest had 'acquired approximately 190,300 hectares of plantation trees for \$925.9-million (U.S.) under the terms of the master agreement.'

The *Globe's* investigation of the company's dealings and holdings in Yunnan points to inconsistencies in the company's accounting of its timber rights and raises broader questions about its business practices.

81. In addition, it was reported that:

As of the end of 2010, the company claimed control of about 800,000 hectares of trees in nine Chinese provinces plus New Zealand. Its operation in Yunnan province, in addition to being its largest, is also the one for which it has made additional disclosures recently in an attempt to defuse the allegations made in the Muddy Waters report.

So far, however, it has disclosed purchase agreements as well as forest and woodland rights certificates for about 7,000 hectares of forest in Yunnan. **The company has not disclosed significant**

² Unless otherwise indicated, all emphasis in quotations is added.

documentation regarding its forestry holdings in other provinces.

To find Gengma Forestry, Sino-Forest's local partner in the so-called 'Yunnan master agreement' – the 2007 deal said to be worth as much as \$1.4-billion – you have to duck down an alleyway behind the drugstore on the main street of this nondescript trading city, then up a dusty cement staircase.

On the landing is the litter-strewn office with an open door and a window protected by metal bars. Despite signing a deal with Sino-Forest that should guarantee a windfall, the company has clearly fallen on hard times. 'Our relations with [Sino-Forest] were not totally good. They talked about a lot of things, but in the end it was hard to get money from them,' said Zhang Ling, Gengma Forestry's office manager.

82. Statements of local officials in Yunnan province also contradict the reported size of Sino-Forest's holdings:

Senior forestry officials in the province challenged the company's assertion that it controls about 200,000 hectares of forest in the region. Speaking on condition they not be identified, they said their records showed Sino-Forest manages far less than that and said the Yunnan Forestry Bureau would begin an investigation aimed at determining the company's true holdings.

83. Not only have the size of the holdings been questioned, but so has the value as reported in *The Globe and Mail*:

In addition to the questions about Sino-Forest's disclosures on the size of its holdings, forestry officials, as well as local timber brokers who spoke to *The Globe* raised questions regarding the value Sino-Forest attributes to its Yunnan assets.

'It's very hard for anyone to say what the value of their property is,' said one forestry official, adding that forested land in Yunnan needed to be evaluated by a special body jointly appointed by the Forestry Bureau and the Ministry of Finance. Sino-Forest has not requested such an official valuation of its land, he said. '(The valuation) must have two chops (official seals) and two forestry resource evaluation experts and two licensed evaluators... . Even I can't just go there and give it a value.'

84. Subsequently, in early September 2011, *The Globe and Mail* reported that “A Globe investigation, based on interviews with people associated with Sino-Forest and an examination of legal and regulatory documents in Hong Kong and mainland China, has uncovered a pattern of questionable deals and disclosures from the company that date back to its earliest days.”

B. Investigations and Regulatory Actions

85. On August 26, 2011 the Ontario Stock Commission issued a “Temporary Order” that said the following: “Sino-Forest and certain of its officers and directors including Chan appear to be engaging or participating in acts, practices or a course of conduct related to its securities which it and/or they know or reasonably ought to know perpetuate a fraud on any person or company contrary to section 126.1 of the [Ontario Securities] Act and contrary to the public interest.”

86. The Commission halted trading in Sino-Forest’s stock on the Toronto Stock Exchange effective August 26, 2011 and demanded that several of Sino-Forest’s executives resign. Trading was halted in the U.S. on the OTC Bulletin Board at 5:30 p.m. on August 26, 2011.

87. On August 28, *The Globe and Mail* reported that CEO Chan had resigned. The newspaper also reported that “[t]hree Sino-Forest vice-presidents – Alfred Hung, George Ho and Simon Yeung – have been placed on administrative leave. Senior vice-president Albert Ip has been relieved of most of his duties but remains with the Company to assist the internal probe.” The newspaper also explained why Chan’s departure had occurred: “According to people familiar with the case, Mr. Chan was confronted by company officials in Hong Kong last week after a review of e-mail accounts outside the company’s network revealed questionable

transactions and money transfers.” Despite this evidence of misconduct, Chan remains with the Company, having been granted the title “Founding Chairman Emeritus.”

88. In late August Standard & Poor’s Ratings Services announced that it was withdrawing its ratings on the Company’s debt because “[r]ecent developments point towards a higher likelihood that allegations of fraud at the company will be substantiated.”

89. As a result of the suspension in the trading of Sino-Forest’s common stock and disclosure of the suspected fraud, the shares are now virtually worthless and the value of its Debt Securities, including the 2017 Notes have declined substantially. On November 11, 2011, it was announced that the Royal Canadian Mounted Police had commenced a criminal investigation.

90. Subsequently, on January 10, 2012, Sino-Forest announced that investors should no longer rely upon its historical financial statements and related audit reports. The Company stated that there was “no assurance” that it would be able to release third quarter financial results or audited financial statements for its 2011 fiscal year. The Company further disclosed in the January 10, 2012 announcement that it was still unable to explain or resolve outstanding issues, relating to its financial results and business relationships, including matters raised by documents identified by its auditor E&Y and the OSC.

VIII. MOTIVATION FOR FRAUD

91. The Sino-Forest Defendants had ample motive to commit fraud: the exaggerated revenue, earnings and assets allowed the Company to continue to raise substantial funds from lenders and investors, inflated the Company’s stock price and provided a personal financial windfall to the Individual Defendants who sold highly inflated stock to unsuspecting investors.

92. In addition to the billions of dollars raised by Sino-Forest during the Class Period (described above), Company insiders also benefited directly by the inflated value of Sino-

Forest's stock because of their substantial stock holdings and because part of their compensation was in the form of stock options. Documents filed by the Company revealed that the Individual Defendants have sold over \$44 million of Company stock since 2006.

Defendants' Sales Of Shares During Class Period

Defendant	Net Shares Sold	Value \$Can	Value \$U.S. (on 11/15/11 \$Can 1=\$US 0.98494)
Chan	182,000.00	\$3,003,200.20	\$2,957,970
Horsley	531,431.00	\$11,157,962.93	\$10,989,900
Poon	3,037,900	\$30,054,387.32	\$29,601,800
TOTAL	3,751,331	\$44,215,550.45	\$43,549,670

IX. CLASS ALLEGATIONS

93. Plaintiffs bring this action on their own behalf and, pursuant to Article 9 of the New York Civil Practice Law and Rules ("CPLR"), as a class action on behalf of themselves and all persons or entities who purchased (i) Sino-Forest's common stock during the Class Period on the OTC market who were damaged thereby; and (ii) all persons or entities who, during the Class Period, purchased Debt Securities issued by Sino-Forest other than in Canada and who were damaged thereby. Excluded from the Class are Defendants, the officers and directors of Sino-Forest during any portion of the Class Period, members of the immediate families of the foregoing persons and the legal representatives, heirs, successors or assigns of such persons and any entity in which any Defendant has or had a controlling interest. The Class specifically excludes any investor who purchased Sino-Forest securities on the Toronto Stock Exchange or in Canada.

94. The claims of Plaintiffs and the members of the Class have a common origin and share a common basis. The claims of all Class Members originate from the same improper conduct and arise from securities purchases entered into on the basis of the same materially

misleading statements and omissions by Defendants during the Class Period. If brought and prosecuted individually, each Class Member would necessarily be required to prove their respective claims upon the same facts, upon the same legal theories and would be seeking the same or similar relief, resulting in duplication and waste of judicial resources.

95. The members of the Class are so numerous that joinder of all members is impracticable. Although all Class Members cannot be identified without discovery, Plaintiff believes that there are many thousands of class members. Sino-Forest has over 246 million shares outstanding which actively traded on the OTC market (as well as in Canada on the Toronto Stock Exchange) and there are approximately \$1.8 billion in Debt Securities outstanding including, approximately, \$600 million in 2017 Notes.

96. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

- a. Whether Defendants made materially false and misleading statements or omissions;
- b. Whether Defendants engaged in any acts that operated as a fraud or deceit, or negligently misrepresented the Company's financial condition to the Class;
- c. Whether Defendants breached their fiduciary duties to Plaintiffs and the class or were negligent in the performance of their duties;
- d. Whether Defendants' acts proximately caused injury to the Class or irreparably harmed the Class, and if so, the appropriate relief to which the Class is entitled; and,
- e. Whether Defendants' acts constitute violations of law for which the Class is entitled to recover damages or other relief.

97. The prosecution of separate actions by individual members of the Class would also create a risk of inconsistent or varying adjudications with respect to individual members of the Class which would establish incompatible rights and standards of conduct for the parties involved in this case. The prosecution of separate actions by individual members of the Class would also create a risk of adjudications with respect to individual members of the Class which would, as a practical matter, be dispositive of the interests of other members of the Class or substantially impair or impede their ability to protect their interests.

98. Plaintiffs have engaged counsel experienced in complex class litigation and will fairly and adequately represent the interests of the Class. Plaintiffs' interests are co-extensive with and not antagonistic to those of the absent members of the Class.

99. The members of the Class cannot reasonably be expected to litigate this matter individually. Whether litigated individually or as a class, the causes of action asserted in this Complaint involve complex issues of law and will likely require extensive and costly factual discovery, especially if this case proceeds to trial. The costs of successfully prosecuting such litigation will likely be beyond the resources of most members of the Class.

X. APPLICATION OF THE FRAUD ON THE MARKET PRESUMPTION

100. During the Class Period, Sino-Forest was a high profile Company which regularly provided purportedly accurate information to investors about the Company's operations. The Company was followed by numerous securities analysts. The securities at issue, Sino-Forest common stock and debt securities, were actively traded on efficient markets and publicly disclosed information about the Company was incorporated in the price of these securities within a reasonable amount of time.

A. Common Stock

101. During the Class Period, Sino-Forest common stock was traded on the OTC market in the United States, which is an open, well-developed and efficient market. Sino-Forest common stock was traded on the Toronto Stock Exchange, an open, well developed and efficient market. There was a substantial volume of trading in both the United States and Canada and the price of the shares traded in the United States was affected in the same way as the price of shares traded in Canada.

102. The OTC market has no fixed location but investors throughout the United States, including in New York County, New York, can purchase OTC securities through registered brokers. The principal regulator of the OTC market is the Financial Industry Regulatory Authority which has its principal offices in New York, NY and Washington, DC.

B. 2017 Notes and Other Debt Securities

103. According to the Company, the 2017 Notes “offering was made on a private placement basis in Canada, the United States and internationally pursuant to available exemptions, through a syndicate of initial purchasers.” The indenture agreement which governs the 2017 Notes provided that the notes are governed by New York law.

104. The 2017 Notes were initially purchased by the Underwriter Defendants. In the purchase agreement between the Underwriter Defendants and Sino-Forest, Banc of America Securities LLC listed its address as One Bryant Park, New York, NY 10036 and Credit Suisse Securities (USA) LLC listed its address as Eleven Madison Avenue New York, NY 10010. During the Class Period and after their issuance there was an efficient market for the 2017 Notes.

105. The 2017 Notes could only be legally sold to non-U.S. persons and to U.S. persons who were qualified institutional buyers. There is an open and well developed market for

such securities which are issued by large and well known issuers such as Sino-Forest and, specifically, there was an active and well-developed market for the 2017 Notes and Sino-Forest's other Debt Securities during the Class Period. Class Members were able to purchase 2017 Notes and other Debt Securities in the OTC market.

106. Accordingly, Class Members who purchased Sino-Forest common stock or 2017 Notes, and other Debt Securities in the secondary market are entitled to a presumption of reliance on the accuracy of the prices paid.

XI. CAUSES OF ACTION

COUNT ONE **AGAINST SINO-FOREST AND THE INDIVIDUAL DEFENDANTS FOR FRAUD**

107. Plaintiffs repeat and reallege each of the allegations set forth in above. This claim is asserted against Sino-Forest and the Individual Defendants for common law fraud.

108. As set forth herein, Sino-Forest and the Individual Defendants knowingly or recklessly engaged and participated in a continuous course and scheme of fraudulent conduct to disseminate materially false information about Sino-Forest's financial condition or failed to disclose material information with the purpose of inflating the prices of Sino-Forest's common stock, the 2017 Notes and Sino-Forest's other debt securities. As intended by the Sino-Forest Defendants, Plaintiffs and Class Members reasonably relied on these false and misleading statements and failures to disclose and suffered substantial damages as a result.

109. As a direct and proximate result of Sino-Forest and the Individual Defendants' fraud, Plaintiffs and the Class have suffered economic losses in an amount to be determined at trial. Sino-Forest and the Individual Defendants are jointly and severally liable to the Class for common law fraud.

COUNT TWO
AGAINST SINO-FOREST AND THE INDIVIDUAL DEFENDANTS FOR CIVIL
CONSPIRACY TO DEFRAUD

110. Plaintiffs repeat and reallege each of the allegations set above. This claim is asserted against Sino-Forest and the Individual Defendants for civil conspiracy to commit fraud.

111. In furtherance of a scheme to defraud investors, the Sino-Forest Defendants corruptly agreed to combine their respective skills, expertise, resources, and reputations, thereby causing injury to Plaintiffs and the Class.

112. As set forth in detail above, one or more of the conspirators made false representations of material facts, with scienter, and Plaintiffs' and Class Members justifiably relied upon these misrepresentations and were injured as a result.

113. As a direct and proximate consequence of the foregoing, Plaintiffs and the Class have suffered economic losses in an amount to be determined at trial. Because Sino-Forest and the Individual Defendants conspired amongst themselves and with others to carry out this fraudulent scheme, the Sino-Forest Defendants are jointly and severally liable both for their own knowledge and conduct and for the knowledge and conduct of their co-conspirators in furtherance of the fraud.

COUNT THREE
AGAINST SINO-FOREST AND THE INDIVIDUAL DEFENDANTS FOR AIDING AND
ABETTING FRAUD

114. Plaintiffs repeat and reallege each of the allegations set forth above. This claim is asserted against Sino-Forest and the Individual Defendants for aiding and abetting common law fraud. The Sino-Forest Defendants were aware of the fraudulent scheme that is the subject of this Complaint and each of these Defendants provided substantial assistance to the perpetrators of this scheme.

115. As a direct and proximate result of the Sino-Forest Defendants' aiding and abetting of the fraud, Plaintiffs and the Class have suffered economic losses in an amount to be determined at trial. Sino-Forest and the Individual Defendants are jointly and severally liable to the Class for aiding and abetting common law fraud.

COUNT FOUR
AGAINST SINO-FOREST FOR UNJUST ENRICHMENT

116. Plaintiffs repeat and reallege each of the allegations set forth above. This claim is asserted against Sino-Forest for unjust enrichment.

117. In connection with the fraudulent scheme set out in this Complaint Defendant Sino-Forest received payment for the sale of the 2017 Notes. Defendant Sino-Forest would not have been able to sell the 2017 Notes or would only have been able to sell these notes at a lower price had the true facts about Sino-Forest's business and financial condition been known. Consequently, Sino-Forest unjustly received money from the purchasers of its securities and it would be unjust to allow Sino-Forest to keep this improperly earned money and should be required to repay it.

COUNT FIVE
AGAINST E&Y FOR BREACH OF FIDUCIARY DUTY

118. Plaintiffs repeat and reallege each of the allegations set forth above. This claim is asserted against the E&Y Defendants for breach of fiduciary duties. Plaintiffs specifically disclaim any allegation of fraud or fraudulent intent of E&Y with respect to this count.

119. The E&Y Defendants had a fiduciary relationship to Plaintiffs and Class Members in that the E&Y Defendants owed Plaintiffs and Class Members a duty of ordinary and reasonable care and good faith which arose from the relationships between the E&Y Defendants

and the Plaintiffs and Class Members who were the intended users of the financial statements certified by the E&Y Defendants. The E&Y Defendants breached these fiduciary duties by certifying materially false and misleading financial statements, having known of the material misstatements or omissions, or having failed to do reasonable due diligence which would have discovered the false and misleading nature of these financial statements.

120. The E&Y Defendants breached their fiduciary duties to Plaintiffs by failing to perform their audits of Sino-Forest's final statements in accordance with Canadian GAAS by, *inter alia*, failing to obtain competent evidentiary material in support of the Company's representations in its financial statements and E&Y's audit opinion.

121. As a direct and proximate result of the E&Y Defendants' breach of fiduciary duty, Plaintiffs and the Class have suffered economic losses in an amount to be determined according to proof at trial. The E&Y Defendants are jointly and severally liable to the Class for breach of fiduciary duty.

COUNT SIX
AGAINST E&Y FOR NEGLIGENT MISREPRESENTATION

122. Plaintiffs repeat and reallege each of the allegations set forth above. This claim is asserted against the E&Y Defendants for negligent misrepresentation. Plaintiffs specifically exclude any allegations of fraud or fraudulent intent of E&Y with respect to this count.

123. The E&Y Defendants had a special relationship of trust and confidence with Plaintiffs and Class Members because of their status as outside auditors of Sino-Forest that gave rise to a duty to exercise due care in the performance of their duties. These Defendants knew or were reckless in not knowing that Plaintiffs and Class Members were relying on them to exercise reasonable care in the performance of their duties.

124. As set forth herein, the E&Y Defendants negligently made false and misleading statements that inflated the price of Sino-Forest's securities, including by negligently failing to disclose material information they were obligated to disclose. The E&Y defendants negligently misrepresented to Plaintiffs and Class Members that they had performed audits of Sino-Forest's financial Statements in accordance with Canadian GAAS and that the Company's financial statement were properly presented in accordance with Canadian GAAP.

125. Plaintiffs and Class Members reasonably relied on these false and misleading statements and failures to disclose and suffered substantial damages as a result. The E&Y Defendants were at least negligent in making such statements, including because they failed to conduct appropriate due diligence before making such statements by, *inter alia*, failing to obtain competent evidentiary material in support of the Company's representations in its financial statements and E&Y audit opinion.

126. As a direct and proximate result of the E&Y Defendants' negligent misrepresentations, Plaintiffs and the Class have suffered economic losses in an amount to be determined according to proof at trial. The E&Y Defendants are jointly and severally liable to the Class for negligent misrepresentation.

COUNT SEVEN
AGAINST E&Y FOR GROSS NEGLIGENCE

127. Plaintiffs repeat and reallege each of the allegations set forth above. This claim is asserted against the E&Y Defendants for gross negligence. Plaintiffs specifically exclude any allegations of fraud or fraudulent intent of E&Y with respect to this count.

128. The E&Y Defendants had a special relationship with Plaintiffs and Class Members because of their status as outside auditors of Sino-Forest, a relationship that gave rise

to a duty to exercise due care in the performance of the E&Y Defendants' duties. The E&Y Defendants knew or were reckless in not knowing that Class Members were relying on them to exercise reasonable diligence in the performance of their duties. The E&Y Defendants were grossly negligent in the performance of their duties, including by failing to conduct adequate due diligence. The E&Y Defendants breached their finding changes to Plaintiffs by failing to perform their audits of Sino-Forest's final statements in accordance with Canadian GAAS by, *inter alia*, failing to obtain competent evidentiary material in support of the Company's representations in its financial statements and E&Y audit opinion.

129. As a direct and proximate result of the E&Y Defendants' gross negligence, Plaintiffs and the Class have suffered economic losses in an amount to be determined by proof at trial. The E&Y Defendants are jointly and severally liable to the Class for gross negligence.

COUNT EIGHT
AGAINST E&Y FOR NEGLIGENCE

130. Plaintiffs repeat and reallege each of the allegations set forth above. This claim is asserted against the E&Y Defendants for negligence. Plaintiffs specifically exclude any allegations of fraud or fraudulent intent of E&Y with respect to this count.

131. The E&Y Defendants had a special relationship with Class Members because of their status as independent auditor of Sino-Forest, a relationship that gave rise to a duty to exercise due care in the performance of the E&Y Defendants' duties. The E&Y Defendants knew or were reckless in not knowing that Plaintiffs and Class Members were relying on the E&Y Defendants to exercise reasonable diligence in the performance of their duties. The E&Y Defendants were negligent in the performance of their duties; specifically the E&Y Defendants breached their duties to Plaintiffs by failing to perform their audits of Sino-Forest's final

statements in accordance with Canadian GAAS, including by failing to conduct adequate due diligence by, *inter alia*, failing to obtain competent evidentiary material in support of the Company's representations in its financial statements and E&Y audit opinion.

132. As a direct and proximate result of the E&Y Defendants' negligence, Plaintiffs and the Class have suffered economic losses in an amount to be determined by proof at trial. The E&Y Defendants are jointly and severally liable to the Class for negligence.

COUNT NINE
AGAINST THE UNDERWRITER DEFENDANTS FOR NEGLIGENT
MISREPRESENTATION

133. Plaintiff IMF repeats and realleges each of the allegations set forth above. This claim is asserted against the Underwriter Defendants for negligent misrepresentation on behalf of all Class Members who purchased the 2017 Notes on the Offering. Plaintiff IMF specifically excludes any allegations of fraud or fraudulent intent of Underwriter Defendants with respect to this count.

134. The Underwriter Defendants had a special relationship with IMF and those Class Members who purchased the 2017 Notes from the Underwriter Defendants because of their status as underwriters, which gave rise to a duty to exercise due care in the performance of their duties. The Underwriter Defendants knew or were reckless in not knowing that each Class Member who purchased the 2017 Notes was relying on them to exercise reasonable care in the performance of their duties.

135. As set forth herein, the Underwriter Defendants negligently made false and misleading statements that inflated the price of the 2017 Notes, including by negligently failing to disclose material information they were obligated to disclose. Plaintiff IMF and Class Members reasonably relied on these false and misleading statements and failures to disclose and

suffered substantial damages as a result. The Underwriter Defendants were at least negligent in making such statements, including because they failed to conduct appropriate due diligence before making such statements.

136. As a direct and proximate result of the Underwriter Defendants' negligent misrepresentation, Plaintiffs and the members of the Class have suffered economic losses in an amount to be determined by proof at trial. The Underwriter Defendants are jointly and severally liable to the Class for negligent misrepresentation.

COUNT TEN
AGAINST THE UNDERWRITER DEFENDANTS FOR GROSS NEGLIGENCE

137. Plaintiff IMF repeats and realleges each of the allegations set above. This claim is asserted against the Underwriter Defendants for negligent misrepresentation on behalf of all Class Members who purchased the 2017 Notes on the Offering. Plaintiffs specifically exclude any allegations of fraud or fraudulent intent of the Underwriter Defendants with respect to this count.

138. The Underwriter Defendants had a special relationship with Plaintiff IMF and Class Members because of their status as underwriters that gave rise to a duty to exercise due care in the performance of their duties. These Defendants knew or were reckless in not knowing that Class Members were relying on them to exercise reasonable diligence in the performance of their duties. These Defendants were grossly negligent in the performance of their duties, including by failing to conduct adequate due diligence.

139. As a direct and proximate result of the Underwriter Defendants' gross negligence, Plaintiff IMF and the Class have suffered economic losses in an amount to be determined by

proof at trial. The Underwriter Defendants are jointly and severally liable to Plaintiff IMF and the Class for gross negligence.

COUNT ELEVEN
AGAINST THE UNDERWRITER DEFENDANTS FOR NEGLIGENCE

140. Plaintiff IMF repeats and realleges each of the allegations set forth above. This claim is asserted against the Underwriter Defendants for negligence on behalf of Plaintiff IMF and all Class Members who purchased the 2017 Notes on the Offering. Plaintiff specifically excludes any allegations of fraud or fraudulent intent of the Underwriter Defendants with respect to this count.

141. The Underwriter Defendants had a special relationship with Class Members who purchased the 2017 Notes from them because of their status as underwriters that gave rise to a duty to exercise due care in the performance of their duties. The Underwriter Defendants knew or were reckless in not knowing that Plaintiff IMF and Class Members were relying on them to exercise reasonable diligence in the performance of their duties. The Underwriter Defendants were negligent in the performance of their duties, including by failing to conduct due diligence.

142. As a direct and proximate result of the Underwriter Defendants' negligence, Plaintiff IMF and the Class have suffered economic losses in an amount to be determined at trial. The Underwriter Defendants are jointly and severally liable to Plaintiff IMF and the Class for negligence.

XII. PRAYER FOR RELIEF AND JURY DEMAND

WHEREFORE, Plaintiffs and the Class hereby demands a trial by jury, and seek a judgment:

- A. Awarding Plaintiffs and the Class all compensatory damages they suffered, including lost profits and consequential and incidental damages, as a result of the wrongful conduct of the Defendants, in an amount to be determined at trial;
- B. Awarding Plaintiffs and the Class damages arising from Defendants' unjust enrichment;
- C. Awarding Plaintiffs and the Class punitive damages in an amount to be determined at trial;
- D. Awarding Plaintiffs and the Class pre-judgment and post-judgment interest;
- E. Awarding Plaintiffs and the Class their costs, expert fees, expenses and attorneys' fees incurred in connection with this action to the maximum extent permitted by law;
- F. Awarding Plaintiffs and the Class such other and further relief as the Court finds just and proper.

Dated: January 27, 2012

Respectfully submitted,

COHEN MILSTEIN SELLERS &
TOLL PLLC



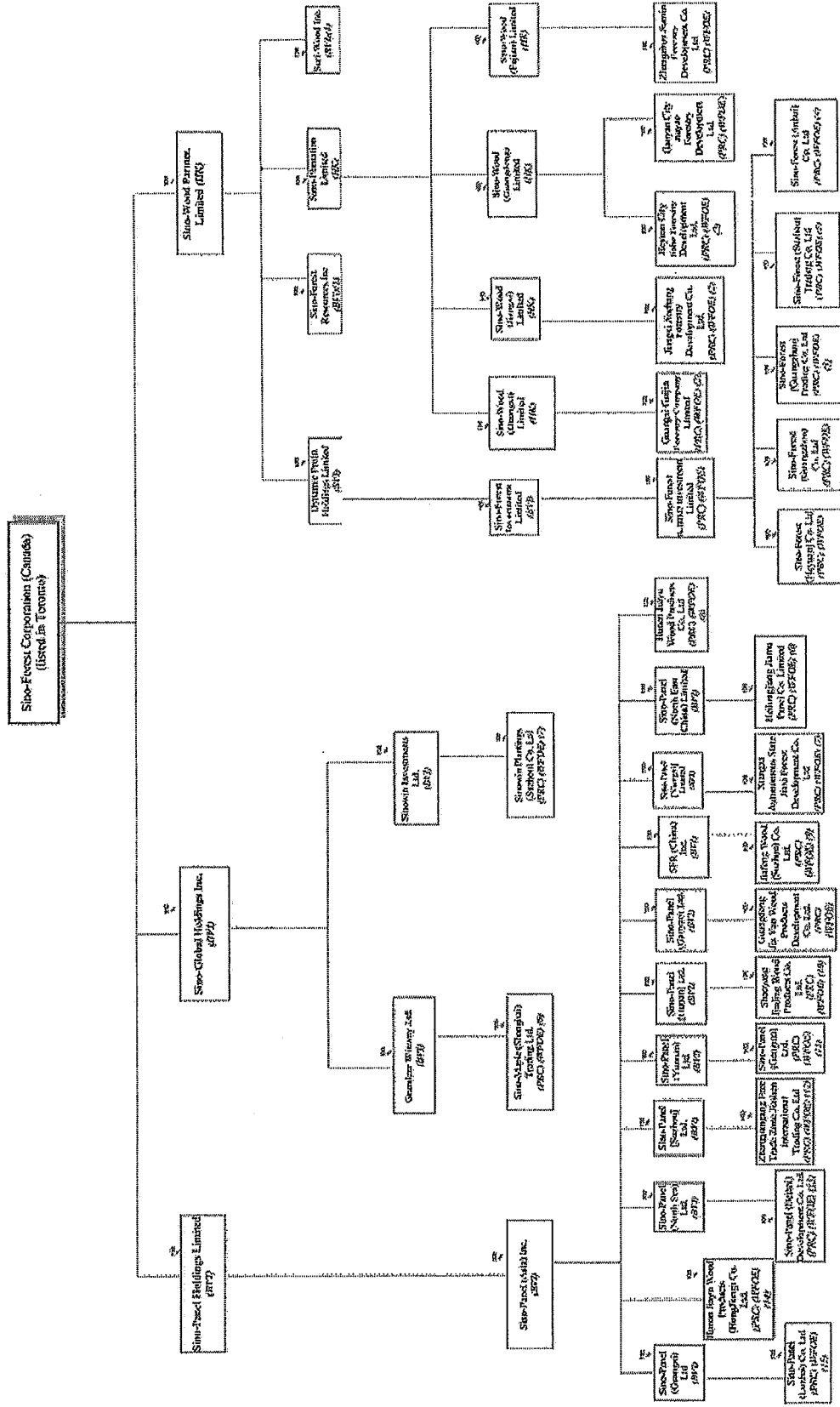
Richard S. Speirs
Kenneth M. Rehns
88 Pine Street 14th Floor
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-and-

Steven J. Toll
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Facsimile: (202) 408-4699

*Attorneys for Plaintiff and the Proposed
Class*

Exhibit A (Sino-Forest Organizational Chart)



SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

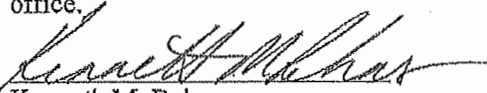
DAVID LEAPARD and IMF FINANCE SA on their)
 own behalf and on behalf of all others similarly situated,)
)
 Plaintiffs,)
)
 v.)
)
 ALLEN T.Y. CHAN, DAVID J. HORSLEY, KAI KIT)
 POON, BANC OF AMERICA SECURITIES LLC,)
 CREDIT SUISSE SECURITIES (USA) LLC, SINO-)
 FOREST CORPORATION, ERNST & YOUNG)
 GLOBAL LIMITED, and ERNST & YOUNG LLP,)
)
 Defendants.)

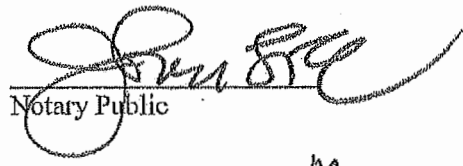
INDEX NO.

VERIFICATION

STATE OF NEW YORK)
CITY OF NEW YORK)
COUNTY OF NEW YORK)

Kenneth M. Rehns, being duly sworn, states that he is one of the attorneys for Plaintiffs in this action and that the foregoing complaint is true to his own knowledge, except as to matters therein stated on information and belief and as to those matters he believes to be true; that the ground of his belief as to all matters not stated upon his knowledge are upon review of publicly available securities filings, media and newspaper articles and information contained on the Internet; and that the reason why the verification is not made by Plaintiffs David Leopard and IMF Finance SA is that these Plaintiffs are not in the county where Plaintiff's attorney has his office.


Kenneth M. Rehns


Notary Public

Sworn before me this 27th day of January, 2012

JESSE J. LEE
Notary Public, State of New York
No. 01LE6167858
Qualified in New York County
Commission Expires June 4, 2015

T A B E

This is Exhibit "E" to the
Affidavit of Cosimo Borelli
Sworn before me on 26 April 2015



A Commissioner, etc.

LI SIU FUNG
NOTARY PUBLIC
HONG KONG SAR
Unit 1303, 13/F.,
Tower 1, Admiralty Centre,
18 Harcourt Road,
Hong Kong.

CITATION: Sino-Forest Corporation (Re), 2012 ONSC 4377
COURT FILE NO.: CV-12-9667-00CL
DATE: 20120727

SUPERIOR COURT OF JUSTICE – ONTARIO

(COMMERCIAL LIST)

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SINO-FOREST CORPORATION, Applicant

BEFORE: MORAWETZ J.

COUNSEL: Robert W. Stalcy and Jonathan Bell, for the Applicant

Jennifer Stam, for the Monitor

Kenneth Delcker, for BDO Limited

Peter Griffin and Peter Osborne, for Ernst & Young LLP

Benjamin Zarnett, Robert Chadwick and Brendan O'Neill, for the Ad Hoc Committee of Noteholders

James Grout, for the Ontario Securities Commission

Emily Cole and Joseph Marin, for Allen Chan

Simon Bieber, for David Horsley

David Bish, John Fabello and Adam Slavens, for the Underwriters Named in the Class Action

Max Starnino and Kirk Baert, for the Ontario Plaintiffs

Larry Lowenstein, for the Board of Directors

HEARD: June 26, 2012

ENDORSEMENT

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Overview

[1] Sino-Forest Corporation ("SFC" or the "Applicant") seeks an order directing that claims against SFC, which result from the ownership, purchase or sale of an equity interest in SFC, are "equity claims" as defined in section 2 of the *Companies' Creditors Arrangement Act* ("CCAA") including, without limitation: (i) the claims by or on behalf of current or former shareholders asserted in the proceedings listed in Schedule "A" (collectively, the "Shareholder Claims"); and (ii) any indemnification claims against SFC related to or arising from the Shareholder Claims, including, without limitation, those by or on behalf of any of the other defendants to the proceedings listed in Schedule "A" (the "Related Indemnity Claims").

[2] SFC takes the position that the Shareholder Claims are "equity claims" as defined in the CCAA as they are claims in respect of a monetary loss resulting from the ownership, purchase or sale of an equity interest in SFC and, therefore, come within the definition. SFC also takes the position that the Related Indemnity Claims are "equity claims" as defined in the CCAA as they are claims for contribution or indemnity in respect of a claim that is an equity claim and, therefore, also come within the definition.

[3] On March 30, 2012, the court granted the Initial Order providing for the CCAA stay against SFC and certain of its subsidiaries. FTI Consulting Canada Inc. was appointed as Monitor.

[4] On the same day, the Sales Process Order was granted, approving Sales Process procedures and authorizing and directing SFC, the Monitor and Houlihan Lokey to carry out the Sales Process.

[5] On May 14, 2012, the court issued a Claims Procedure Order, which established June 20, 2012 as the Claims Bar Date.

[6] The stay of proceedings has since been extended to September 28, 2012.

[7] Since the outset of the proceedings, SFC has taken the position that it is important for these proceedings to be completed as soon as possible in order to, among other things, (i) enable the business operated in the Peoples Republic of China ("PRC") to be separated from SFC and put under new ownership; (ii) enable the restructured business to participate in the Q4 sales season in the PRC market; and (iii) maintain the confidence of stakeholders in the PRC (including local and national governmental bodies, PRC lenders and other stakeholders) that the business in the PRC can be successfully separated from SFC and operate in the ordinary course in the near future.

[8] SFC has negotiated a Support Agreement with the Ad Hoc Committee of Noteholders and intends to file a plan of compromise or arrangement (the "Plan") under the CCAA by no later than August 27, 2012, based on the deadline set out in the Support Agreement and what they submit is the commercial reality that SFC must complete its restructuring as soon as possible.

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[9] Noteholders holding in excess of \$1.296 billion, or approximately 72% of the approximately \$1.8 billion of SFC's noteholders' debt, have executed written support agreements to support the SFC CCAA Plan as of March 30, 2012.

Shareholder Claims Asserted Against SFC

(i) Ontario

[10] By Fresh as Amended Statement of Claim dated April 26, 2012 (the "Ontario Statement of Claim"), the Trustees of the Labourers' Pension Fund of Central and Eastern Canada and other plaintiffs asserted various claims in a class proceeding (the "Ontario Class Proceedings") against SFC, certain of its current and former officers and directors, Ernst & Young LLP ("E&Y"), BDO Limited ("BDO"), Poyry (Beijing) Consulting Company Limited ("Poyry") and SFC's underwriters (collectively, the "Underwriters").

[11] Section 1(m) of the Ontario Statement of Claim defines "class" and "class members" as:

All persons and entities, wherever they may reside who acquired Sino's Securities during the Class Period by distribution in Canada or on the Toronto Stock Exchange or other secondary market in Canada, which securities include those acquired over the counter, and all persons and entities who acquired Sino's Securities during the Class Period who are resident of Canada or were resident of Canada at the time of acquisition and who acquired Sino's Securities outside of Canada, except the Excluded Persons.

[12] The term "Securities" is defined as "Sino's common shares, notes and other securities, as defined in the OSA". The term "Class Period" is defined as the period from and including March 19, 2007 up to and including June 2, 2011.

[13] The Ontario Class Proceedings seek damages in the amount of approximately \$9.2 billion against SFC and the other defendants.

[14] The thrust of the complaint in the Ontario Class Proceedings is that the class members are alleged to have purchased securities at "inflated prices during the Class Period" and that absent the alleged misconduct, sales of such securities "would have occurred at prices that reflected the true value" of the securities. It is further alleged that "the price of Sino's Securities was directly affected during the Class Period by the issuance of the Impugned Documents".

(ii) Quebec

[15] By action filed in Quebec on June 9, 2011, Guining Liu commenced an action (the "Quebec Class Proceedings") against SFC, certain of its current and former officers and directors, E&Y and Poyry. The Quebec Class Proceedings do not name BDO or the Underwriters as defendants. The Quebec Class Proceedings also do not specify the quantum of damages sought, but rather reference "damages in an amount equal to the losses that it and the other members of the group suffered as a result of purchasing or acquiring securities of Sino at inflated prices during the Class Period".

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[16] The complaints in the Quebec Class Proceedings centre on the effect of alleged misrepresentations on the share price. The duty allegedly owed to the class members is said to be based in "law and other provisions of the *Securities Act*", to ensure the prompt dissemination of truthful, complete and accurate statements regarding SFC's business and affairs and to correct any previously-issued materially inaccurate statements.

(iii) **Saskatchewan**

[17] By Statement of Claim dated December 1, 2011 (the "Saskatchewan Statement of Claim"), Mr. Allan Halgh commenced an action (the "Saskatchewan Class Proceedings") against SFC, Allen Chan and David Horsley.

[18] The Saskatchewan Statement of Claim does not specify the quantum of damages sought, but instead states in more general terms that the plaintiff seeks "aggravated and compensatory damages against the defendants in an amount to be determined at trial".

[19] The Saskatchewan Class Proceedings focus on the effect of the alleged wrongful acts upon the trading price of SFC's securities:

The price of Sino's securities was directly affected during the Class Period by the issuance of the Impugned Documents. The defendants were aware at all material times that the effect of Sino's disclosure documents upon the price of its Sino's [sic] securities.

(iv) **New York**

[20] By Verified Class Action Complaint dated January 27, 2012, (the "New York Complaint"), Mr. David Leopard and IMF Finance SA commenced a class proceeding against SFC, Mr. Allen Chan, Mr. David Horsley, Mr. Kai Kit Poon, a subset of the Underwriters, E&Y, and Ernst & Young Global Limited (the "New York Class Proceedings").

[21] SFC contends that the New York Class Proceedings focus on the effect of the alleged wrongful acts upon the trading price of SFC's securities.

[22] The plaintiffs in the various class actions have named parties other than SFC as defendants, notably, the Underwriters and the auditors, E&Y, and BDO, as summarized in the table below. The positions of those parties are detailed later in these reasons.

	Ontario	Quebec	Saskatchewan	New York
E&Y LLP	X	X	-	X
E&Y Global	-	-	-	X
BDO	X	-	-	-

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Poyry	X	X	-	-
Underwriters	11	-	-	2

Legal Framework

[23] Even before the 2009 amendments to the CCAA dealing with equity claims, courts recognized that there is a fundamental difference between shareholder equity claims as they relate to an insolvent entity versus creditor claims. Essentially, shareholders cannot reasonably expect to maintain a financial interest in an insolvent company where creditor claims are not being paid in full. Simply put, shareholders have no economic interest in an insolvent enterprise: *Blue Range Resource Corp. (Re)*, (2004) 4 W.W.R. 738 (Alta. Q.B.) [*Blue Range Resources*]; *Stelco Inc. (Re)*, (2006) CanLII 1773 (Ont. S.C.J.) [*Stelco*]; *Royal Bank of Canada v. Central Capital Corp.* (1996), 27 O.R. (3d) 494 (C.A.).

[24] The basis for the differentiation flows from the fundamentally different nature of debt and equity investments. Shareholders have unlimited upside potential when purchasing shares. Creditors have no corresponding upside potential: *Nelson Financial Group Limited (Re)*, 2010 ONSC 6229 [*Nelson Financial*].

[25] As a result, courts subordinated equity claims and denied such claims a vote in plans of arrangement: *Blue Range Resource, supra*; *Stelco, supra*; *EarthFirst Canada Inc. (Re)* (2009), 56 C.B.R. (5th) 102 (Alta. Q.B.) [*EarthFirst Canada*]; and *Nelson Financial, supra*.

[26] In 2009, significant amendments were made to the CCAA. Specific amendments were made with the intention of clarifying that equity claims are subordinated to other claims.

[27] The 2009 amendments define an "equity claim" and an "equity interest". Section 2 of the CCAA includes the following definitions:

"Equity Claim" means a claim that is in respect of an equity interest, including a claim for, among others, (...)

(d) a monetary loss resulting from the ownership, purchase or sale of an equity interest or from the rescission, or, in Quebec, the annulment, of a purchase or sale of an equity interest, or

(e) contribution or indemnity in respect of a claim referred to in any of paragraphs (a) to (d);

"Equity Interest" means

(a) in the case of a company other than an income trust, a share in the company – or a warrant or option or another right to acquire a share in the company – other than one that is derived from a convertible debt,

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[28] Section 6(8) of the CCAA prohibits a distribution to equity claimants prior to payment in full of all non-equity claims.

[29] Section 22(1) of the CCAA provides that equity claimants are prohibited from voting on a plan unless the court orders otherwise.

Position of Ernst & Young

[30] E&Y opposes the relief sought, at least as against E&Y, since the E&Y proof of claim evidence demonstrates in its view that E&Y's claim:

- (a) is not an equity claim;
- (b) does not derive from or depend upon an equity claim (in whole or in part);
- (c) represents discreet and independent causes of action as against SFC and its directors and officers arising from E&Y's direct contractual relationship with such parties (or certain of such parties) and/or the tortious conduct of SFC and/or its directors and officers for which they are in law responsible to E&Y; and
- (d) can succeed independently of whether or not the claims of the plaintiffs in the class actions succeed.

[31] In its factum, counsel to E&Y acknowledges that during the periods relevant to the Class Action Proceedings, E&Y was retained as SFC's auditor and acted as such from 2007 until it resigned on April 5, 2012.

[32] On June 2, 2011, Muddy Waters LLC ("Muddy Waters") issued a report which purported to reveal fraud at SFC. In the wake of that report, SFC's share price plummeted and Muddy Waters profited from its short position.

[33] E&Y was served with a multitude of class action claims in numerous jurisdictions.

[34] The plaintiffs in the Ontario Class Proceedings claim damages in the aggregate, as against all defendants, of \$9.2 billion on behalf of resident and non-resident shareholders and noteholders. The causes of action alleged are both statutory, under the *Securities Act (Ontario)* and at common law, in negligence and negligent misrepresentation.

[35] In its factum, counsel to E&Y acknowledges that the central claim in the class actions is that SFC made a series of misrepresentations in respect of its timber assets. The claims against E&Y and the other third party defendants are that they failed to detect these misrepresentations and note in particular that E&Y's audit did not comply with Canadian generally accepted accounting standards. Similar claims are advanced in Quebec and the U.S.

[36] Counsel to E&Y notes that on May 14, 2012 the court granted a Claims Procedure Order which, among other things, requires proofs of claim to be filed no later than June 20, 2012. E&Y takes issue with the fact that this motion was then brought notwithstanding that proofs of claim and D&O proofs of claim had not yet been filed.

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[37] E&Y has filed with the Monitor, in accordance with the Claims Procedure Order, a proof of claim against SFC and a proof of claim against the directors and officers of SFC.

[38] E&Y takes the position that it has contractual claims of indemnification against SFC and its subsidiaries and has statutory and common law claims of contribution and/or indemnity against SFC and its subsidiaries for all relevant years. E&Y contends that it has stand-alone claims for breach of contract and negligent and/or fraudulent misrepresentation against the company and its directors and officers.

[39] Counsel submits that E&Y's claims against Sino-Forest and the SFC subsidiaries are:

- (a) creditor claims;
- (b) derived from E&Y retainers by and/or on behalf of Sino-Forest and the SFC subsidiaries and E&Y's relationship with such parties, all of which are wholly independent and conceptually different from the claims advanced by the class action plaintiffs;
- (c) claims that include the cost of defending and responding to various proceedings, both pre- and post-filing; and
- (d) not equity claims in the sense contemplated by the CCAA. E&Y's submission is that equity holders of Sino-Forest have not advanced, and could not advance, any claims against SFC's subsidiaries.

[40] Counsel further contends that E&Y's claim is distinct from any and all potential and actual claims by the plaintiffs in the class actions against Sino-Forest and that E&Y's claim for contribution and/or indemnity is not based on the claims against Sino-Forest advanced in the class actions but rather only in part on those claims, as any success of the plaintiffs in the class actions against E&Y would not necessarily lead to success against Sino-Forest, and vice versa. Counsel contends that E&Y has a distinct claim against Sino-Forest independent of that of the plaintiffs in the class actions. The success of E&Y's claims against Sino-Forest and the SFC subsidiaries, and the success of the claims advanced by the class action plaintiffs, are not co-dependent. Consequently, counsel contends that E&Y's claim is that of an unsecured creditor.

[41] From a policy standpoint, counsel to E&Y contends that the nature of the relationship between a shareholder, who may be in a position to assert an equity claim (in addition to other claims) is fundamentally different from the relationship existing between a corporation and its auditors.

Position of BDO Limited

[42] BDO was auditor of Sino-Forest Corporation between 2005 and 2007, when it was replaced by E&Y.

[43] BDO has a filed a proof of claim against Sino-Forest pursuant to the Claims Procedure Order.

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[44] BDO's claim against Sino-Forest is primarily for breach of contract.

[45] BDO takes the position that its indemnity claims, similar to those advanced by E&Y and the Underwriters, are not equity claims within the meaning of s. 2 of the CCAA.

[46] BDO adopts the submissions of E&Y which, for the purposes of this endorsement, are not repeated.

Position of the Underwriters

[47] The Underwriters take the position that the court should not decide the equity claims motion at this time because it is premature or, alternatively, if the court decides the equity claims motion, the equity claims order should not be granted because the Related Indemnity Claims are not "equity claims" as defined in s. 2 of the CCAA.

[48] The Underwriters are among the defendants named in some of the class actions. In connection with the offerings, certain Underwriters entered into agreements with Sino-Forest and certain of its subsidiaries providing that Sino-Forest and, with respect to certain offerings, the Sino-Forest subsidiary companies, agree to indemnify and hold harmless the Underwriters in connection with an array of matters that could arise from the offerings.

[49] The Underwriters raise the following issues:

- (i) Should this court decide the equity claims motion at this time?
- (ii) If this court decides the equity claims motion at this time, should the equity claims order be granted?

[50] On the first issue, counsel to the Underwriters takes the position that the issue is not yet ripe for determination.

[51] Counsel submits that, by seeking the equity claims order at this time, Sino-Forest is attempting to pre-empt the Claims Procedure Order, which already provides a process for the determination of claims. Until such time as the claims procedure in respect of the Related Indemnity Claims is completed, and those claims are determined pursuant to that process, counsel contends the subject of the equity claims motion raises a merely hypothetical question as the court is being asked to determine the proper interpretation of s. 2 of the CCAA before it has the benefit of an actual claim in dispute before it.

[52] Counsel further contends that by asking the court to render judgment on the proper interpretation of s. 2 of the CCAA in the hypothetical, Sino-Forest has put the court in a position where its judgment will not be made in the context of particular facts or with a full and complete evidentiary record.

[53] Even if the court determines that it can decide this motion at this time, the Underwriters submit that the relief requested should not be granted.

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Position of the Applicant

[54] The Applicant submits that the amendments to the CCAA relating to equity claims closely parallel existing U.S. law on the subject and that Canadian courts have looked to U.S. courts for guidance on the issue of equity claims as the subordination of equity claims has long been codified there: see e.g. *Blue Range Resources, supra*, and *Nelson Financial, supra*.

[55] The Applicant takes the position that based on the plain language of the CCAA, the Shareholder Claims are "equity claims" as defined in s. 2 as they are claims in respect of a "monetary loss resulting from the ownership, purchase or sale of an equity interest".

[56] The Applicant also submits the following:

- (a) the Ontario, Quebec, Saskatchewan and New York Class Actions (collectively, the "Class Actions") all advance claims on behalf of shareholders.
- (b) the Class Actions also allege wrongful conduct that affected the trading price of the shares, in that the alleged misrepresentation "artificially inflated" the share price; and
- (c) the Class Actions seek damages relating to the trading price of SFC shares and, as such, allege a "monetary loss" that resulted from the ownership, purchase or sale of shares, as defined in s. 2 of the CCAA.

[57] Counsel further submits that, as the Shareholder Claims are "equity claims", they are expressly subordinated to creditor claims and are prohibited from voting on the plan of arrangement.

[58] Counsel to the Applicant also submits that the definition of "equity claims" in s. 2 of the CCAA expressly includes indemnity claims that relate to other equity claims. As such, the Related Indemnity Claims are equity claims within the meaning of s. 2.

[59] Counsel further submits that there is no distinction in the CCAA between the source of any claim for contribution or indemnity; whether by statute, common law, contractual or otherwise. Further, and to the contrary, counsel submits that the legal characterization of a contribution or indemnity claim depends solely on the characterization of the primary claim upon which contribution or indemnity is sought.

[60] Counsel points out that in *Return on Innovation Capital v. Gandi Innovations Limited*, 2011 ONSC 5018, leave to appeal denied, 2012 ONCA 10 [*Return on Innovation*] this court characterized the contractual indemnification claims of directors and officers in respect of an equity claim as "equity claims".

[61] Counsel also submits that guidance on the treatment of underwriter and auditor indemnification claims can be obtained from the U.S. experience. In the U.S., courts have held that the indemnification claims of underwriters for liability or defence costs constitute equity claims that are subordinated to the claims of general creditors. Counsel submits that insofar as

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the primary source of liability is characterized as an equity claim, so too is any claim for contribution and indemnity based on that equity claim.

[62] In this case, counsel contends, the Related Indemnity Claims are clearly claims for "contribution and indemnity" based on the Shareholder Claims.

Position of the Ad Hoc Noteholders

[63] Counsel to the Ad Hoc Noteholders submits that the Shareholder Claims are "equity claims" as they are claims in respect of an equity interest and are claims for "a monetary loss resulting from the ownership, purchase or sale of an equity interest" per subsection (d) of the definition of "equity claims" in the CCAA.

[64] Counsel further submits that the Related Indemnity Claims are also "equity claims" as they fall within the "clear and unambiguous" language used in the definition of "equity claim" in the CCAA. Subsection (e) of the definition refers expressly and without qualification to claims for "contribution or indemnity" in respect of claims such as the Shareholder Claims.

[65] Counsel further submits that had the legislature intended to qualify the reference to "contribution or indemnity" in order to exempt the claims of certain parties, it could have done so, but it did not.

[66] Counsel also submits that, if the plain language of subsection (e) is not upheld, shareholders of SFC could potentially create claims to receive indirectly what they could not receive directly (*i.e.*, payment in respect of equity claims through the Related Indemnity Claims) – a result that could not have been intended by the legislature as it would be inconsistent with the purposes of the CCAA.

[67] Counsel to the Ad Hoc Noteholders also submits that, before the CCAA amendments in 2009 (the "CCAA Amendments"), courts subordinated claims on the basis of:

- (a) the general expectations of creditors and shareholders with respect to priority and assumption of risks; and
- (b) the equitable principles and considerations set out in certain U.S. cases: see *e.g.* *Blue Range Resources, supra*.

[68] Counsel further submits that, before the CCAA Amendments took effect, courts had expanded the types of claims characterized as equity claims; first to claims for damages of defrauded shareholders and then to contractual indemnity claims of shareholders; see *Blue Range Resources, supra* and *EarthFirst Canada, supra*.

[69] Counsel for the Ad Hoc Noteholders also submits that indemnity claims of underwriters have been treated as equity claims in the United States, pursuant to section 510(b) of the U.S. Bankruptcy Code. This submission is detailed at paragraphs 20-25 of their factum which reads as follows:

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20. The desire to more closely align the Canadian approach to equity claims with the U.S. approach was among the considerations that gave rise to the codification of the treatment of equity claims. Canadian courts have also looked to the U.S. law for guidance on the issue of equity claims where codification of the subordination of equity claims has been long-standing,

Janis Sarra at p. 209, Ad Hoc Committee's Book of Authorities, Tab 10.

Report of the Standing Senate Committee on Banking, Trade and Commerce, "Debtors and Creditors Sharing the Burden: A Review of the *Bankruptcy and Insolvency Act* and the *Companies' Creditors Arrangement Act*" (2003) at 158, [...]

Blue Range [Resources] at paras. 41-57 [...]

21. Pursuant to § 510(b) of the *U.S. Bankruptcy Code*, all creditors must be paid in full before shareholders are entitled to receive any distribution. § 510(b) of the *U.S. Bankruptcy Code* and the relevant portion of § 502, which is referenced in § 510(b), provide as follows:

§ 510. Subordination

(b) For the purpose of distribution under this title, a claim arising from rescission of a purchase or sale of a security of the debtor or of an affiliate of the debtor, for damages arising from the purchase or sale of such a security, or for reimbursement or contribution allowed under 502 on account of such a claim, shall be subordinated to all claims or interests that are senior to or equal the claim or interest represented by such security, except that if such security is common stock, such claim has the same priority as common stock.

§ 502. Allowance of claims or interests

(e) (1) Notwithstanding subsections (a), (b) and (c) of this section and paragraph (2) of this subsection, the court shall disallow any claim for reimbursement or contribution of an entity that is liable with the debtor on or has secured the claim of a creditor, to the extent that

...

(B) such claim for reimbursement or contribution is contingent as of the time of allowance or disallowance of such claim for reimbursement or contribution; or

...

(2) A claim for reimbursement or contribution of such an entity that becomes fixed after the commencement of the case shall be determined,

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and shall be allowed under subsection (a), (b), or (c) of this section, or disallowed under subsection (d) of this section, the same as if such claim had become fixed before the date of the filing of the petition.

22. U.S. appellate courts have interpreted the statutory language in § 510(b) broadly to subordinate the claims of shareholders that have a nexus or causal relationship to the purchase or sale of securities, including damages arising from alleged illegality in the sale or purchase of securities or from corporate misconduct whether predicated on pre or post-issuance conduct.

Re Telegroup Inc. (2002), 281 F. 3d 133 (3rd Cir. U.S. Court of Appeals) [...]

American Broadcasting Systems Inc. v. Nugent, U.S. Court of Appeals for the Ninth Circuit, Case Number 98-17133 (24 January 2001) [...]

23. Further, U.S. courts have held that indemnification claims of underwriters against the corporation for liability or defence costs when shareholders or former shareholders have sued underwriters constitute equity claims in the insolvency of the corporation that are subordinated to the claims of general creditors based on: (a) the plain language of § 510(b), which references claims for "reimbursement or contribution" and (b) risk allocation as between general creditors and those parties that play a role in the purchase and sale of securities that give rise to the shareholder claims (i.e., directors, officers and underwriters).

In re Mid-American Waste Sys., 228 B.R. 816, 1999 Bankr. LEXIS 27 (Bankr. D. Del. 1999) [*Mid-American*] [...]

In re Jacom Computer Servs., 280 B.R. 570, 2002 Bankr. LEXIS 758 (Bankr. S.D.N.Y. 2002) [...]

24. In *Mid-American*, the Court stated the following with respect to the "plain language" of § 510(b), its origins and the inclusion of "reimbursement or contribution" claims in that section:

... I find that the plain language of § 510(b), its legislative history, and applicable case law clearly show that § 510(b) intends to subordinate the indemnification claims of officers, directors, and underwriters for both liability and expenses incurred in connection with the pursuit of claims for rescission or damages by purchasers or sellers of the debtor's securities. The meaning of amended § 510(b), specifically the language "for reimbursement or contribution . . . on account of [a claim arising from rescission or damages arising from the purchase or sale of a security]," can be discerned by a plain reading of its language.

... it is readily apparent that the rationale for section 510(b) is not limited to preventing shareholder claimants from improving their position vis-a-

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vis general creditors; Congress also made the decision to subordinate based on risk allocation. Consequently, when Congress amended § 510(b) to add reimbursement and contribution claims, it was not radically departing from an equityholder claimant treatment provision, as NatWest suggests; it simply added to the subordination treatment new classes of persons and entities involved with the securities transactions giving rise to the rescission and damage claims. The 1984 amendment to § 510(b) is a logical extension of one of the rationales for the original section — because Congress intended the holders of securities law claims to be subordinated, why not also subordinate claims of other parties (e.g., officers and directors and underwriters) who play a role in the purchase and sale transactions which give rise to the securities law claims? As I view it, in 1984 Congress made a legislative judgment that claims emanating from tainted securities law transactions should not have the same priority as the claims of general creditors of the estate. [emphasis added]

[...]

25. Further, the U.S. courts have held that the degree of culpability of the respective parties is a non-issue in the disallowance of claims for indemnification of underwriters; the equities are meant to benefit the debtor's direct creditors, not secondarily liable creditors with contingent claims.

In re Drexel Burnham Lambert Group, 148 B.R. 982, 1992 Bankr. LEXIS 2023 (Bankr. S.D.N.Y. 1992) [...]

[70] Counsel submits that there is no principled basis for treating indemnification claims of auditors differently than those of underwriters.

Analysis

Is it Premature to Determine the Issue?

[71] The class action litigation was commenced prior to the CCAA Proceedings. It is clear that the claims of shareholders as set out in the class action claims against SFC are "equity claims" within the meaning of the CCAA.

[72] In my view, this issue is not premature for determination, as is submitted by the Underwriters.

[73] The Class Action Proceedings preceded the CCAA Proceedings. It has been clear since the outset of the CCAA Proceedings that this issue — namely, whether the claims of E&Y, BDO and the Underwriters as against SFC, would be considered "equity claims" — would have to be determined.

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[74] It has also been clear from the outset of the CCAA Proceedings, that a Sales Process would be undertaken and the expected proceeds arising from the Sales Process would generate proceeds insufficient to satisfy the claims of creditors.

[75] The Claims Procedure is in place but, it seems to me that the issue that has been placed before the court on this motion can be determined independently of the Claims Procedure. I do not accept that any party can be said to be prejudiced if this threshold issue is determined at this time. The threshold issue does not depend upon a determination of quantification of any claim. Rather, its effect will be to establish whether the claims of E&Y, BDO and the Underwriters will be subordinated pursuant to the provisions of the CCAA. This is independent from a determination as to the validity of any claim and the quantification thereof.

Should the Equity Claims Order be Granted?

[76] I am in agreement with the submission of counsel for the Ad Hoc Noteholders to the effect that the characterization of claims for indemnity turns on the characterization of the underlying primary claims.

[77] In my view, the claims advanced in the Shareholder Claims are clearly equity claims. The Shareholder Claims underlie the Related Indemnity Claims.

[78] In my view, the CCAA Amendments have codified the treatment of claims addressed in pre-amendment cases and have further broadened the scope of equity claims.

[79] The plain language in the definition of "equity claim" does not focus on the identity of the claimant. Rather, it focuses on the nature of the claim. In this case, it seems clear that the Shareholder Claims led to the Related Indemnity Claims. Put another way, the inescapable conclusion is that the Related Indemnity Claims are being used to recover an equity investment.

[80] The plain language of the CCAA dictates the outcome, namely, that the Shareholder Claims and the Related Indemnity Claims constitute "equity claims" within the meaning of the CCAA. This conclusion is consistent with the trend towards an expansive interpretation of the definition of "equity claims" to achieve the purpose of the CCAA.

[81] In *Return on Innovation*, Newbould J. characterized the contractual indemnification claims of directors and officers as "equity claims". The Court of Appeal denied leave to appeal. The analysis in *Return on Innovation* leads to the conclusion that the Related Indemnity Claims are also equity claims under the CCAA.

[82] It would be totally inconsistent to arrive at a conclusion that would enable either the auditors or the Underwriters, through a claim for indemnification, to be treated as creditors when the underlying actions of the shareholders cannot achieve the same status. To hold otherwise would indeed provide an indirect remedy where a direct remedy is not available.

[83] Further, on the issue of whether the claims of E&Y, BDO and the Underwriters fall within the definition of equity claims, there are, in my view, two aspects of these claims and it is necessary to keep them conceptually separate.

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[84] The first and most significant aspect of the claims of E&Y, BDO and the Underwriters constitutes an "equity claim" within the meaning of the CCAA. Simply put, but for the Class Action Proceedings, it is inconceivable that claims of this magnitude would have been launched by E&Y, BDO and the Underwriters as against SFC. The class action plaintiffs have launched their actions against SFC, the auditors and the Underwriters. In turn, E&Y, BDO and the Underwriters have launched actions against SFC and its subsidiaries. The claims of the shareholders are clearly "equity claims" and a plain reading of s. 2(1)(e) of the CCAA leads to the same conclusion with respect to the claims of E&Y, BDO and the Underwriters. To hold otherwise, would, as stated above, lead to a result that is inconsistent with the principles of the CCAA. It would potentially put the shareholders in a position to achieve creditor status through their claim against E&Y, BDO and the Underwriters even though a direct claim against SFC would rank as an "equity claim".

[85] I also recognize that the legal construction of the claims of the auditors and the Underwriters as against SFC is different than the claims of the shareholders against SFC. However, that distinction is not, in my view, reflected in the language of the CCAA which makes no distinction based on the status of the party but rather focuses on the substance of the claim.

[86] Critical to my analysis of this issue is the statutory language and the fact that the CCAA Amendments came into force after the cases relied upon by the Underwriters and the auditors.

[87] It has been argued that the amendments did nothing more than codify pre-existing common law. In many respects, I accept this submission. However, I am unable to accept this submission when considering s. 2(1) of the CCAA, which provides clear and specific language directing that "equity claim" means a claim that is in respect of an equity interest, including a claim for, among other things, "(e) contribution or indemnity in respect of a claim referred to in any of paragraphs (a) to (d)".

[88] Given that a shareholder claim falls within s. 2(1)(d), the plain words of subsections (d) and (e) lead to the conclusions that I have set out above.

[89] I fail to see how the very clear words of subsection (e) can be seen to be a codification of existing law. To arrive at the conclusion put forth by E&Y, BDO and the Underwriters would require me to ignore the specific words that Parliament has recently enacted.

[90] I cannot agree with the position put forth by the Underwriters or by the auditors on this point. The plain wording of the statute has persuaded me that it does not matter whether an indemnity claim is seeking no more than allocation of fault and contribution at common law, or whether there is a free-standing contribution and indemnity claim based on contracts.

[91] However, that is not to say that the full amount of the claim by the auditors and Underwriters can be characterized, at this time, as an "equity claim".

[92] The second aspect to the claims of the auditors and underwriters can be illustrated by the following hypothetical: if the claim of the shareholders does not succeed against the class action defendants, E&Y, BDO and the Underwriters will not be liable to the class action plaintiffs. However, these parties may be in a position to demonstrate that they do have a claim against

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SFC for the costs of defending those actions, which claim does not arise as a result of "contribution or indemnity in respect of an equity claim".

[93] It could very well be that each of E&Y, BDO and the Underwriters have expended significant amounts in defending the claims brought by the class action plaintiffs which, in turn, could give rise to contractual claims as against SFC. If there is no successful equity claim brought by the class action plaintiffs, it is arguable that any claim of E&Y, BDO and the Underwriters may legitimately be characterized as a claim for contribution or indemnity but not necessarily in respect of an equity claim. If so, there is no principled basis for subordinating this portion of the claim. At this point in time, the quantification of such a claim cannot be determined. This must be determined in accordance with the Claims Procedure.

[94] However, it must be recognized that, by far the most significant part of the claim, is an "equity claim".

[95] In arriving at this determination, I have taken into account the arguments set forth by E&Y, BDO and the Underwriters. My conclusions recognize the separate aspects of the Related Indemnity Claims as submitted by counsel to the Underwriters at paragraph 40 of their factum which reads:

...it must be recognized that there are, in fact, at least two different kinds of Related Indemnity Claims:

- (a) indemnity claims against SFC in respect of Shareholder Claims against the auditors and the Underwriters; and
- (b) indemnity claims against SFC in respect of the defence costs of the auditors and the Underwriters in connection with defending themselves against Shareholder Claims.

Disposition

[96] In the result, an order shall issue that the claims against SFC resulting from the ownership, purchase or sale of equity interests in SFC, including, without limitation, the claims by or on behalf of current or former shareholders asserted in the proceedings listed in Schedule "A" are "equity claims" as defined in s. 2 of the CCAA, being claims in respect of monetary losses resulting from the ownership, purchase or sale of an equity interest. It is noted that counsel for the class action plaintiffs did not contest this issue.

[97] In addition, an order shall also issue that any indemnification claim against SFC related to or arising from the Shareholders Claims, including, without limitation, by or on behalf of any of the other defendants to the proceedings listed in Schedule "A" are "equity claims" under the CCAA, being claims for contribution or indemnity in respect of a claim that is an equity claim. However, I feel it is premature to determine whether this order extends to the aspect of the Related Indemnity Claims that corresponds to the defence costs of the Underwriters and the auditors in connection with defending themselves against the Shareholder Claims.

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[98] A direction shall also issue that these orders are made without prejudice to SFC's rights to apply for a similar order with respect to (i) any claims in the statement of claim that are in respect of securities other than shares and (ii) any indemnification claims against SFC related thereto.



MORAWETZ J.

Date: July 27, 2012

SCHEDULE "A" – SHAREHOLDER CLAIMS

1. *Trustees of the Labourers' Pension Fund of Central and Eastern Canada et al. v. Sino-Forest Corporation et al.* (Ontario Superior Court of Justice, Court File No. CV-11-431153-00CP)
2. *Guining Liu v. Sino-Forest Corporation et al.* (Quebec Superior Court, Court File No.: 200-06-000132-111)
3. *Allan Haigh v. Sino-Forest Corporation et al.* (Saskatchewan Court of Queen's Bench, Court File No. 2288 of 2011)
4. *David Leopard et al. v. Allen T.Y. Chan et al.* (District court of the Southern District of New York, Court File No. 650258/2012)

TAB F

This is Exhibit "F" to the
Affidavit of Costmo Borelli
Sworn before me on 26 April 2015

LIU

A Commissioner, etc.
LI SIU FUNG
NOTARY PUBLIC
HONG KONG SAR.
Unit 1303, 13/F.,
Tower 1, Admiralty Centre,
18 Harcourt Road,
Hong Kong.

COURT OF APPEAL FOR ONTARIO

CITATION: Sino-Forest Corporation (Re), 2012 ONCA 816

DATE: 20121123

DOCKET: C56115, C56118 & C56125

Goudge, Hoy and Pepall JJ.A.

In the Matter of the *Companies' Creditors
Arrangement Act*, R.S.C. 1985, c. C-36, as amended

And in the Matter of a Plan of Compromise or
Arrangement of Sino-Forest Corporation

Peter H. Griffin, Peter J. Osborne and Shara Roy, for the appellant Ernst & Young LLP

Sheila Block and David Bish, for the appellants Credit Suisse Securities (Canada) Inc., TD Securities Inc., Dundee Securities Corporation (now known as DWM Securities Inc.), RBC Dominion Securities Inc., Scotia Capital Inc., CIBC World Markets Inc., Merrill Lynch Canada Inc., Canaccord Financial Ltd. (now known as Canaccord Genuity Corp.), Maison Placements Canada Inc., Credit Suisse Securities (USA) LLC and Merrill Lynch, Pierce, Fenner & Smith Incorporated, successor by merger to Banc of America Securities LLC

Kenneth Dekker, for the appellant BDO Limited

Robert W. Staley, Derek J. Bell and Jonathan Bell, for the respondent Sino-Forest Corporation

Benjamin Zamett, Robert Chadwick and Julie Rosenthal, for the respondent the Ad Hoc Committee of Noteholders

Clifton Prophet, for the Monitor FTI Consulting Canada Inc.

Kirk M. Baert, A. Dimitri Lascaris and Massimo Starnino, for the respondent the Ad Hoc Committee of Purchasers

Emily Cole, for the respondent Allen Chan

Erin Pleet, for the respondent David Horsley

David Gadsden, for the respondent Pöyry (Beijing)

Larry Lowenstein and Edward A. Sellers, for the respondent the Board of Directors

Heard: November 13, 2012

On appeal from the order of Justice Geoffrey B. Morawetz of the Superior Court of Justice, dated July 27, 2012, with reasons reported at 2012 ONSC 4377, 92 C.B.R. (5th) 99.

By the Court:

I OVERVIEW

[1] In 2009, the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended ("CCAA"), was amended to expressly provide that general creditors are to be paid in full before an equity claim is paid.

[2] This appeal considers the definition of "equity claim" in s. 2(1) of the CCAA. More particularly, the central issue is whether claims by auditors and underwriters against the respondent debtor, Sino-Forest Corporation ("Sino-Forest"), for contribution and indemnity fall within that definition. The claims arise out of proposed shareholder class actions for misrepresentation.

[3] The appellants argue that the supervising judge erred in concluding that the claims at issue are equity claims within the meaning of the CCAA and in

determining the issue before the claims procedure established in Sino-Forest's CCAA proceeding had been completed.

[4] For the reasons that follow, we conclude that the supervising judge did not err and accordingly dismiss this appeal.

II THE BACKGROUND

(a) The Parties

[5] Sino-Forest is a Canadian public holding company that holds the shares of numerous subsidiaries, which in turn own, directly or indirectly, forestry assets located principally in the People's Republic of China. Its common shares are listed on the Toronto Stock Exchange. Sino-Forest also issued approximately \$1.8 billion of unsecured notes, in four series. Trading in Sino-Forest shares ceased on August 26, 2011, as a result of a cease-trade order made by the Ontario Securities Commission.

[6] The appellant underwriters¹ provided underwriting services in connection with three separate Sino-Forest equity offerings in June 2007, June 2009 and December 2009, and four separate Sino-Forest note offerings in July 2008, June 2009, December 2009 and October 2010. Certain underwriters entered into agreements with Sino-Forest in which Sino-Forest agreed to indemnify the

¹ Credit Suisse Securities (Canada) Inc., TD Securities Inc., Dundee Securities Corporation (now known as DWM Securities Inc.), RBC Dominion Securities Inc., Scotia Capital Inc., CIBC World Markets Inc., Merrill Lynch Canada Inc., Canaccord Financial Ltd. (now known as Canaccord Genuity Corp.), Maison Placements Canada Inc., Credit Suisse Securities (USA) LLC and Merrill Lynch, Pierce, Fenner & Smith Incorporated, successor by merger to Banc of America Securities LLC.

underwriters in connection with an array of matters that could arise from their participation in these offerings.

[7] The appellant BDO Limited (“BDO”) is a Hong Kong-based accounting firm that served as Sino-Forest’s auditor between 2005 and August 2007 and audited its annual financial statements for the years ended December 31, 2005 and December 31, 2006.

[8] The engagement agreements governing BDO’s audits of Sino-Forest provided that the company’s management bore the primary responsibility for preparing its financial statements in accordance with Generally Accepted Accounting Principles (“GAAP”) and implementing internal controls to prevent and detect fraud and error in relation to its financial reporting.

[9] BDO’s Audit Report for 2006 was incorporated by reference into a June 2007 prospectus issued by Sino-Forest regarding the offering of its shares to the public. This use by Sino-Forest was governed by an engagement agreement dated May 23, 2007, in which Sino-Forest agreed to indemnify BDO in respect of any claims by the underwriters or any third party that arose as a result of the further steps taken by BDO in relation to the issuance of the June 2007 prospectus.

[10] The appellant Ernst & Young LLP (“E&Y”) served as Sino-Forest’s auditor for the years 2007 to 2012 and delivered Auditors’ Reports with respect to the

consolidated financial statements of Sino-Forest for fiscal years ended December 31, 2007 to 2010, inclusive. In each year for which it prepared a report, E&Y entered into an audit engagement letter with Sino-Forest in which Sino-Forest undertook to prepare its financial statements in accordance with GAAP, design and implement internal controls to prevent and detect fraud and error, and provide E&Y with its complete financial records and related information. Some of these letters contained an indemnity in favour of E&Y.

[11] The respondent Ad Hoc Committee of Noteholders consists of noteholders owning approximately one-half of Sino-Forest's total noteholder debt.² They are creditors who have debt claims against Sino-Forest; they are not equity claimants.

[12] Sino-Forest has insufficient assets to satisfy all the claims against it. To the extent that the appellants' claims are accepted and are treated as debt claims rather than equity claims, the noteholders' recovery will be diminished.

(b) The Class Actions

[13] In 2011 and January of 2012, proposed class actions were commenced in Ontario, Quebec, Saskatchewan and New York State against, amongst others,

² Noteholders holding in excess of \$1.296 billion, or 72%, of Sino-Forest's approximately \$1.8 billion in noteholders' debt have executed written support agreements in favour of the Sino-Forest CCAA plan as of March 30, 2012. These include noteholders represented by the Ad Hoc Committee of Noteholders.

Sino-Forest, certain of its officers, directors and employees, BDO, E&Y and the underwriters. Sino-Forest is sued in all actions.³

[14] The proposed representative plaintiffs in the class actions are shareholders of Sino-Forest. They allege that: Sino-Forest repeatedly misrepresented its assets and financial situation and its compliance with GAAP in its public disclosure; the appellant auditors and underwriters failed to detect these misrepresentations; and the appellant auditors misrepresented that their audit reports were prepared in accordance with generally accepted auditing standards ("GAAS"). The representative plaintiffs claim that these misrepresentations artificially inflated the price of Sino-Forest's shares and that proposed class members suffered damages when the shares fell after the truth was revealed in 2011.

[15] The representative plaintiffs in the Ontario class action seek approximately \$9.2 billion in damages. The Quebec, Saskatchewan and New York class actions do not specify the quantum of damages sought.

[16] To date, none of the proposed class actions has been certified.

(c) CCAA Protection and Proofs of Claim

[17] On March 30, 2012, Sino-Forest sought protection pursuant to the provisions of the CCAA. Morawetz J. granted the initial order which, among other

³ None of the appellants are sued in Saskatchewan and all are sued in Ontario. E&Y is also sued in Quebec and New York and the appellant underwriters are also sued in New York.

things, appointed FTI Consulting Canada Inc. as the Monitor and stayed the class actions as against Sino-Forest. Since that time, Morawetz J. has been the supervising judge of the CCAA proceedings. The initial stay of the class actions was extended and broadened by order dated May 8, 2012.

[18] On May 14, 2012, the supervising judge granted an unopposed claims procedure order which established a procedure to file and determine claims against Sino-Forest.

[19] Thereafter, all of the appellants filed individual proofs of claim against Sino-Forest seeking contribution and indemnity for, among other things, any amounts that they are ordered to pay as damages to the plaintiffs in the class actions. Their proofs of claim advance several different legal bases for Sino-Forest's alleged obligation of contribution and indemnity, including breach of contract, contractual terms of indemnity, negligent and fraudulent misrepresentation in tort, and the provisions of the *Negligence Act*, R.S.O. 1990, c. N.1.

(d) Order under Appeal

[20] Sino-Forest then applied for an order that the following claims are equity claims under the CCAA: claims against Sino-Forest arising from the ownership, purchase or sale of an equity interest in the company, including shareholder claims ("Shareholder Claims"); and any indemnification claims against Sino-

Forest related to or arising from the Shareholder Claims, including the appellants' claims for contribution or indemnity ("Related Indemnity Claims").

[21] The motion was supported by the Ad Hoc Committee of Noteholders.

[22] On July 27, 2012, the supervising judge granted the order sought by Sino-Forest and released a comprehensive endorsement.

[23] He concluded that it was not premature to determine the equity claims issue. It had been clear from the outset of Sino-Forest's CCAA proceedings that this issue would have to be decided and that the expected proceeds arising from any sales process would be insufficient to satisfy the claims of creditors. Furthermore, the issue could be determined independently of the claims procedure and without prejudice being suffered by any party.

[24] He also concluded that both the Shareholder Claims and the Related Indemnity Claims should be characterized as equity claims. In summary, he reasoned that:

- The characterization of claims for indemnity turns on the characterization of the underlying primary claims. The Shareholder Claims are clearly equity claims and they led to and underlie the Related Indemnity Claims;
- The plain language of the CCAA, which focuses on the nature of the claim rather than the identity of the claimant, dictates that both Shareholder Claims and Related Indemnity Claims constitute equity claims;

- The definition of “equity claim” added to the CCAA in 2009 broadened the scope of equity claims established by pre-amendment jurisprudence;
- This holding is consistent with the analysis in *Return on Innovation Capital Ltd. v. Gandi Innovations Ltd.*, 2011 ONSC 5018, 83 C.B.R. (5th) 123, which dealt with contractual indemnification claims of officers and directors. Leave to appeal was denied by this court, 2012 ONCA 10, 90 C.B.R. (5th) 141; and
- “It would be totally inconsistent to arrive at a conclusion that would enable either the auditors or the underwriters, through a claim for indemnification, to be treated as creditors when the underlying actions of shareholders cannot achieve the same status” (para. 82). To hold otherwise would run counter to the scheme established by the CCAA and would permit an indirect remedy to the shareholders when a direct remedy is unavailable.

[25] The supervising judge did not characterize the full amount of the claims of the auditors and underwriters as equity claims. He excluded the claims for defence costs on the basis that while it was arguable that they constituted claims for indemnity, they were not necessarily in respect of an equity claim. That determination is not appealed.

III INTERPRETATION OF “EQUITY CLAIM”

(a) Relevant Statutory Provisions

[26] As part of a broad reform of Canadian insolvency legislation, various amendments to the CCAA were proclaimed in force as of September 18, 2009.

[27] They included the addition of s. 6(8):

No compromise or arrangement that provides for the payment of an equity claim is to be sanctioned by the court unless it provides that all claims that are not equity claims are to be paid in full before the equity claim is to be paid.

Section 22.1, which provides that creditors with equity claims may not vote at any meeting unless the court orders otherwise, was also added.

[28] Related definitions of “claim”, “equity claim”, and “equity interest” were added to s. 2(1) of the CCAA:

In this Act,

...

“claim” means any indebtedness, liability or obligation of any kind that would be a claim provable within the meaning of section 2 of the *Bankruptcy and Insolvency Act*;

...

“equity claim” means a claim that is in respect of an equity interest, including a claim for, among others,

- (a) a dividend or similar payment,
- (b) a return of capital,
- (c) a redemption or retraction obligation,
- (d) a monetary loss resulting from the ownership, purchase or sale of an equity interest or from the rescission, or, in Quebec, the annulment, of a purchase or sale of an equity interest, or
- (e) contribution or indemnity in respect of a claim referred to in any of paragraphs (a) to (d); [Emphasis added.]

“equity interest” means

- (a) in the case of a company other than an income trust, a share in the company — or a warrant or option or another right

to acquire a share in the company — other than one that is derived from a convertible debt, and

(b) in the case of an income trust, a unit in the income trust — or a warrant or option or another right to acquire a unit in the income trust — other than one that is derived from a convertible debt;

[29] Section 2 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (“BIA”) defines a “claim provable in bankruptcy”. Section 121 of the BIA in turn specifies that claims provable in bankruptcy are those to which the bankrupt is subject.

2. “claim provable in bankruptcy”, “provable claim” or “claim provable” includes any claim or liability provable in proceedings under this Act by a creditor;

121. (1) All debts and liabilities, present or future, to which the bankrupt is subject on the day on which the bankrupt becomes bankrupt or to which the bankrupt may become subject before the bankrupt’s discharge by reason of any obligation incurred before the day on which the bankrupt becomes bankrupt shall be deemed to be claims provable in proceedings under this Act. [Emphasis added.]

(b) The Legal Framework Before the 2009 Amendments

[30] Even before the 2009 amendments to the CCAA codified the treatment of equity claims, the courts subordinated shareholder equity claims to general creditors’ claims in an insolvency. As the supervising judge described:

[23] Essentially, shareholders cannot reasonably expect to maintain a financial interest in an insolvent company where creditor claims are not being paid in full. Simply put, shareholders have no economic interest in an insolvent enterprise.

[24] The basis for the differentiation flows from the fundamentally different nature of debt and equity investments. Shareholders have unlimited upside potential when purchasing shares. Creditors have no corresponding upside potential.

[25] As a result, courts subordinated equity claims and denied such claims a vote in plans of arrangement. [Citations omitted.]⁴

(c) The Appellants' Submissions

[31] The appellants essentially advance three arguments.

[32] First, they argue that on a plain reading of s. 2(1), their claims are excluded. They focus on the opening words of the definition of "equity claim" and argue that their claims against Sino-Forest are not claims that are "in respect of an equity interest" because they do not have an equity interest in Sino-Forest. Their relationships with Sino-Forest were purely contractual and they were arm's-length creditors, not shareholders with the risks and rewards attendant to that position. The policy rationale behind ranking shareholders below creditors is not furthered by characterizing the appellants' claims as equity claims. They were service providers with a contractual right to an indemnity from Sino-Forest.

[33] Second, the appellants focus on the term "claim" in paragraph (e) of the definition of "equity claim", and argue that the claims in respect of which they seek contribution and indemnity are the shareholders' claims against them in

⁴ The supervising judge cited the following cases as authority for these propositions: *Blue Range Resource Corp., Re*, 2000 ABQB 4, 259 A.R. 30; *Stelco Inc., Re* (2006), 17 C.B.R. (5th) 78 (Ont. S.C.); *Central Capital Corp. (Re)* (1996), 27 O.R. (3d) 494 (C.A.); *Nelson Financial Group Ltd., Re*, 2010 ONSC 6229, 71 C.B.R. (5th) 153; *EarthFirst Canada Inc., Re*, 2009 ABQB 316, 56 C.B.R. (5th) 102.

court proceedings for damages, which are not “claims” against Sino-Forest provable within the meaning of the BIA, and, therefore, not “claims” within s. 2(1). They submit that the supervising judge erred in focusing on the characterization of the underlying primary claims.

[34] Third, the appellants submit that the definition of “equity claim” is not sufficiently clear to have changed the existing law. It is assumed that the legislature does not intend to change the common law without “expressing its intentions to do so with irresistible clearness”: *District of Parry Sound Social Services Administration Board v. Ontario Public Service Employees Union, Local 324*, 2003 SCC 42, [2003] 2 S.C.R. 157, at para. 39, citing *Goodyear Tire & Rubber Co. of Canada Ltd. v. T. Eaton Co. Ltd.*, [1956] S.C.R. 610, at p. 614. The appellants argue that the supervising judge’s interpretation of “equity claim” dramatically alters the common law as reflected in *National Bank of Canada v. Merit Energy Ltd.*, 2001 ABQB 583, 294 A.R. 15, aff’d 2002 ABCA 5, 299 A.R. 200. There the court determined that in an insolvency, claims of auditors and underwriters for indemnification are not to be treated in the same manner as claims by shareholders. Furthermore, the Senate debates that preceded the enactment of the amendments did not specifically comment on the effect of the amendments on claims by auditors and underwriters. The amendments should be interpreted as codifying the pre-existing common law as reflected in *National Bank of Canada v. Merit Energy Ltd.*

[35] The appellants argue that the decision of *Return on Innovation Capital Ltd. v. Gandi Innovations Ltd.* is distinguishable because it dealt with the characterization of claims for damages by an equity investor against officers and directors, and it predated the 2009 amendments. In any event, this court confirmed that its decision denying leave to appeal should not be read as a judicial precedent for the interpretation of the meaning of “equity claim” in s. 2(1) of the CCAA.

(d) Analysis

(i) Introduction

[36] The exercise before this court is one of statutory interpretation. We are therefore guided by the following oft-cited principle from Elmer A. Driedger, *Construction of Statutes*, 2d ed. (Toronto: Butterworths, 1983), at p. 87:

[T]he words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament.

[37] We agree with the supervising judge that the definition of equity claim focuses on the nature of the claim, and not the identity of the claimant. In our view, the appellants’ claims for contribution and indemnity are clearly equity claims.

[38] The appellants’ arguments do not give effect to the expansive language adopted by Parliament in defining “equity claim” and read in language not

incorporated by Parliament. Their interpretation would render paragraph (e) of the definition meaningless and defies the logic of the section.

(ii) *The expansive language used*

[39] The definition incorporates two expansive terms.

[40] First, Parliament employed the phrase “*in respect of*” twice in defining equity claim: in the opening portion of the definition, it refers to an equity claim as a “claim that is *in respect of* an equity interest”, and in paragraph (e) it refers to “contribution or indemnity *in respect of* a claim referred to in any of paragraphs (a) to (d)” (emphasis added).

[41] The Supreme Court of Canada has repeatedly held that the words “in respect of” are “of the widest possible scope”, conveying some link or connection between two related subjects. In *CanadianOxy Chemicals Ltd. v. Canada (Attorney General)*, [1999] 1 S.C.R. 743, at para. 16, citing *Nowegijick v. The Queen*, [1983] 1 S.C.R. 29, at p. 39, the Supreme Court held as follows:

The words “in respect of” are, in my opinion, words of the widest possible scope. They import such meanings as “in relation to”, “with reference to” or “in connection with”. The phrase “in respect of” is probably the widest of any expression intended to convey some connection between two related subject matters. [Emphasis added in *CanadianOxy*.]

That court also stated as follows in *Markevich v. Canada*, 2003 SCC 9, [2003] 1 S.C.R. 94, at para. 26:

The words “in respect of” have been held by this Court to be words of the broadest scope that convey some link between two subject matters. [Citations omitted.]

[42] It is conceded that the Shareholder Claims against Sino-Forest are claims for “a monetary loss resulting from the ownership, purchase or sale of an equity interest”, within the meaning of paragraph (d) of the definition of “equity claim”. There is an obvious link between the appellants’ claims against Sino-Forest for contribution and indemnity and the shareholders’ claims against Sino-Forest. The legal proceedings brought by the shareholders asserted their claims against Sino-Forest together with their claims against the appellants, which gave rise to these claims for contribution and indemnity. The causes of action asserted depend largely on common facts and seek recovery of the same loss.

[43] The appellants’ claims for contribution or indemnity against Sino-Forest are therefore clearly connected to or “in respect of” a claim referred to in paragraph (d), namely the shareholders’ claims against Sino-Forest. They are claims in respect of equity claims by shareholders provable in bankruptcy against Sino-Forest.

[44] Second, Parliament also defined equity claim as “including a claim for, among others”, the claims described in paragraphs (a) to (e). The Supreme Court has held that this phrase “including” indicates that the preceding words – “a claim that is in respect of an equity interest” – should be given an expansive interpretation, and include matters which might not otherwise be within the

meaning of the term, as stated in *National Bank of Greece (Canada) v. Katsikonouris*, [1990] 2 S.C.R. 1029, at p. 1041:

[T]hese words are terms of extension, designed to enlarge the meaning of preceding words, and not to limit them.

... [T]he natural inference is that the drafter will provide a specific illustration of a subset of a given category of things in order to make it clear that that category extends to things that might otherwise be expected to fall outside it.

[45] Accordingly, the appellants' claims, which clearly fall within paragraph (e), are included within the meaning of the phrase a "claim that is in respect of an equity interest".

(iii) *What Parliament did not say*

[46] "Equity claim" is not confined by its definition, or by the definition of "claim", to a claim advanced by the holder of an equity interest. Parliament could have, but did not, include language in paragraph (e) restricting claims for contribution or indemnity to those made by shareholders.

(iv) *An interpretation that avoids surplusage*

[47] A claim for contribution arises when the claimant for contribution has been sued. Section 2 of the *Negligence Act* provides that a tortfeasor may recover contribution or indemnity from any other tortfeasor who is, or would if sued have been, liable in respect of the damage to any person suffering damage as a result

of a tort. The securities legislation of the various provinces provides that an issuer, its underwriters, and, if they consented to the disclosure of information in the prospectus, its auditors, among others, are jointly and severally liable for a misrepresentation in the prospectus, and provides for rights of contribution.⁵

[48] Counsel for the appellants were unable to provide a satisfactory example of when a holder of an equity interest in a debtor company would seek contribution under paragraph (e) against the debtor in respect of a claim referred to in any of paragraphs (a) to (d). In our view, this indicates that paragraph (e) was drafted with claims for contribution or indemnity by non-shareholders rather than shareholders in mind.

[49] If the appellants' interpretation prevailed, and only a person with an equity interest could assert such a claim, paragraph (e) would be rendered meaningless, and as Lamer C.J. wrote in *R. v. Proulx*, 2000 SCC 5, [2000] 1 S.C.R. 61, at para. 28:

It is a well accepted principle of statutory interpretation that no legislative provision should be interpreted so as to render it mere surplusage.

(v) *The scheme and logic of the section*

⁵ *Securities Act*, R.S.O. 1990, c. S.5, s. 130(1), (8); *Securities Act*, R.S.A. 2000, c. S-4, s. 203(1), (10); *Securities Act*, R.S.B.C. 1996, c. 418, s. 131(1), (11); *The Securities Act*, C.C.S.M. c. S50, s. 141(1), (11); *Securities Act*, S.N.B. 2004, c. S-5.5, s. 149(1), (9); *Securities Act*, R.S.N.L. 1990, c. S-13, s. 130(1), (8); *Securities Act*, R.S.N.S. 1989, c. 418, s. 137(1), (8); *Securities Act*, S.Nu. 2009, c. 12, s. 111(1), (12); *Securities Act*, S.N.W.T. 2008, c. 10, s. 111(1), (12); *Securities Act*, R.S.P.E.I. 1988, c. S-3.1, s. 111(1), (12); *Securities Act*, R.S.Q. c. V-1.1, ss. 218, 219, 221; *The Securities Act, 1988*, S.S. 1988-89, c. S-42.2, s. 137(1), (9); *Securities Act*, S.Y. 2007, c. 16, s. 111(1), (13).

[50] Moreover, looking at s. 2(1) as a whole, it would appear that the remedies available to shareholders are all addressed by ss. 2(1)(a) to (d). The logic of ss. 2(1)(a) to (e) therefore also supports the notion that paragraph (e) refers to claims for contribution or indemnity not by shareholders, but by others.

(vi) *The legislative history of the 2009 amendments*

[51] The appellants and the respondents each argue that the legislative history of the amendments supports their respective interpretation of the term “equity claim”. We have carefully considered the legislative history. The limited commentary is brief and imprecise. The clause by clause analysis of Bill C-12 comments that “[a]n equity claim is defined to include any claim that is related to an equity interest”.⁶ While, as the appellants submit, there was no specific reference to the position of auditors and underwriters, the desirability of greater conformity with United States insolvency law to avoid forum shopping by debtors was highlighted in 2003, some four years before the definition of “equity claim” was included in Bill C-12.

[52] In this instance the legislative history ultimately provided very little insight into the intended meaning of the amendments. We have been guided by the plain words used by Parliament in reaching our conclusion.

(vii) *Intent to change the common law*

⁶ We understand that this analysis was before the Standing Senate Committee on Banking, Trade and Commerce in 2007.

[53] In our view the definition of “equity claim” is sufficiently clear to alter the pre-existing common law. *National Bank of Canada v. Merit Energy Ltd.*, an Alberta decision, was the single case referred to by the appellants that addressed the treatment of auditors’ and underwriters’ claims for contribution and indemnity in an insolvency before the definition was enacted. As the supervising judge noted, in a more recent decision, *Return on Innovation Capital Ltd. v. Gandi Innovations Ltd.*, the courts of this province adopted a more expansive approach, holding that contractual indemnification claims of directors and officers were equity claims.

[54] We are not persuaded that the practical effect of the change to the law implemented by the enactment of the definition of “equity claim” is as dramatic as the appellants suggest. The operations of many auditors and underwriters extend to the United States, where contingent claims for reimbursement or contribution by auditors and underwriters “liable with the debtor” are disallowed pursuant to § 502(e)(1)(B) of the U.S. Bankruptcy Code, 11 U.S.C.S.⁷

(viii) *The purpose of the legislation*

[55] The supervising judge indicated that if the claims of auditors and underwriters for contribution and indemnity were not included within the meaning

⁷ The United States Bankruptcy Court for the District of Delaware in *In Re: Mid-American Waste Systems, Inc.*, 228 B.R. 816 (1999), indicated that this provision reflects the policy rationale that these stakeholders are in a better position to evaluate the risks associated with the issuance of stock than are general creditors.

of “equity claim”, the CCAA would permit an indirect remedy to the shareholders when a direct remedy is not available. We would express this concept differently.

[56] In our view, in enacting s. 6(8) of the CCAA, Parliament intended that a monetary loss suffered by a shareholder (or other holder of an equity interest) in respect of his or her equity interest *not* diminish the assets of the debtor available to general creditors in a restructuring. If a shareholder sues auditors and underwriters in respect of his or her loss, in addition to the debtor, and the auditors or underwriters assert claims of contribution or indemnity against the debtor, the assets of the debtor available to general creditors would be diminished by the amount of the claims for contribution and indemnity.

IV PREMATURITY

[57] We are not persuaded that the supervising judge erred by determining that the appellants’ claims were equity claims before the claims procedure established in Sino-Forest’s CCAA proceeding had been completed.

[58] The supervising judge noted at para. 7 of his endorsement that from the outset, Sino-Forest, supported by the Monitor, had taken the position that it was important that these proceedings be completed as soon as possible. The need to address the characterization of the appellants’ claims had also been clear from the outset. The appellants have not identified any prejudice that arises from the

determination of the issue at this stage. There was no additional information that the appellants have identified that was not before the supervising judge. The Monitor, a court-appointed officer, supported the motion procedure. The supervising judge was well positioned to determine whether the procedure proposed was premature and, in our view, there is no basis on which to interfere with the exercise of his discretion.

V SUMMARY

[59] In conclusion, we agree with the supervising judge that the appellants' claims for contribution or indemnity are equity claims within s. 2(1)(e) of the CCAA.

[60] We reach this conclusion because of what we have said about the expansive language used by Parliament, the language Parliament did not use, the avoidance of surplusage, the logic of the section, and what, from the foregoing, we conclude is the purpose of the 2009 amendments as they relate to these proceedings.

[61] We see no basis to interfere with the supervising judge's decision to consider whether the appellants' claims were equity claims before the completion of the claims procedure.

VI DISPOSITION

[62] This appeal is accordingly dismissed. As agreed, there will be no costs.

Released: November 23, 2012 ("S.T.G.")

"S.T. Goudge J.A."
"Alexandra Hoy J.A."
"S.E. Pepall J.A."

TAB I

This is Exhibit "I" to the

Affidavit of Cosimo Borelli

Sworn before me on 26 April 2015

Li

A Commissioner, etc.

LI SIU FUNG
NOTARY PUBLIC
HONG KONG SAR
Unit 1303, 13/F,
Tower 1, Admiralty Centre,
18 Harcourt Road,
Hong Kong.

CITATION: *SFC Litigation Trust v. Chan*, 2014 ONSC _____
 COURT FILE NO.: CV14-501178-0000
 DATE: 20140828

ONTARIO
 SUPERIOR COURT OF JUSTICE
 COMMERCIAL LIST

Cosimo Borrelli, in his capacity as trustee of the
 SFC LITIGATION TRUST

Plaintiff

Derek J. Bell and
Jonathan G. Bell for the Plaintiff

- and -

ALLEN TAK YUEN CHAN

Defendant

REASONS FOR DECISION

HAINES J.

[1] The Plaintiff brings an *ex parte* motion for a *Mareva* injunction to restrain the dissipation of the defendant's assets.

[2] The test for a *Mareva* injunction is that the moving party must establish:

- (a) A strong *prima facie* case of fraud;
- (b) A real and genuine risk that the defendant will put his assets beyond his creditors for the purpose of avoiding judgment;
- (c) The moving party will suffer irreparable harm; and

(d) The balance of convenience favours the moving party.

[3] In addition, because the Plaintiff seeks a worldwide *Mareva* injunction, I must be satisfied that there may exist assets outside of Canada, the disposition or concealment of which would likely frustrate any judgment obtained by the Plaintiff against the defendant.

[4] I am satisfied on a review of the evidentiary record that there is a very strong *prima facie* case of fraud on the part of Allen Chan.

[5] The circumstances of this case and the nature of the alleged fraud carried out by Mr. Chan raise a very strong inference that he will dissipate his assets to put them out of reach of his creditors and the Plaintiff in this action.

[6] The Plaintiff will be irreparably harmed if the defendant's assets are not available to satisfy any judgment obtained against him.

[7] I find that the balance of convenience clearly favours the granting of a worldwide *Mareva* injunction. If it is not granted the Plaintiff may be left with no assets to satisfy a judgment. If granted the defendant can move to vary the order if undue prejudice exists. The Plaintiff has given an undertaking as to damages.

[8] Finally, there is good reason to believe that Chan has considerable assets outside of Canada which he may dissipate.

[9] For these reasons I order that a *Mareva* injunction in the form of the attached Order shall issue.

[10] Motion to extend the order to be brought on Monday September 8, 2014 at 10 a.m. for 15 minutes (date cleared).

Hailey J.

Released: August 29, 2014

CITATION: *SFC Litigation Trust v. Chan*, 2014 ONSC _____
COURT FILE NO.: CV14-501178-0000
DATE: 20140828

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

Cosimo Borrelli, in his capacity as trustee of the
SFC LITIGATION TRUST

Plaintiff

- and -

ALLEN TAK YUEN CHAN

Defendant

REASONS FOR DECISION

Halney J.

Released: August 28, 2014

STC DILIGANCE TRUST
Plaintiff

vs

ALLEN TAI KYUEN CHAN
Defendant

Court File No. CV-14-501178

22 Aug 14

7 Bell
9 Bell

Matter could not proceed before me
had Counsel to obtain another
date from CL office

MOTION

August 28, 2014

I feel for Young Park

It seems to know for

Whitburn however I agree

Order made as I am not a

order made for reasons in
attached

Heaven

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

MOTION RECORD

(Motion for More Information Order and
Related Relief, Returnable August 22, 2014)

BENEFIT RIONESTEE

Suite 400, One First Canadian Place
P.O. Box 150
Toronto, Ontario
M5X 1A7

Robert Stoltz (LSUC # 271151)
Tel: (416) 777-7470

Decker J. Bell (LSUC # 134204)
Tel: (416) 777-7638

Jonathan Bell (LSUC # 55457)
Tel: (416) 863-1716

Lawyers for the plaintiff, moving party
Stuart B. Gottlieb in his capacity as trustee of the
STC Diligence Trust

Jonathan Bell

Endorsement X

Court File Number: _____

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

Judges Endorsement Continued

- ① The Plaintiff brings an ex parte motion for a Mareva injunction to restrain the dissipation of the defendant's assets.
- ② The test for a Mareva injunction is that the moving party must establish
- (a) a strong prima facie case of fraud;
 - (b) a real and genuine risk that the defendant will put his assets beyond his creditors for the purpose of avoiding

Court File Number: _____

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

Judges Endorsment Continued

judgment;

(c) The moving party
will suffer irreparable
harm; and(d) The balance of
convenience favours the
moving party.

③ In addition because the
plaintiff seeks a world wide
protection injunction I
must be satisfied that
there may exist assets
outside of Canada
the disposition of
which

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

Judges Endorsment Continued

would likely frustrate any judgment obtained by the plaintiff against the defendant.

(4) I am satisfied on a review of the evidence heard that there is a very strong prima facie case of fraud on the part of Mr Allan Chan.

(5) The circumstances of this case and the nature of the alleged fraud carried out by Mr Chan

Court File Number: _____

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

Judges Endorsment Continued

raise a very strong
impression that he
will dissipate his
assets & put them out
of reach of his
creditors and the
Plaintiff in this action.

(6) The Plaintiff will
be irreparably harmed
if the defendant's
assets are not available
to satisfy any judgment
obtained against him.

(7) I find that the balance

Court File Number: _____

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

Judges Endorsment Continued

of convenience clearly
 favored the granting of
 a worldwide Mareva
 injunction. If it is
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 no assets to satisfy
 a judgment. If granted
 the defendant can
 travel to ~~any~~ ^{avoid} the
 order if ~~it~~ ^{undue} prejudice
 exists. ~~and~~ The
 Plaintiff has given an

Court File Number: _____

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

Judges Endorsment Continued

undertaking as to damages.

⑧ Finally, there is good reason to believe that Mr Chan has considerable assets outside of Canada which may dissipate.

⑨ For these reasons I order that a *proteva* injunction as the terms of the attached order shall apply.

Haining J

Motion to Extend
The order
to be brought
on Monday
September 8, 2014
at 10 AM
for 15 minutes
(date cleared)

Haining J

TAB J

This is Exhibit "J" to the
Affidavit of Cosimo Borelli
Sworn before me on 26 April 2015



A Commissioner, etc.

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Andrew Gray
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January 8, 2015

EMAIL

Robert Staley
Bennett Jones LLP
First Canadian Place
100 King Street West
Suite 3400
Toronto, Ontario
M5X 1B8 Canada

Dear Mr. Staley:


Re: Sino-Forest Corporation ("Sino-Forest")

As you know, the investment dealer defendants in the Ontario class action (the "Dealers") have settled the Sino-Forest-related litigation against them. I am enclosing a copy of the minutes of settlement (the "Settlement Agreement") which were previously delivered in connection with the plaintiffs' notice approval motion.

The Settlement Agreement requires that the Dealers Settlement (as that term is defined in the Settlement Agreement) is a "Named Third Party Settlement" under the OCAA plan of arrangement and compromise (the "Plan") and that the Dealers receive a "Named Third Party Settlement Release" in accordance with the terms of the Plan. The Plan, in turn, requires the consent of the Litigation Trustee to give effect to these aspects of the Settlement Agreement. On behalf of the Dealers, I write to seek that consent from the Litigation Trustee. Since the Litigation Trustee has not sought to pursue any claims in the face of the release of claims included in the Sino-Forest Litigation Trust Agreement, I do not expect that the consent of the Litigation Trustee will be an issue.

I look forward to hearing from you.

Yours truly,


Andrew Gray


AG

Enclosure

cc: John Fabello
Jon Plak

TAB K

This is Exhibit "K" to the
Affidavit of Cosimo Borelli
Sworn before me on 26 April 2015



A Commissioner, etc.

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Hong Kong.



Bennett Jones LLP
3400 One First Canadian Place, PO Box 130
Toronto, Ontario, Canada M5X 1A4
Tel: 416.863.1200 Fax: 416.863.1716

Robert W. Staley
Direct Line: 416.777.4837
e-mail: rstaley@bennettjones.com

January 16, 2015

By E-Mail: agray@torys.com

Andrew Gray
Torys LLP
Suite 3000
79 Wellington St W
Box 270 TD Centre
Toronto ON M5K 1N2

Dear Mr. Gray:

Re: **Sino-Forest Corporation**

We have consulted with the Litigation Trustee concerning your January 8, 2015 letter, and have been instructed to respond as follows.

As you know, the Plan of Compromise and Reorganization (the "Plan") of Sino-Forest Corporation ("Sino-Forest") creates a structure under which a Named Third Party Defendant¹ may settle specified litigation in relation to Sino-Forest, including the Class Actions in which your clients, the Underwriters, are defendants. The Plan allows Named Third Party Defendants, subject to certain conditions, to obtain a Named Third Party Defendant Release. Among the conditions specified in the Plan is the consent of Sino-Forest (pre-Plan implementation) and the Litigation Trustee (post-Plan implementation). The Plan was sanctioned by the court on December 10, 2012, and efforts to appeal from the Plan sanction order were unsuccessful. The Plan is binding on the Underwriters.

As part of the arrangements negotiated between the Underwriters and Sino-Forest leading to approval of the Plan, Sino-Forest agreed that the Plan would extinguish claims of the Litigation Trust against the Underwriters. As part of the same bargain, the Underwriters were listed in the Plan as Named Third Party Defendants, making them eligible to receive a Named Third Party Defendant Release. Even though the Plan extinguished claims of the Litigation Trust against the Underwriters, the Plan nevertheless provides that the consent of the Litigation Trust is required before the court has jurisdiction to grant a Named Third Party Defendant Release to the Underwriters.

¹ Named Third Party Defendant and the remaining defined terms in this letter are as defined in the Plan.

January 16, 2015

Page Two

As you know, a Named Third Party Defendant Release offers settling parties protections substantially greater than those available if Class Actions are settled in the normal course, including protection against opt-outs. When the claims in the Class Actions against Ernst & Young were settled using a structure identical to that created for Named Third Party Defendants, evidence was filed with the court to support the proposition that these protections increased the consideration that Ernst & Young was prepared to pay to settle the litigation.

Similarly, the Litigation Trust believes that the significant benefit to the Underwriters in obtaining a Named Third Party Defendant Release is reflected in the consideration that the Underwriters are proposing to pay in settlement. The Litigation Trust also believes that the Underwriters would have paid less, or there would be no settlement, if the claims in the Class Actions against the Underwriters were settled in the ordinary course under the *Class Proceedings Act* and similar statutes in other jurisdictions.

Going back to 2013, the Litigation Trust and counsel for the plaintiffs in the Class Actions have had periodic discussions about the possible settlement of litigation claims, in which the settling party would receive a Named Third Party Defendant Release. In the case of Mr. Horsley, counsel for the plaintiffs and the Litigation Trust were able to reach an agreement under which the Litigation Trust consented to Mr. Horsley receiving such a release. The Litigation Trust received consideration as part of that settlement.

The Litigation Trust has repeatedly advised counsel for the plaintiffs in the Class Actions that they should not presume to settle the Class Actions by offering a Named Third Party Defendant Release to defendants in the Class Actions without the prior knowledge and concurrence of the Litigation Trust. We assume that counsel for the plaintiffs advised you of the Litigation Trust's position, and that a conscious decision was taken by the Underwriters to exclude the Litigation Trust from your settlement discussions, and to execute a settlement agreement without first seeking the Litigation Trust's consent.

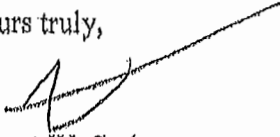
The beneficiaries of the Litigation Trust differ from the beneficiaries of the Class Actions. The Litigation Trust and the class action parties are competing to obtain recoveries for the benefit of their stakeholders, in many cases from the same parties. A Named Third Party Defendant Settlement can be granted only with the consent of the Litigation Trust. The Litigation Trust is not prepared to consent to a settlement in which all of the incremental value to a settling party represented by the Named Third Party Defendant Release is enjoyed solely by beneficiaries to the Class Actions, and none of that value is paid to the Litigation Trust for the benefit of its beneficiaries. To be acceptable to the Litigation Trust, any settlement that includes a Named Third Party Defendant Release must provide for a fair allocation of that incremental value as between the Litigation Trust and the Class Action beneficiaries.

The Litigation Trust is prepared to engage in without prejudice discussions with the Underwriters, with a view to negotiating terms on which the Litigation Trust would consent to a settlement in which the Underwriters would receive a Named Third Party Defendant Release,

January 16, 2015
Page Three

Please let us know how the Underwriters wish to proceed.

Yours truly,



Robert W. Staley


RWS/jm

cc: Derek Bell, Bennett Jones LLP
cc: Jonathan Bell, Bennett Jones LLP

WSLegal\059250\00013\11392313v2

TAB L

This is Exhibit "L" to the
Affidavit of Cosimo Borelli
Sworn before me on 26 April 2015



A Commissioner, etc.

LI SIU FUNG
NOTARY PUBLIC
HONG KONG SAR
Unit 1303, 13/F.,
Tower 1, Admiralty Centre,
18 Harcourt Road,
Hong Kong.

**IN THE MATTER OF
SINO-FOREST CORPORATION**

B E T W E E N:

The Trustees of the Labourers' Pension Fund of Central and Eastern Canada, The Trustees of the International Union of Operating Engineers Local 793 Pension Plan for Operating Engineers in Ontario, Sjunde AP-Fonden, David Grant, Robert Wong, Guining Liu, David Leopard, IMF Finance SA, and any other proposed representative plaintiffs in Ontario Superior Court Action No. CV-11-431153-00CP ("Ontario Action"), Quebec Superior Court No. 200-06-000132-111, ("Quebec Action") and District Court of the Southern District of New York No: 1:12-cv-01726 (AT) ("US Action") (collectively, the "Class Actions")

In their personal and representative capacities (the "Class Action Plaintiffs")

-and-

COSIMO BORRELLI, in his capacity as the trustee for the SFC LITIGATION TRUST, and the SFC LITIGATION TRUST (collectively, the "Litigation Trust")

and

David J. Horsley

("Horsley", and together with the Litigation Trust and the Class Action Plaintiffs, the "Parties")

MINUTES OF SETTLEMENT

Part I – Settlement of Claims Against Horsley

1. These Minutes of Settlement represent the agreement amongst the Parties reached on March 10, 2014 (the "Settlement"), to resolve in accordance with the terms more particularly set out herein any actions, causes of action, claims and/or demands, howsoever arising and in all jurisdictions, made against Horsley or which could have been made against Horsley based upon, arising out of, in relation to, in connection with or in any way related to Sino-Forest Corporation and its affiliates and subsidiaries (collectively "Sino-Forest"), whether or not captured by the "Class" or the "Class Period", as variously defined, including the actions (the "Actions") listed on Schedule "A" hereto (all, collectively, the "Claims").
2. Subject to the conditions herein, the terms of the Settlement are binding on the Parties.

- 2 -

3. These Minutes of Settlement are and shall remain confidential, and none of the Parties shall publicly disclose or include in any court filing, in any jurisdiction, the terms hereof without the prior written consent of the other Parties, except for the purpose of having the Settlement approved and/or to enforce the terms of these Minutes of Settlement if required. Following the filing of these Minutes of Settlement with the Court, these Minutes of Settlement shall cease to be confidential.
4. Horsley makes no admissions of liability and waives no defences available to him with respect to the Claims or otherwise.

Part II - Approval of the Settlement and Notice Program

5. It is the intention of the Parties that this Settlement shall be approved by Order issued in the Ontario Superior Court of Justice (Toronto), Court File No. CV-12-9667-00CL (the "Court" and the "Sino-Forest CCAA Proceeding", respectively) and implemented through the Plan of Compromise and Reorganization of Sino-Forest dated December 3, 2012 under the *Companies' Creditors Arrangement Act* ("CCAA") (the "Plan").
6. The Class Action Plaintiffs and the Litigation Trust hereby consent to this Settlement being a Named Third Party Defendant Settlement under the Plan.
7. The Class Action Plaintiffs will bring a motion to the Court, supported by Horsley, for an order approving a notice program regarding the hearing to approve the Settlement (the "Notice Program") as follows:
 - (a) Notice to the Service List in the Sino-Forest CCAA Proceeding, in the manner agreed upon to constitute notice for purposes of the Sino-Forest CCAA Proceeding, including notice to each of the Insurers defined in Schedule "B" herein (or to their counsel);
 - (b) Direct mailing of a notice to all individuals and entities (i) that have provided their contact information to counsel to the Class Action Plaintiffs and (ii) that have submitted claim forms in connection with the Actions; and
 - (c) Notice to all persons and entities potentially afforded coverage by or under the Policies (as defined in Schedule "B" to these Minutes of Settlement) in

- 3 -

accordance with a process agreed upon in writing by the Parties and the Insurers but subject (In the event of disagreement) to the Court's determination as to the scope of notice required to be provided.

8. Regardless of their obligations under paragraph 7 above, the Parties shall abide by the Notice Program ordered by the Court and the failure to obtain an Order on the terms set out in paragraph 7 herein shall not be a basis to terminate the Settlement.
9. The costs of the Notice Program will be paid by the Chubb Insurance Company of Canada ("Chubb") within fifteen (15) days of the costs being incurred irrespective of whether this Settlement is approved by the Court. If the Settlement is approved as described herein, the amounts paid by Chubb in relation to the Notice Program will be a credit to the contribution Chubb is required to make to the Class Settlement Fund (as set out in paragraph 15 herein) and Chubb's obligation to make the payments described in paragraph 15 will be reduced accordingly. If the settlement is not approved, these costs will be non-refundable to Chubb but nevertheless will constitute covered Loss as defined under the Chubb Policy (as defined in Schedule "B" herein) for all purposes.
10. Following the approval of the Notice Program, the Class Action Plaintiffs shall bring a motion to the Court seeking an order in the form attached hereto as Schedule "C" (the "Settlement Order"), which reflects the terms and agreement set out in these Minutes of Settlement. The Class Action Plaintiffs shall be free to file these Minutes of Settlement with the Court in support of such motion and any related motion for approval of the Minutes of Settlement before the United States Bankruptcy Court.
11. The Litigation Trust shall support the Class Action Plaintiffs' motion for approval of the Settlement and agrees to take whatever reasonable steps are necessary so that paragraph 5 herein is given effect.
12. The Parties shall use all reasonable efforts to obtain and/or satisfy any court approval, order, waiver, certificate, document or agreement, to provide necessary notice to affected individuals, and to fulfill any other condition reasonably necessary for the implementation of a full and final release under the Plan, including but not limited to:

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- (a) Obtaining any requirements necessary to constitute this Settlement as a Named Third Party Defendant Settlement and to obtain a Named Third Party Defendant Release in favour of Horsley under the Plan;
 - (b) Obtaining the consent of FTI Consulting Canada Inc., in its capacity as Court-appointed Monitor of Sino-Forest, to have this Settlement approved by the Court as a Named Third Party Defendant Settlement with a Named Third Party Defendant Release and a Named Third Party Defendant Settlement Order under the Plan; and
 - (c) Obtaining all court approvals and/or orders necessary for the implementation of this Settlement in the Settlement Order, including notification as required by the Rules of Civil Procedure and/or by the Notice Program.
13. Forthwith following the date of the Settlement Order, Horsley will obtain a recognition order from the United States Bankruptcy Court granting recognition and enforcement of the Settlement Order in the United States (the "U.S. Recognition Order").

Part III- Implementation of the Settlement

14. The Settlement will become effective (the "Effective Date") when:
- (a) The Settlement Order has been obtained and either (i) all appeal rights have expired or (ii) the applicable final appellate court has upheld the Settlement Order; and
 - (b) The U.S. Recognition Order has been obtained and either (i) all appeal rights have expired or (ii) the applicable final appellate court has upheld the U.S. Recognition Order.
15. A settlement amount of CDN \$4,200,000 (the "Class Settlement Fund") shall be paid to the Class Action Plaintiffs by Chubb into an interest bearing trust account with a Canadian Schedule 1 bank in Ontario (the "Settlement Trust") within fifteen (15) days following the Effective Date.

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16. A settlement amount of CDN \$1,400,000 (the "Litigation Trust Settlement Fund") shall be paid to the Litigation Trust by Chubb and Horsley within fifteen (15) days following the Effective Date. Chubb's contribution to the Litigation Trust Settlement Fund shall be \$800,000 and Horsley's contribution shall be \$600,000.
17. Upon payment of the Litigation Trust Settlement Fund, the Litigation Trust (i) shall dismiss as against Horsley on consent and without costs the action commenced against Horsley by the Litigation Trust in the Ontario Superior Court of Justice, Court File No. CV-13-481761, and (ii) shall execute a covenant not to sue Horsley (in a form satisfactory to Horsley's counsel, acting reasonably) in connection with any Causes of Action (as defined by the Plan) that the Litigation Trust may have against Horsley.
18. Upon payment of the Class Settlement Fund:
 - (a) the Ontario Action and the Quebec Action shall be dismissed as against Horsley but without prejudice to the Class Action Plaintiffs' right to proceed with the Ontario Action and the Quebec Action against the other named Defendants in accordance with paragraph 20(b), below; and
 - (b) David Leopard, Myong Hyon Yoo, and IMF Finance SA shall cause the US Action to be dismissed as against Horsley.
19. The Class Settlement Fund and the Litigation Trust Settlement Fund (collectively, the "Settlement Funds") represent the full monetary contribution or payment of any kind to be made by Horsley (and by Chubb in respect of the Claims against Horsley) in settlement of the Claims and all Causes of Action (as defined in the Plan) against Horsley, inclusive of damages, costs, interest, legal fees, taxes (inclusive of any GST, HST, or any other taxes which may be payable in respect of the Settlement), any payments to Claims Funding International, all costs associated with the distribution of the Class Settlement Fund, all costs of the Notice Program, all costs associated with the administration of the Settlement and any other monetary costs or amounts associated with the Settlement or otherwise.
20. Following the Effective Date:

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- (a) no further proceedings shall be commenced or continued by the Class Action Plaintiffs, the Litigation Trust or by anyone else (or their respective counsel) against Horsley in respect of any Causes of Action (as defined in the Plan), other than as necessary to complete the Settlement;
 - (b) the Class Action Plaintiffs and the Litigation Trust agree not to claim from the non-settling defendants in the Actions that portion of any damages that corresponds to the proportionate share of liability of Horsley, proven at trial or otherwise, such that Horsley is not further exposed to the Claims, by any person or entity; and
 - (c) the Class Action Plaintiffs and the Litigation Trust and each of their respective counsel agree not to cooperate with any other party in the Actions or any other proceeding in advancing claims against Horsley. However, irrespective of this provision, (i) Class Action Plaintiffs reserve all rights with respect to the prosecution of the claims remaining against the non-settling defendants, and (ii) the Litigation Trust reserves all rights with respect to the prosecution of its claims against any other person or entity.
21. Save and except for legal fees and disbursements which may be incurred by Horsley or on his behalf in the future in relation to any criminal charges which may be laid against him by the Royal Canadian Mounted Police in relation to Sino-Forest, Horsley will not seek reimbursement from any of the Insurers under any of the Policies (as defined in Schedule "B" to these Minutes of Settlement) for any legal fees and disbursements incurred by him, or on his behalf, after the Effective Date.
22. Within thirty (30) days of the Effective Date, or at a time mutually agreed upon by Horsley and the Class Action Plaintiffs, Horsley shall attend for an interview by counsel to the Class Action Plaintiffs for a maximum of three (3) days each consisting of eight (8) hours of interview time (the "Interview"). The Interview will be conducted under oath and will be video-recorded and transcribed by a court reporter. Subject to paragraphs 25 and 26 below, Horsley shall answer any proper and relevant question put to him (to the best of his knowledge, information or belief) relating to the allegations in the Actions including, without limitation, Horsley's knowledge of any audits of Sino-Forest's

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financial statements conducted by BDO Limited or Ernst & Young LLP, the underwriting of any Sino-Forest securities by Credit Suisse Securities (Canada), Inc., TD Securities Inc., Dundee Securities Corporation, RBC Dominion Securities Inc., Scotia Capital Inc., CIBC World Markets Inc., Merrill Lynch Canada Inc., Canaccord Financial Ltd., Maison Placements Canada Inc., Credit Suisse Securities (USA) LLC, Merrill Lynch, Pierce, Fenner & Smith Incorporated (Successor by merger to Bank of America Securities LLC) (collectively, the "Underwriters"), Sino-Forest's business model, actual or purported timber holdings, actual or purported assets, actual or purported revenues, taxes, anything related in any way to any matter discussed in any report of the Independent Committee of Sino-Forest, anything related in any way to any allegation made by the Ontario Securities Commission (the "OSC") relating to Sino-Forest, BDO Limited, the Underwriters, and other Defendants to the Actions.

23. At least fourteen (14) days prior to the Interview, Horsley shall use his best efforts to collect all non-privileged documents in his possession or control (the "Documents") that are relevant to any matter in issue in the Class Actions and to provide copies of all such Documents to the Class Action Plaintiffs.
24. Within ninety (90) days of the Effective Date, or at a time mutually agreed upon by Horsley and the Litigation Trust, Horsley shall attend for an interview by counsel to the Litigation Trust for a maximum of three (3) days each consisting of eight (8) hours of interview time (the "Litigation Trust Interview"). At the discretion of the Litigation Trust, the Litigation Trust Interview may be conducted under oath and may be video-recorded and transcribed by a court reporter. Subject to paragraphs 25 and 26 below, Horsley shall answer any proper and relevant question put to him (to the best of his knowledge, information or belief) relating to the causes of action that have been transferred to the Litigation Trust pursuant to the Plan.
25. The Class Action Plaintiffs and the Litigation Trust acknowledge that Horsley has acquired certain information and documents relating to Sino-Forest and the other Defendants in the Actions solely as a result of the disclosure provided by the OSC (the "Restricted Information") in the regulatory proceeding that the OSC has commenced in relation to Sino-Forest and to which Horsley is a respondent (the "OSC Proceeding").

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The Class Action Plaintiffs and the Litigation Trust acknowledge that Horsley cannot share or divulge this Restricted Information as a result of confidentiality provisions and restrictions in the *Securities Act*, unless and until the Restricted Information is publicly produced in the OSC Proceeding or such restrictions are waived by the OSC as described below. Accordingly, the Class Action Plaintiffs and the Litigation Trust acknowledge and agree that, unless and until the Restricted Information has been made public by OSC Staff in the OSC Proceeding or otherwise, or such restrictions have otherwise been waived as described below, Horsley shall not be required to answer questions seeking the Restricted Information at his Interview and/or his Litigation Trust Interview and he shall not be required to produce any Document that he received as part of the OSC's disclosure in the OSC Proceeding. Furthermore, the Class Action Plaintiffs and the Litigation Trust acknowledge and agree that (i) in participating in the Interview and/or the Litigation Trust Interview Horsley is not required to divulge any Restricted Information and (ii) his failure/refusal to produce, share or divulge Restricted Information shall not constitute a breach of these Minutes of Settlement. However, if at any time, whether before or after the Interview and/or the Litigation Trust Interview, the OSC confirms to Horsley in writing that he is free to disclose Restricted Information to the Class Action Plaintiffs and/or the Litigation Trust, then Horsley shall be required to provide to the Class Action Plaintiffs and/or the Litigation Trust, promptly after receiving such confirmation, answers to any questions that Horsley refused to answer on the basis that answering such questions would require Horsley to disclose Restricted Information. Furthermore, in the event that Horsley refuses to answer any questions on the basis that doing so would require him to disclose Restricted Information, the Class Action Plaintiffs and/or the Litigation Trust shall be free to request from the OSC its position as to whether the refused questions in fact call for the disclosure of Restricted Information, and if the OSC confirms in writing to Horsley that the refused questions do not in fact call for the disclosure of Restricted Information, then Horsley shall be obliged to answer such questions, promptly after the OSC gives to him such confirmation in writing. Any additional answers provided by Horsley pursuant to this paragraph shall be provided in writing. Horsley shall, upon request of the Class Action Plaintiffs or the Litigation Trust, swear to the truth of the answers provided.

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26. Notwithstanding paragraphs 22, 24 and 25 above, Horsley does not and shall not be required to waive any applicable privileges including, without limitation, litigation privilege, common interest privilege and/or solicitor client privilege, including privileges that may belong to Sino-Forest.
27. Horsley shall appear as a witness at the trial(s) of the Ontario Class Action, if requested to do so by the Class Action Plaintiffs, and give complete and truthful answers to proper questions concerning any relevant matter, subject to the terms of paragraph 25 and 26 herein and any privileges that may apply.
28. Horsley shall appear as a witness at the trial(s) of any actions commenced by the Litigation Trust, if requested to do so by the Litigation Trust, and give complete and truthful answers to proper questions concerning any relevant matter, subject to the terms of paragraph 25 and 26 herein and any privileges that may apply. If any such trial occurs outside of Ontario, the Litigation Trust shall be responsible for Horsley's reasonable travel expenses.

Part IV – Conditions to Implementation of the Terms of Settlement

29. The implementation of this Settlement is conditional upon:
 - (a) Court approval of the Settlement with no right to opt-out as a “Named Third Party Defendant Settlement” under the Plan in the form set out in Schedule “C” herein;
 - (b) Court approval of a release, in a form reasonably satisfactory to counsel for Horsley and to the Insurers under the Policies, which bars and releases Horsley from all liability from any and all Causes of Action (as defined in the Plan), and which constitutes a “Named Third Party Defendant Release” under the Plan; and
 - (c) the OSC approving a settlement of the OSC Proceeding as against Horsley.
30. These Minutes of Settlement may be executed by the Parties or their counsel in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures by facsimile or email shall be effective as original signatures.

Date: May 15, 2014

Call for Siskinds LLP.
Siskinds LLP
Lawyers for the Plaintiffs

Date: May 15, 2014

Call for Koskie Minsky LLP
Koskie Minsky LLP
Lawyers for the Plaintiffs

Date: May 15, 2014

Call for PRRR LLP.
Pallare Roland Rosenberg Rothstein LLP
Lawyers for the Plaintiffs

Date: May 15, 2014

Call for Siskinds Desmoules senior
Siskinds Desmoules senior
Lawyers for the Plaintiffs

Date: May 15, 2014

Call for Cohen Milstein Sellers & Toll LLP
Cohen Milstein Sellers & Toll LLP
Lawyers for the Plaintiffs

Date: May 13, 2013

Call for Wardle Daley Bernstein Blober LLP
Wardle Daley Bernstein Blober LLP
Lawyers for David Horsley

Date:

Bennett Jones LLP
Bennett Jones LLP
Lawyers for the Litigation Trust

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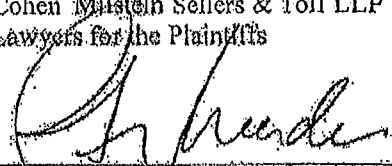
Date: Siskinds LLP
Lawyers for the Plaintiffs

Date: Koskie Minsky LLP
Lawyers for the Plaintiffs

Date: Paliare Roland Rosenberg Rothstein LLP
Lawyers for the Plaintiffs

Date: Siskinds Desmeules sncrl
Lawyers for the Plaintiffs

Date: Cohen Milstein Sellers & Toll LLP
Lawyers for the Plaintiffs

Date: *May 13, 2014* 
Wardle Daley Borstein Bieber LLP
Lawyers for David Horsley

Date: Bennett Jones LLP
Lawyers for the Litigation Trust

Date: Siskinds LLP
Lawyers for the Plaintiffs

Date: Koskie Minsky LLP
Lawyers for the Plaintiffs

Date: Palfare Roland Rosenberg Rothstein LLP
Lawyers for the Plaintiffs

Date: Siskinds Desmeules sencl
Lawyers for the Plaintiffs

Date: Cohen Milstein Sellers & Toll LLP
Lawyers for the Plaintiffs

Date: Wardle Daley Bernstein Bleber LLP
Lawyers for David Hersley

Date: May 23, 2014

Bennett Jones LLP per AS
Bennett Jones LLP
Lawyers for the Litigation Trust

Schedule "A"

1. The Trustees of the Labourers' Pension Fund of Central and Eastern Canada, et al. v. Sino-Forest Corporation, et al, Ontario Superior Court of Justice, Court File No. CV-11-431153-00CP
2. Guining Liu v Sino-Forest Corporation, et al, Province of Quebec Superior Court, File No. 200-06-000132-11
3. David Leopard, et al v. Allen TY Chan, et al., United States New York Southern District Court, Case Number 1:12-cv-01726 (AT)
4. Halgh v. Sino-Forest Corporation et al, the Court of Queen's Bench in Regina, Saskatchewan, Q.B. No. 2288 of 2011
5. Cosimo Borrelli, in his capacity as the trustee for the SFC Litigation Trust v. George Ho et al, Ontario Superior Court of Justice, Court File CV-13-481761

Schedule "B"

Insurers

ACE-INA Insurance Company ("ACE")

Chubb Insurance Company of Canada ("Chubb")

Lloyd's of London ("Lloyd's Underwriters")

Travelers Guarantee Company of Canada ("Travelers")

Policies

ACE Policy No. DO024464 (the "ACE Policy")

Chubb Policy No. 8209-449 (the "Chubb Policy")

Lloyd's Underwriters Policy No. XTFF0373 (the "Lloyd's Underwriters Policy")

Travelers Policy No. 101811008 (the "Travelers Policy")

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ORDER

THIS MOTION, made by the Ad Hoc Committee of Purchasers of the Applicant's Securities, including the plaintiffs in the action commenced against Sino-Forest Corporation ("Sino-Forest" or the "Applicant") in the Ontario Superior Court of Justice, bearing (Toronto) Court File No. CV-11-431153-00CP (the "Ontario Plaintiffs" and the "Ontario Class Action", respectively) in their own and proposed representative capacities, for an order giving effect to the Horsley Release and the Horsley Settlement, and as provided for in section 11.2 of the Plan of Compromise and Reorganization of the Applicant under the *Companies' Creditors Arrangement Act* ("CCAA") dated December 3, 2012 (the "Plan"), such Plan having been approved by this Honourable Court by Order dated December 10, 2012 (the "Sanction Order"), was heard on ●, 2014 at the Court House, ●, Toronto

WHEREAS the Ontario Plaintiffs, David J. Horsley ("Horsley") and the Litigation Trust entered into Minutes of Settlement dated ●,

AND WHEREAS this Honourable Court issued the Sanction Order approving the Plan containing the framework and providing for the implementation of a Named Third Party Defendant Settlement and a Named Third Party Defendant Release pursuant to Section 11.2 of the Plan;

AND WHEREAS the Ontario Plaintiffs and Horsley wish to effect a settlement pursuant to section 11.2 of the Plan;

AND WHEREAS Enforcement Staff of the Ontario Securities Commission ("OSC") has commenced proceedings against Horsley regarding his conduct and involvement with Sino-

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Forest Corporation, including allegations made against Horsley in its Notice of Hearing and Statement of Allegations (the "OSC Proceedings");

AND WHEREAS any settlement agreement between the Ontario Plaintiffs and Horsley is conditional upon approval by the OSC of a settlement of the OSC Proceedings between Horsley and OSC Enforcement Staff, including, among other things, a permanent ban on Horsley from acting as a director or officer of a public issuer of securities;

AND WHEREAS this Honourable Court approved the form of notice to Securities Claimants and others of this Motion, and the plan for distribution of such notice to Securities Claimants and others potentially affected by the relief sought therein (the "Notice Program") by Order dated ● (the "Notice Order");

AND ON READING the materials filed and on hearing the submissions of counsel,

Notice and Definitions

1. **THIS COURT ORDERS** that capitalized terms not otherwise defined in this order shall have the meanings attributed to those terms in Appendix "A".
2. **THIS COURT FINDS** that all applicable parties have adhered to and acted in accordance with the Notice Order and that the procedures provided in the Notice Order have provided good and sufficient notice of the hearing of this Motion, and that all Persons shall be and are hereby forever barred from objecting to the Horsley Settlement and the Horsley Release.

Representation

3. **THIS COURT ORDERS** that the Ontario Plaintiffs are hereby recognized and appointed as representatives on behalf of the Securities Claimants in these insolvency proceedings in respect of the Applicant (the "CCA Proceedings") and in the Ontario Class Action, for the

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purposes of and as contemplated by section 11.2 of the Plan, and more particularly the Horsley Settlement and Horsley Release.

4. **THIS COURT ORDERS** that Koskie Minsky LLP, Siskinds LLP and Pallare Roland Rosenberg Rothstein LLP are hereby recognized and appointed as counsel for the Securities Claimants for all purposes in these proceedings and as contemplated by section 11.2 of the Plan, and more particularly the Horsley Settlement and Horsley Release ("CCAA Representative Counsel").
5. **THIS COURT ORDERS** that the steps taken by CCAA Representative Counsel pursuant to the Orders of this Court dated May 8, 2012 (the "Claims Procedure Order") and July 25, 2012 (the "Mediation Order") are hereby approved, authorized and validated as of the date thereof and that CCAA Representative Counsel is and was authorized to negotiate and support the Plan on behalf of the Securities Claimants, to negotiate the Horsley Settlement, to bring this motion before this Honourable Court to approve the Horsley Settlement and the Horsley Release and to take any other necessary steps to effectuate and implement the Horsley Settlement and the Horsley Release, including bringing this Motion and any other necessary motion before the court, and as contemplated by section 11.2 of the Plan.

Compliance with Section 11.2 of the Plan

6. **THIS COURT ORDERS** that Horsley is a Named Third Party Defendant pursuant to the Plan.
7. **THIS COURT ORDERS** that this Order (the "Horsley Settlement Order") is a Named Third Party Defendant Settlement Order for the purpose of and as contemplated by Section 11.2 of the Plan.

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8. **THIS COURT ORDERS** that the Horsley Settlement is a Named Third Party Defendant Settlement for the purpose of and as contemplated by Section 11.2 of the Plan.
9. **THIS COURT ORDERS** that the Horsley Release is a Named Third Party Defendant Release for the purpose of and as contemplated by Section 11.2 of the Plan.

Approval of the Settlement & Release

10. **THIS COURT ORDERS** that the Horsley Settlement and the Horsley Release are fair and reasonable in all the circumstances and for the purposes of the proceedings under both the CCAA and the *Class Proceedings Act*, 1992.
11. **THIS COURT ORDERS** that the Horsley Settlement and the Horsley Release be and hereby are approved for all purposes and as contemplated by section 11.2 of the Plan and paragraph 41 of the Sanction Order and shall be implemented in accordance with their terms, this Order, the Plan and the Sanction Order.
12. **THIS COURT ORDERS** that this Order, the Horsley Settlement and the Horsley Release are binding upon each and every Person or entity having a Horsley Claim, including those Persons who are under disability, and any requirements of rules 7.04(1) and 7.08(4) of the *Rules of Civil Procedures*, RRO 1990, Reg. 194 are dispensed.

Release and Discharge

13. **THIS COURT ORDERS** that upon satisfaction of all the conditions specified in section 11.2(b) of the Plan, the Monitor shall deliver to Horsley the Monitor's Horsley Settlement Certificate substantially in the form attached hereto as **Appendix "B"**. The Monitor shall thereafter file the Monitor's Horsley Settlement Certificate with the Court.

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14. **THIS COURT ORDERS** that pursuant to the provisions of section 11.2(c) of the Plan, on the Horsley Settlement Date,

- a. any and all Horsley Claims shall be fully, finally, Irrevocably and forever compromised, released, discharged, cancelled, barred and deemed satisfied and extinguished as against Horsley in accordance with section 11.2(c) of the Plan;
- b. the Horsley Release shall be binding according to its terms on any Person;
- c. section 7.3 of the Plan shall apply to Horsley and the Horsley Claims *mutatis mutandis*;
- d. none of the parties in the Class Actions or any other actions in which the Horsley Claims have been or could have been asserted shall be permitted to claim from any of the other defendants that portion of any damages, restitutionary award or disgorgement of profits that corresponds with the liability of Horsley proven at trial or otherwise, that is subject of the Horsley Settlement ("Horsley's Proportionate Liability");
- e. all Class Actions, including the Ontario Class Action shall be permanently stayed as against Horsley; and
- f. the Ontario Class Action shall be dismissed against Horsley.

15. **THIS COURT ORDERS** that on the Horsley Settlement Date, any and all claims which Horsley may have had against: (i) any other current or former defendant, in the Ontario Class Action, (ii) any other current or former defendant, in any Class Actions in a jurisdiction in which this order has been recognized by a final order of a court of competent jurisdiction and

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not subject to further appeal, (iii) any other current or former defendants' insurers, or any affiliates thereof, or (iv) any other Persons who may claim over against the other current or former defendants, or any affiliate thereof, or the other current or former defendants' insurers, or any affiliate thereof, in respect of contribution, indemnity or other claims over which relate to the allegations made in the Class Actions, are hereby fully, finally, irrevocably and forever compromised, released, discharged, cancelled, barred and deemed satisfied and extinguished.

16. **THIS COURT ORDERS** that nothing in this order shall fetter the discretion of any court to determine Horsley's Proportionate Liability at the trial or other disposition of an action for the purposes of paragraph ● above, whether or not Horsley appears at the trial or other disposition and Horsley's Proportionate Liability shall be determined as if Horsley were a party to the action and any determination by the court in respect of Horsley's Proportionate Liability shall only apply in that action to the proportionate liability of the remaining defendants in those proceedings and shall not be binding on Horsley or the Insurers for any purpose whatsoever and shall not constitute a finding against Horsley for any purpose in any other proceeding.

17. **THIS COURT ORDERS** that Horsley shall appear as a witness for the plaintiffs (if requested to do so) and give evidence at the trial if any, of the Ontario Class Action. Horsley shall not seek reimbursement from the Insurers for any fees or expenses associated with this testimony.

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Effect of Settlement on Insurers

18. **THIS COURT ORDERS AND DECLARES** that any amounts paid by Chubb Insurance Company of Canada ("Chubb") towards the Horsley Settlement are fair and reasonable in all the circumstances and for all purposes.
19. **THIS COURT ORDERS AND DECLARES** that the payment by Chubb pursuant to the Horsley Settlement does not violate the interests of any party to the Class Actions, any other party who might have a claim against any person or entity potentially covered under the Insurance Policies or the interests of any party listed in Schedule "D" to the Minutes of Settlement;
20. **THIS COURT ORDERS AND DECLARES** that, without prejudice to the Insurers' coverage position(s) in relation to the Litigation Trust Action and their obligations, if any, to any other defendant to the Litigation Trust Action (or to any other action which has been or may be instituted by the Litigation Trust) who is potentially covered under the Sino-Forest Policies, which rights are and shall remain fully reserved, all amounts paid by Chubb towards the Horsley Settlement shall constitute covered Loss (as defined in the Insurance Policies);
21. **THIS COURT ORDERS AND DECLARES** that Chubb's contribution to the Horsley Settlement shall, to the extent of the amount paid, and any other amounts paid by Chubb and, before it, by ACE INA Insurance ("ACE"), on Horsley's behalf for defence of all Claims (as defined in the Insurance Policies) against him, reduce the Limits of Liability under the Chubb Policy and the ACE Policy for all purposes, regardless of any subsequent finding by any court, tribunal, administrative body or arbitrator, in any proceeding or action, that Horsley engaged in conduct that may have triggered any exclusion, term or condition of the Chubb

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Policy or the ACE Policy so as to disentitle Horsley to coverage under the Chubb Policy or the ACE Policy.

22. **THIS COURT ORDERS AND DECLARES** that Chubb's contribution to the Horsley Settlement is without prejudice to the coverage positions taken by it, or any of the Insurers, in relation to the Class Actions and to any other matter or Claim (as defined in the Insurance Policies) as previously advised to Sino-Forest and its directors and officers by each of the Insurers and to all rights previously reserved by the Insurers.

23. **THIS COURT ORDERS AND DECLARES** that the Insurers whose policies afford coverage excess to that afforded by the ACE Policy and the Chubb Policy may assert any defence to any claim for coverage, by any Insured, that is not:

(i) inconsistent with the findings of the Court or with the Horsley Settlement Order, or

(ii) based upon the ground that ACE and Chubb have not exhausted their respective Limits of Liability under the ACE Policy and the Chubb Policy.

24. **THIS COURT ORDERS AND DECLARES** that ACE and Chubb, in respect of the coverage afforded under Endorsements No. 16 and 2 to the ACE Policy and the Chubb Policy, respectively, may assert any defence to any claim for coverage, by any Insured, that is not inconsistent with the findings of the Court or with the Horsley Settlement Order.

25. **THIS COURT ORDERS AND DECLARES** that save and except for ACE's obligations under Endorsement No. 16 to the ACE Policy, ACE shall be released from any and all claims against it under or in relation to the ACE Policy, including claims relating to or arising from the Class Actions, all commitments in relation to and/or payments made under the ACE

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Policy and for reimbursement of defence costs incurred by any person or entity potentially covered by or under the ACE Policy.

26. **THIS COURT ORDERS AND DECLARES** that save and except for Chubb's obligations under Endorsement No. 2 to the Chubb Policy, to the extent of any payment made by Chubb to the date of this Order, including any and all payments in relation to the Horsley Settlement, Chubb shall be released from any and all claims against it under or in relation to the Chubb Policy, including claims relating to or arising from the Class Actions, all commitments in relation to and/or payments made under the Chubb Policy and for reimbursement of defence costs incurred by any person or entity potentially covered by or under the Chubb Policy.

27. **THIS COURT ORDERS AND DECLARES** that all persons and entities provided with notice of this Motion shall be bound by the declarations made in, and the terms of, this Horsley Settlement Order.

28. **THIS COURT ORDERS AND DECLARES** that payment by Chubb pursuant to the Horsley Settlement constitutes "Loss" under the Insurance Policies, which has depleted the insurance limits for all purposes, regardless of whether (in the event that criminal charges are laid against Horsley in the future) any finding is made that Horsley acted dishonestly.

29. **THIS COURT ORDERS** that, subject to paragraph 2.4 of the Plan, nothing in the Horsley Settlement shall prejudice the continued claims by the plaintiffs in the Ontario Class Action, Quebec Class Action, and the US Class Action against the Insurance Policies with respect to the conduct of Sino-Forest or other persons or entities insured by the Insurers.

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30. **THIS COURT ORDERS** that the cooperation of Horsley with the plaintiffs in the Ontario Class Action, Quebec Class Action, and the US Class Action pursuant to the Horsley Settlement shall not prejudice or otherwise affect the coverage that would otherwise be provided under the Insurance Policies with respect to the conduct of Sino-Forest or other persons or entities insured by the Insurers.

Use of the Settlement Fund

31. **THIS COURT ORDERS** that the Class Settlement Fund shall be held by the Ontario Plaintiffs in the Settlement Trust until such later date that the Ontario Plaintiffs have a Plan of Allocation approved by this Court whereby those funds will be distributed to Securities Claimants. Any process for allocation and distribution will be established by CCAA Representative Counsel together with U.S. Class Action plaintiffs' counsel and approved by further order of this Court (the "Claims and Distribution Protocol").

32. **THIS COURT ORDERS** that notwithstanding paragraph ● above, the following Securities Claimants shall not be entitled to any allocation or distribution of the Class Settlement Fund: any Person or entity that is a named defendant to any of the Class Actions, their past and present subsidiaries, affiliates, officers, directors, senior employees, partners, legal representatives, heirs, predecessors, successors and assigns, and any individual who is a member of the immediate family of the following Persons: Allen T.Y. Chan a.k.a Tak Yuen Chan, W. Judson Martin, Kai Kit Poon, David J. Horsley, William E. Ardell, James P. Boland, James M.E. Hyde, Edmund Mak, Simon Murray, Peter Wang, Garry J. West, Albert Ip, Alfred C.T. Hung, George Ho and Simon Yeung. For greater certainty, the Horsley Release shall apply to the Securities Claimants described above, other than Horsley.

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Recognition, Enforcement and Further Assistance

33. **THIS COURT ORDERS** that this Court shall retain an ongoing supervisory role for the purposes of implementing, administering and enforcing the Horsley Settlement and the Horsley Release and matters related to the Settlement Trust including any disputes about the allocation of the Class Settlement Fund from the Settlement Trust. Any disputes arising with respect to the performance or effect of, or any other aspect of, the Horsley Settlement and the Horsley Release shall be determined by this Court, and that, except with leave of this Court first obtained, no Person or party shall commence or continue any proceeding or enforcement process in any other court or tribunal, with respect to the performance or effect of, or any other aspect of the Horsley Settlement and Horsley Release.

34. **THIS COURT ORDERS** that each of the Applicant, the Monitor, CCAA Representative Counsel and Horsley shall be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this order, or any further order as may be required, and for assistance in carrying out the terms of such orders.

Morawetz J.

APPENDIX "A"

Definitions of capitalized terms used in this Order

"**Ace Policy**" means the insurance policy issued by ACE INA Insurance – Policy Number DO024464;

"**Causes of Action**" has the meaning ascribed to it in the Plan

"**CCAA**" means the *Companies' Creditors Arrangement Act*, RSC, 1985, c. C-36

"**Chubb Policy**" means the insurance policy issued by Chubb Insurance Company of Canada – Policy Number 8209-4449;

"**Class Actions**" has the meaning ascribed to it in the Plan

"**Eligible Third Party Defendant**" has the meaning ascribed to it in the Plan

"**Horsley**" means David Horsley

"**Horsley Claims**" means any and all demands, claims, actions, Causes of Action (as defined in the Plan), counterclaims, cross claims, suits, debts, sums of money, accounts, covenants, damages, judgments, orders, including injunctive relief or specific performance and compliance orders, expenses, executions, Encumbrances (as defined in the Plan), and other amounts sought to be recovered on account of any claim, indebtedness, liability, obligation, demand or cause of action of whatever nature that any Person (as defined in the Plan), including any Person (as defined in the Plan) who may have a claim for contribution and/or indemnity against or from them, and including without limitation, all present and former officers or Directors of Sino-Forest, Newco (as defined in the Plan), Newco II (as defined in the Plan), Ernst & Young (as defined in the Plan), BDO Ltd., the Underwriters (as defined in the Plan), Poyry (Beijing) Consulting Company Limited (and its affiliates), the Noteholders (as defined in the Plan), any past, present or future holder of any direct or indirect equity interest in the SFC Companies (as defined in the Plan), any past, present or future direct or indirect security holder of the SFC Companies (as defined in the Plan), any indirect or direct security holder of Newco (as defined in the Plan) or Newco II (as defined in the Plan), the Trustees (as defined in the Plan), the Transfer Agent (as defined in the Plan), the Monitor (as defined in the Plan), and each and every present and former affiliate, partner, director, officer, associate, employee, servant, agent, contractor, insurer, heir and/or assign of each of the foregoing who may or could (at any time, past, present or future) be entitled to assert against Horsley, his family, heirs or assigns, whether known or unknown, matured or unmatured, direct or derivative, foreseen or unforeseen, suspected or unsuspected, contingent, existing or hereafter arising, based on whole or in part on any act or omission, transaction, conduct, dealing or other occurrence existing or taking place on, prior to or after the date of this Release, relating to or arising out of or in connection with the SFC Companies (as defined by the Plan), the SFC Business (as defined by the Plan), Horsley's conduct or performance as a director or officer of Sino-Forest, Horsley's trading of shares in relation to Sino-Forest, Horsley's compensation from Sino-Forest, and any and all other acts and omissions of Horsley relating to the SFC Companies (as defined by the Plan) or the SFC Business (as defined by the Plan), including without limitation any claim arising out of:

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1. Horsley's conduct as a director or officer of Sino-Forest, including but not limited to his conduct as the Chief Financial Officer of Sino-Forest, any statutory or common law duties he may have owed as a director or officer of Sino-Forest, any share offering, debt offering or other offering of securities, any statement in any of Sino-Forest's public disclosure or other oral statement relating to Sino-Forest, including without limitation any document released to the public or filed on SEDAR;

2. All claims or Causes of Action (as defined by the Plan) advanced or which could have been advanced in any or all of the Class Actions (as defined by the Plan), including any and all claims of fraud;

3. All claims or Causes of Action (as defined by the Plan) advanced or which could have been advanced in any or all actions commenced in all jurisdictions as of the date of this Release;

4. All Noteholder Claims (as defined by the Plan), Litigation Trust Claims (as defined by the Plan), or any claim by or on behalf of the SFC Companies (as defined by the Plan);

5. All claims or Causes of Action (as defined by the Plan) advanced or which could have been advanced by BDO Ltd. (and its affiliates), Ernst & Young (as defined by the Plan), the Underwriters (as defined by the Plan), Poyry (Beijing) Consulting Company Limited (and its affiliates), all present and former directors, officers or employees of Sino-Forest, Aird & Berlis LLP, and any and all consultants or counsel to Sino-Forest or its Independent Committee for contribution, indemnity, damages, equitable relief or other monetary recovery;

6. All claims or Causes of Action (as defined by the Plan) advanced or which could have been advanced in Court File No. CV-13-481761.

For greater certainty, Horsley Claims do not include any proceeding commenced or remedy sought by the Ontario Securities Commission or the Attorney General.

"Class Settlement Fund" has the meaning ascribed to it in the Horsley Settlement

"Horsley Release" means the Named Third Party Defendant Release described at section 11.2(c) of the Plan as applied to the Horsley Claims

"Horsley Settlement" means the settlement as reflected in the Minutes of Settlement executed on ●, between Horsley and the plaintiffs in Ontario Superior Court Action No. CV-11-431153-00CP, Quebec Superior Court No. 200-06-000132-111, and United States New York Southern District Court, Case Number 1:12-cv-01726 (AT) and the Litigation Trust

"Horsley Settlement Date" means the date that the Monitor's Horsley Settlement Certificate is delivered to Horsley.

"Insurance Policies" has the meaning ascribed to it in the Plan

"Insurers" means each of the entities who issued the Insurance Policies

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"Litigation Trust" means Cosimo Borrelli, in his capacity as the trustee for the SFC Litigation Trust, and the SFC Litigation Trust

"The Litigation Trust Action" means the action bearing Court File No. CV-13-481761

"Monitor's Horsley Settlement Certificate" is the Monitor's Named Third Party Certificate contemplated at section 11.2(b) of the Plan, applicable and with respect to the Horsley Settlement

"Monitor's Named Third Party Settlement Certificate" has the meaning ascribed to it in the Plan

"Named Third Party Defendant" has the meaning ascribed to it in the Plan

"Named Third Party Defendant Settlement" has the meaning ascribed to it in the Plan

"Named Third Party Defendant Settlement Order" has the meaning ascribed to it in the Plan

"Named Third Party Defendant Release" has the meaning ascribed to it in the Plan

"Person" has the meaning ascribed to it in the Plan

"Quebec Class Action" means the action styled Guining Liu v Sino-Forest Corporation, et al, Province of Quebec Superior Court, File No. 200-06-000132-11

"Securities" means common shares, notes or other securities defined in the *Securities Act*, RSO 1990, c. S.5, as amended

"Securities Claimants" means all Person and entities, wherever they may reside, who acquired any Securities of Sino-Forest Corporation including Securities acquired in the primary, secondary, and over-the-counter markets.

"Settlement Trust" has the meaning ascribed to it in the Horsley Settlement

"US Class Action" means the action styled David Leopard, et al v. Allen TY Chan, et al., United States New York Southern District Court, Case Number 1:12-cv-01726 (AT)

APPENDIX "B"
MONITOR'S HORSLEY SETTLEMENT CERTIFICATE

Court File No.: CV-12-9667-00CL

ONTARIO
 SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED, AND IN THE MATTER OF A PLAN OF COMPRISE OR ARRANGEMENT OF SINO-FOREST CORPORATION

Court File No.: CV-11-431153-00CP

ONTARIO
 SUPERIOR COURT OF JUSTICE

BETWEEN:

THE TRUSTEES OF THE LABOURERS' PENSION FUND OF CENTRAL AND EASTERN CANADA, THE TRUSTEES OF THE INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 793 PENSION PLAN FOR OPERATING ENGINEERS IN ONTARIO, SJUNDE AP-FONDEN, DAVID GRANT and ROBERT WONG

Plaintiffs

- and -

SINO-FOREST CORPORATION, ERNST & YOUNG LLP, BDO LIMITED (formerly known as BDO MCCABE LO LIMITED), ALLEN T.Y. CHAN, W. JUDSON MARTIN, KAI KIT POON, DAVID J. HORSLEY, WILLIAM E. ARDELL, JAMES P. BOWLAND, JAMES M.E. HYDE, EDMUND MAK, SIMON MURRAY, PETER WANG, GARRY J. WEST, PÖYRY (BEIJING) CONSULTING COMPANY LIMITED, CREDIT SUISSE SECURITIES (CANADA), INC., TD SECURITIES INC., DUNDEE SECURITIES CORPORATION, RBC DOMINION SECURITIES INC., SCOTIA CAPITAL INC., CIBC WORLD MARKETS INC., MERRILL LYNCH CANADA INC., CANACCORD FINANCIAL LTD., MAISON PLACEMENTS CANADA INC., CREDIT SUISSE SECURITIES (USA) LLC and MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (successor by merger to Banc of America Securities LLC)

Defendants

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All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Order of the Court dated ● (the "Horsley Settlement Approval Order") which, among other things, approved the Horsley Settlement and Horsley Release.

Pursuant to section 11.2 of the Plan and paragraph ● of the Horsley Settlement Approval Order, FTI Consulting Canada Inc. (the "Monitor") in its capacity as Court-appointed Monitor of SFC delivers to Horsley this certificate and hereby certifies that:

1. Each of the parties to the Horsley Settlement has confirmed that all conditions precedent thereto have been satisfied or waived;
2. All settlement funds have been paid and received; and
3. Immediately upon the delivery of this Monitor's Horsley Settlement Certificate, the Horsley Release will be in full force and effect in accordance with the Plan.

DATED at Toronto this ___ day of _____, 2014

FTI CONSULTING CANADA INC., solely
in its capacity as Monitor of Sino-Forest
Corporation and not in its personal capacity

Name:
Title:



Court File No.: CV-12-9667-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE REGIONAL

THURSDAY, THE 24th

SENIOR MR. JUSTICE MORAWETZ

DAY OF JULY, 2014

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985,
c. C-36, AS AMENDED, AND IN THE MATTER OF A PLAN OF COMPRISE OR
ARRANGEMENT OF SINO-FOREST CORPORATION

Court File No.: CV-11-431153-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

THE TRUSTEES OF THE LABOURERS' PENSION FUND OF CENTRAL AND EASTERN
CANADA, THE TRUSTEES OF THE INTERNATIONAL UNION OF OPERATING
ENGINEERS LOCAL 793 PENSION PLAN FOR OPERATING ENGINEERS IN ONTARIO,
SJUNDE AP-FONDEN, DAVID GRANT and ROBERT WONG

Plaintiffs

- and -

SINO-FOREST CORPORATION, ERNST & YOUNG LLP, BDO LIMITED (formerly known
as BDO MCCABE LO LIMITED), ALLEN T.Y. CHAN, W. JUDSON MARTIN, KAI KIT
POON, DAVID J. HORSLEY, WILLIAM E. ARDELL, JAMES P. BOWLAND, JAMES M.E.
HYDE, EDMUND MAK, SIMON MURRAY, PETER WANG, GARRY J. WEST, PÖYRY
(BEIJING) CONSULTING COMPANY LIMITED, CREDIT SUISSE SECURITIES
(CANADA), INC., TD SECURITIES INC., DUNDEE SECURITIES CORPORATION, RBC
DOMINION SECURITIES INC., SCOTIA CAPITAL INC., CIBC WORLD MARKETS INC.,
MERRILL LYNCH CANADA INC., CANACCORD FINANCIAL LTD., MAISON
PLACEMENTS CANADA INC., CREDIT SUISSE SECURITIES (USA) LLC and MERRILL
LYNCH, PIERCE, FENNER & SMITH INCORPORATED (successor by merger to Banc of
America Securities LLC)

Defendants

Proceeding under the *Class Proceedings Act, 1992*

ORDER

THIS MOTION, made by the Ad Hoc Committee of Purchasers of the Applicant's Securities, including the plaintiffs in the action commenced against Sino-Forest Corporation ("Sino-Forest" or the "Applicant") in the Ontario Superior Court of Justice, bearing (Toronto) Court File No, CV-11-431153-00CP (the "Ontario Plaintiffs" and the "Ontario Class Action", respectively) in their own and proposed representative capacities, for an order giving effect to the Horsley Release and the Horsley Settlement, and as provided for in section 11.2 of the Plan of Compromise and Reorganization of the Applicant under the Companies' Creditors Arrangement Act ("CCAA") dated December 3, 2012 (the "Plan"), such Plan having been approved by this Honourable Court by Order dated December 10, 2012 (the "Sanction Order"), was heard on July 24, 2014, at the Court House, 393 University Avenue, Toronto, Ontario;

WHEREAS the Ontario Plaintiffs, the US Class Action plaintiffs, David J. Horsley ("Horsley") and the Litigation Trust entered into Minutes of Settlement dated March 10, 2014;

AND WHEREAS this Honourable Court issued the Sanction Order approving the Plan containing the framework and providing for the implementation of a Named Third Party Defendant Settlement and a Named Third Party Defendant Release pursuant to Section 11.2 of the Plan;

AND WHEREAS the Ontario Plaintiffs and Horsley wish to effect a settlement pursuant to section 11.2 of the Plan;

AND WHEREAS Enforcement Staff of the Ontario Securities Commission ("OSC") has commenced proceedings against Horsley regarding his conduct and involvement with Sino-Forest Corporation, including allegations made against Horsley in its Notice of Hearing and Statement of Allegations (the "OSC Proceedings");

AND WHEREAS any settlement agreement between the Ontario Plaintiffs and Horsley is conditional upon approval by the OSC of a settlement of the OSC Proceedings between Horsley and OSC Enforcement Staff, including, among other things, a permanent ban on Horsley from acting as a director or officer of a public issuer of securities;

AND WHEREAS this Honourable Court approved the form of notice to Securities Claimants and others of this Motion, and the plan for distribution of such notice to Securities Claimants and others potentially affected by the relief sought therein (the "Notice Program") by Order dated June 5, 2014 (the "Notice Order");

AND ON READING the materials filed and on hearing the submissions of counsel;

Notice and Definitions

1. **THIS COURT ORDERS** that capitalized terms not otherwise defined in this order shall have the meanings attributed to those terms in **Appendix "A"**.
2. **THIS COURT FINDS** that all applicable parties have adhered to and acted in accordance with the Notice Order and that the procedures provided in the Notice Order have provided good and sufficient notice of the hearing of this Motion, and that all Persons shall be and are hereby forever barred from objecting to the Horsley Settlement and the Horsley Release.

Representation

3. **THIS COURT ORDERS** that the Ontario Plaintiffs are hereby recognized and appointed as representatives on behalf of the Securities Claimants in these insolvency proceedings in respect of the Applicant (the "CCA Proceedings") and in the Ontario Class Action, including for the purposes of and as contemplated by section 11.2 of the Plan, and more particularly the Horsley Settlement and Horsley Release.
4. **THIS COURT ORDERS** that Koskie Minsky LLP, Siskinds LLP and Paliare Roland Rosenberg Rothstein LLP are hereby recognized and appointed as counsel for the Securities Claimants for all purposes in these proceedings and as contemplated by section 11.2 of the Plan, and more particularly the Horsley Settlement and Horsley Release ("CCA Representative Counsel").
5. **THIS COURT ORDERS** that the steps taken by CCA Representative Counsel pursuant to the Orders of this Court dated May 8, 2012 (the "Claims Procedure Order") and July 25, 2012 (the "Mediation Order") are hereby approved, authorized and validated as of the date thereof and that CCA Representative Counsel is and was authorized to negotiate and support

the Plan on behalf of the Securities Claimants, to negotiate the Horsley Settlement, to bring this motion before this Honourable Court to approve the Horsley Settlement and the Horsley Release and to take any other necessary steps to effectuate and implement the Horsley Settlement and the Horsley Release, including bringing this Motion and any other necessary motion before the court, and as contemplated by section 11.2 of the Plan.

Compliance with Section 11.2 of the Plan

6. **THIS COURT ORDERS** that Horsley is a Named Third Party Defendant pursuant to the Plan.

7. **THIS COURT ORDERS** that this Order (the "Horsley Settlement Order") is a Named Third Party Defendant Settlement Order for the purpose of and as contemplated by Section 11.2 of the Plan.

8. **THIS COURT ORDERS** that the Horsley Settlement is a Named Third Party Defendant Settlement for the purpose of and as contemplated by Section 11.2 of the Plan.

9. **THIS COURT ORDERS** that the Horsley Release is a Named Third Party Defendant Release for the purpose of and as contemplated by Section 11.2 of the Plan.

Approval of the Settlement & Release

10. **THIS COURT ORDERS** that the Horsley Settlement and the Horsley Release are fair and reasonable in all the circumstances and for the purposes of the proceedings under both the CCAA and the *Class Proceedings Act, 1992*.

11. **THIS COURT ORDERS** that the Horsley Settlement and the Horsley Release be and hereby are approved for all purposes and as contemplated by section 11.2 of the Plan and paragraph 41 of the Sanction Order and shall be implemented in accordance with their terms, this Order, the Plan and the Sanction Order.

12. **THIS COURT ORDERS** that this Order, the Horsley Settlement and the Horsley Release are binding upon each and every Person or entity having a Horsley Claim, including those Persons who are under disability, and any requirements of rules 7.04(1) and 7.08(4) of the *Rules of Civil Procedures, RRO 1990, Reg. 194* are dispensed.

Release and Discharge

13. **THIS COURT ORDERS** that upon satisfaction of all the conditions specified in section 11.2(b) of the Plan, the Monitor shall deliver to Horsley the Monitor's Horsley Settlement Certificate substantially in the form attached hereto as **Appendix "B"**. The Monitor shall thereafter file the Monitor's Horsley Settlement Certificate with the Court.

14. **THIS COURT ORDERS** that pursuant to the provisions of section 11.2(c) of the Plan, on the Horsley Settlement Date.

- (a) any and all Horsley Claims shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled, barred and deemed satisfied and extinguished as against Horsley in accordance with section 11.2(c) of the Plan;
- (b) the Horsley Release shall be binding according to its terms on any Person;
- (c) section 7.3 of the Plan shall apply to Horsley and the Horsley Claims *mutatis mutandis*;
- (d) none of the parties in the Class Actions (including the Ontario Class Action) or any other actions in which the Horsley Claims have been or could have been asserted shall be permitted to claim from any of the other defendants that portion of any damages, restitutionary award or disgorgement of profits that corresponds with the liability of Horsley proven at trial or otherwise as may be agreed, that is subject of the Horsley Settlement ("Horsley's Proportionate Liability");
- (e) all Class Actions, including the Ontario Class Action shall be permanently stayed as against Horsley; and
- (f) the Ontario Class Action shall be dismissed against Horsley.

15. **THIS COURT ORDERS** that on the Horsley Settlement Date, any and all claims which Horsley may have had against: (i) any other current or former defendant, in the Ontario Class Action, (ii) any other current or former defendant, in any Class Actions in a jurisdiction in which this order has been recognized by a final order of a court of competent jurisdiction and not subject to further appeal, (iii) any other current or former defendants' insurers, or any affiliates thereof, or (iv) any other Persons who may claim over against the other current or former

defendants, or any affiliate thereof, or the other current or former defendants' insurers, or any affiliate thereof in respect of contribution, indemnity or other claims over which relate to the allegations made in the Class Actions, are hereby fully, finally, irrevocably and forever compromised, released, discharged, cancelled, barred and deemed satisfied and extinguished.

16. **THIS COURT ORDERS** that nothing in this order shall fetter the discretion of any court to determine Horsley's Proportionate Liability at the trial or other disposition of an action (including the Ontario Class Action) for the purposes of paragraph 15 above, whether or not Horsley appears at the trial or other disposition and Horsley's Proportionate Liability shall be determined as if Horsley were a party to the action and any determination by a court in respect of Horsley's Proportionate Liability shall only apply in that action or actions to the proportionate liability of the remaining defendants in those proceedings and shall not be binding on Horsley or the Insurers for any purpose whatsoever and shall not constitute a finding against Horsley for any purpose in any other proceeding.

17. **THIS COURT ORDERS** that, notwithstanding the first sentence of paragraph 22 of the Horsley Settlement, within thirty (30) days of the Effective Date, or at a time mutually agreed upon by Horsley and the Class Action Plaintiffs, Horsley shall attend for an interview by counsel to the Class Action Plaintiffs for a maximum of two (2) days each consisting of eight (8) hours of interview time. The remaining sentences of paragraph 22 of the Horsley Settlement remain in full force and effect.

18. **THIS COURT ORDERS** that, after all appeals or times to appeal from this Order have been exhausted, the remaining defendants to the Ontario Class Action (the "Remaining Defendants") are entitled to the following:

- (a) Production of the Documents that Horsley has agreed to preserve and produce to the Class Action Plaintiffs and the Litigation Trust pursuant to the terms of the Horsley Settlement, which production shall occur either at the same time that production is made to the Class Action Plaintiffs and the Litigation Trust or such other date as may be agreed upon by the parties or ordered by the Court in the Ontario Class Action;

- (b) A total of two (2), eight hour days of oral discovery of Horsley within the Ontario Class Action in accordance with the *Rules of Civil Procedure*, and such other and further days of oral discovery as may be agreed to by Horsley or ordered by the judge presiding over the Ontario Class Action. Any days of oral discovery in addition to two days shall be on such terms as may be agreed or that the Court considers to be just, including terms requiring one or more of the Remaining Defendants to pay some or all of Horsley's costs of attending on such further days of oral discovery;
- (c) The right to access and use the discovery evidence from any documentary or oral discovery of Horsley that is obtained pursuant to paragraphs 18(a) and (b) hereof in any other proceedings in which the Horsley Claims have been or could have been asserted or in which a Remaining Defendant may assert that Horsley's conduct or the evidence obtained from Horsley pursuant to paragraphs 18(a) and (b) hereof diminishes or eliminates the liability of that Remaining Defendant, notwithstanding the Deemed Undertaking Rule (Rule 30.1 of the *Rules of Civil Procedure*) or any other statutory or common law impediments to the use of such evidence;
- (d) The right, subject to the applicable *Rules of Civil Procedure* and the discretion of the presiding trial judge or other adjudicator in any such proceedings, to read into evidence at trial the transcripts from Horsley's examination for discovery as part of the Remaining Defendants' respective cases against the Plaintiffs, including relating to any proportionate share of the liability that Horsley is argued or alleged to have for any damages or other relief claimed by the Plaintiffs or other claimants;
- (e) Leave to serve a request to admit on Horsley in respect of documents and/or any factual matters in accordance with the *Rules of Civil Procedure*;
- (f) The right to secure Horsley's attendance at trial as a witness in accordance with the *Rules of Civil Procedure*, to be subject to cross-examination by counsel for one or more of the Remaining Defendants; and
- (g) Leave to serve *Evidence Act* notices on Horsley.

19. **THIS COURT ORDERS THAT** service on Horsley of any notices of examination, requests to inspect or admit, *Evidence Act* notices and summons referred to in paragraph 18 of this Order may be served on Peter Wardle or Simon Bieber of Wardle Daley Bernstein Bieber LLP, counsel for Horsley in respect of the Class Actions, or such other counsel Horsley may notify counsel for the Remaining Defendants in advance, and that such service shall be deemed to be sufficient service under the *Rules of Civil Procedure*.

20. **THIS COURT ORDERS** that Horsley shall appear as a witness for the plaintiffs (if requested to do so) and give evidence at the trial if any, of the Ontario Class Action. Horsley shall not seek reimbursement from the Insurers for any fees or expenses associated with this testimony.

Effect of Settlement on Insurers

21. **THIS COURT ORDERS AND DECLARES** that any amounts paid by Chubb Insurance Company of Canada ("Chubb") and/or Lloyd's Underwriters towards the Horsley Settlement are fair and reasonable in all the circumstances and for all purposes.

22. **THIS COURT ORDERS AND DECLARES** that the payment by Chubb and/or Lloyd's Underwriters pursuant to the Horsley Settlement does not violate the interests of any party to the Class Actions, or any other party who might have a claim against any person or entity potentially covered under the Insurance Policies.

23. **THIS COURT ORDERS AND DECLARES** that, without prejudice to the Insurers' coverage position(s) in relation to the Litigation Trust Action and their obligations, if any, to any other defendant to the Litigation Trust Action (or to any other action which has been or may be instituted by the Litigation Trust) who is potentially covered under the Sino-Forest Policies, which rights are and shall remain fully reserved, all amounts paid by Chubb and/or Lloyd's Underwriters towards the Horsley Settlement shall constitute covered Loss (as defined in the Insurance Policies).

24. **THIS COURT ORDERS AND DECLARES** that Chubb's (and / or Lloyd's Underwriters') contribution to the Horsley Settlement shall, to the extent of the amount paid, and any other amounts paid by Chubb and, before it, by ACE INA Insurance ("ACE"), on Horsley's

behalf for defence of all Claims (as defined in the Insurance Policies) against him, reduce the Limits of Liability under the Chubb Policy and the ACE Policy for all purposes, regardless of any subsequent finding by any court, tribunal, administrative body or arbitrator, in any proceeding or action, that Horsley engaged in conduct that may have triggered any exclusion, term or condition of the Chubb Policy or the ACE Policy so as to disentitle Horsley to coverage under the Chubb Policy or the ACE Policy.

25. **THIS COURT ORDERS AND DECLARES** that Chubb's contribution to the Horsley Settlement is without prejudice to the coverage positions taken by it, or any of the Insurers, in relation to the Class Actions and to any other matter or Claim (as defined in the Insurance Policies) as previously advised to Sino-Forest and its directors and officers by each of the Insurers and to all rights previously reserved by the Insurers.

26. **THIS COURT ORDERS AND DECLARES** that the Insurers whose policies afford coverage excess to that afforded by the ACE Policy and the Chubb Policy may assert any defence to any claim for coverage, by any Insured, that is not:

- (i) inconsistent with the findings of the Court or with the Horsley Settlement Order, or
- (ii) based upon the ground that ACE and Chubb have not exhausted their respective Limits of Liability under the ACE Policy and the Chubb Policy.

27. **THIS COURT ORDERS AND DECLARES** that ACE and Chubb, in respect of the coverage afforded under Endorsements No. 16 and 2 to the ACE Policy and the Chubb Policy, respectively, may assert any defence to any claim for coverage, by any Insured, that is not inconsistent with the findings of the Court or with the Horsley Settlement Order.

28. **THIS COURT ORDERS AND DECLARES** that save and except for ACE's obligations under Endorsement No. 16 to the ACE Policy, ACE shall be released from any and all claims against it under or in relation to the ACE Policy, including claims relating to or arising from the Class Actions, all commitments in relation to and/or payments made under the ACE Policy and for reimbursement of defence costs incurred by any person or entity potentially covered by or under the ACE Policy.

29. **THIS COURT ORDERS AND DECLARES** that save and except for Chubb's obligations under Endorsement No. 2 to the Chubb Policy, to the extent of any payment made by Chubb to the date of this Order, including any and all payments in relation to the Horsley Settlement, Chubb shall be released from any and all claims against it under or in relation to the Chubb Policy, including claims relating to or arising from the Class Actions, all commitments in relation to and/or payments made under the Chubb Policy and for reimbursement of defence costs incurred by any person or entity potentially covered by or under the Chubb Policy.

30. **THIS COURT ORDERS AND DECLARES** that all persons and entities provided with notice of this Motion shall be bound by the declarations made in, and the terms of, this Horsley Settlement Order.

31. **THIS COURT ORDERS AND DECLARES** that payment by Chubb and/or Lloyd's Underwriters pursuant to the Horsley Settlement constitutes "Loss" under the Insurance Policies, which has depleted the insurance limits for all purposes, regardless of whether (in the event that criminal charges are laid against Horsley in the future) any finding is made that Horsley acted dishonestly.

32. **THIS COURT ORDERS** that, subject to paragraph 2.4 of the Plan and paragraphs 28 and 29, nothing in the Horsley Settlement shall prejudice the continued claims by the plaintiffs in the Ontario Class Action, Quebec Class Action, and the US Class Action against the Insurance Policies with respect to the conduct of Sino-Forest or other persons or entities insured by the Insurers.

33. **THIS COURT ORDERS** that the cooperation of Horsley with the plaintiffs in the Ontario Class Action, Quebec Class Action, and the US Class Action pursuant to the Horsley Settlement shall not prejudice or otherwise affect the coverage that would otherwise be provided under the Insurance Policies with respect to the conduct of Sino-Forest or other persons or entities insured by the Insurers.

Use of the Settlement Fund

34. **THIS COURT ORDERS** that, save and except for the payment of legal fees, disbursements, administrative expenses and taxes approved by this Court, the Class Settlement Fund shall be held by the Ontario Plaintiffs in the Settlement Trust until such later date that the Ontario Plaintiffs have a Plan of Allocation approved by this Court whereby those funds will be distributed to Securities Claimants. Any process for allocation and distribution will be established by CCAA Representative Counsel together with U.S. Class Action plaintiffs' counsel and approved by further order of this Court (the "Claims and Distribution Protocol").

35. **THIS COURT ORDERS** that notwithstanding paragraph 34 above, the following Securities Claimants shall not be entitled to any allocation or distribution of the Class Settlement Fund: any Person or entity that is a named defendant to any of the Class Actions, their past and present subsidiaries, affiliates, officers, directors, senior employees, partners, legal representatives, heirs, predecessors, successors and assigns, and any individual who is a member of the immediate family of the following Persons: Allen T.Y. Chan a.k.a. Talc Yuen Chan, W. Judson Martin, Kai Kit Poon, David J. Horsley, William E. Ardell, James P. Boland, James M.E. Hyde, Edmund Mak, Simon Murray, Peter Wang, Garry J. West, Albert Ip, Alfred C.T. Hung, George Ho and Simon Yeung. For greater certainty, the Horsley Release shall apply to the Securities Claimants described above, other than Horsley.

Recognition, Enforcement and Further Assistance

36. **THIS COURT ORDERS** that this Court shall retain an ongoing supervisory role for the purposes of implementing, administering and enforcing the Horsley Settlement and the Horsley Release and matters related to the Settlement Trust including any disputes about the allocation of the Class Settlement Fund from the Settlement Trust. Any disputes arising with respect to the performance or effect of, or any other aspect of, the Horsley Settlement and the Horsley Release shall be determined by this Court, and that, except with leave of this Court first obtained, no Person or party shall commence or continue any proceeding or enforcement process in any other court or tribunal, with respect to the performance or effect of, or any other aspect of the Horsley Settlement and Horsley Release.

37. **THIS COURT ORDERS** that each of the Applicant, the Monitor, CCAA Representative Counsel and Horsley shall be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this order, or any further order as may be contemplated by Section 11.2 of the Plan or be otherwise required, and for assistance in carrying out the terms of such orders. Any actions previously taken in accordance with this paragraph 37 are hereby ratified by this Court.

38. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or the United States or elsewhere, to give effect to this order and to assist the Applicant, the Monitor, the CCAA Representative Counsel and Horsley and their respective agents in carrying out the terms of this order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant, the Monitor, the CCAA Representative Counsel and Horsley as may be necessary or desirable to give effect to this order, to grant representative status to the Applicant, the Monitor, the CCAA Representative Counsel and Horsley in any foreign proceeding, or to assist the Applicant, the Monitor, the CCAA Representative Counsel and Horsley and their respective agents in carrying out the terms of this order.


Morawetz

APPENDIX "A"

Definitions of capitalized terms used in this Order

"**Ace Policy**" means the insurance policy issued by ACE INA Insurance — Policy Number D0024464;

"**Causes of Action**" has the meaning ascribed to it in the Plan

"**CCAA**" means the *Companies' Creditors Arrangement Act*, RSC, 1985, c. C-36

"**Chubb Policy**" means the insurance policy issued by Chubb Insurance Company of Canada — Policy Number 8209-4449;

"**Class Actions**" has the meaning ascribed to it in the Plan

"**Eligible Third Party Defendant**" has the meaning ascribed to it in the Plan

"**Horsley**" means David Horsley

"**Horsley Claims**" means any and all demands, claims, actions, Causes of Action (as defined in the Plan), counterclaims, cross claims, suits, debts, sums of money, accounts, covenants, damages, judgments, orders, including injunctive relief or specific performance and compliance orders, expenses, executions, Encumbrances (as defined in the Plan), and other amounts sought to be recovered on account of any claim, indebtedness, liability, obligation, demand or cause of action of whatever nature that any Person (as defined in the Plan), including any Person (as defined in the Plan) who may have a claim for contribution and/or indemnity against or from them, and including without limitation, all present and former officers or Directors of Sino-Forest, Newco (as defined in the Plan), Newco II (as defined in the Plan), Ernst & Young (as defined in the Plan), BDO Ltd., the Underwriters (as defined in the Plan), Poyry (Beijing) Consulting Company Limited (and its affiliates), the Noteholders (as defined in the Plan), any past, present or future holder of any direct or indirect equity interest in the SFC Companies (as defined in the Plan), any past, present or future direct or indirect security holder of the SFC Companies (as defined in the Plan), any indirect or direct security holder of Newco (as defined in the Plan) or Newco II (as defined in the Plan), the Trustees (as defined in the Plan), the Transfer Agent (as defined in the Plan), the Monitor (as defined in the Plan), and each and every present and former affiliate, partner, director, officer, associate, employee, servant, agent, contractor, insurer, heir and/or assign of each of the foregoing who may or could (at any time, past, present or future) be entitled to assert against Horsley, his family, heirs or assigns, whether known or unknown, matured or unmatured, direct or derivative, foreseen or unforeseen, suspected or unsuspected, contingent, existing or hereafter arising, based on whole or in part on any act or omission, transaction, conduct, dealing or other occurrence existing or taking place on, prior to or after the date of this Release, relating to or arising out of or in connection with the SFC Companies (as defined by the Plan), the SFC Business (as defined by the Plan), Horsley's conduct or performance as a director or officer of Sino-Forest, Horsley's trading of shares in relation to Sino-Forest, Horsley's compensation from Sino-Forest, and any and all other acts and omissions of Horsley relating to the SFC Companies (as defined by the Plan) or the SFC Business (as defined by the Plan), including without limitation any claim arising out of:

1. Horsley's conduct as a director or officer of Sino-Forest, including but not limited to his conduct as the Chief Financial Officer of Sino-Forest, any statutory or common law duties he may have owed as a director or officer of Sino-Forest, any share offering, debt offering or other offering of securities, any statement in any of Sino-Forest's public disclosure or other oral statement relating to Sino-Forest, including without limitation any document released to the public or filed on SEDAR;
2. All claims or Causes of Action (as defined by the Plan) advanced or which could have been advanced in any or all of the Class Actions (as defined by the Plan), including any and all claims of fraud;
3. All claims or Causes of Action (as defined by the Plan) advanced or which could have been advanced in any or all actions commenced in all jurisdictions as of the date of this Release;
4. All Noteholder Claims (as defined by the Plan), Litigation Trust Claims (as defined by the Plan), or any claim by or on behalf of the SFC Companies (as defined by the Plan);
5. All claims or Causes of Action (as defined by the Plan) advanced or which could have been advanced by BDO Ltd,(and its affiliates), Ernst & Young (as defined by the Plan), the Underwriters (as defined by the Plan), Poyry (Beijing) Consulting Company Limited (and its affiliates), all present and former directors, officers or employees of Sino-Forest, Aird & Berlis LLP, and any and all consultants or counsel to Sino-Forest or its Independent Committee for contribution, indemnity, damages, equitable relief or other monetary recovery;
6. All claims or Causes of Action (as defined by the Plan) advanced or which could have been advanced in Court File No, CV-13-481761,

For greater certainty, Horsley Claims do not include any proceeding commenced or remedy sought by the Ontario Securities Commission or the Attorney General,

"Class Settlement Fund" has the meaning ascribed to it in the Horsley Settlement

"Horsley Release" means the Named Third Party Defendant Release described at section 11.2(c) of the Plan as applied to the Horsley Claims

"Horsley Settlement" means the settlement as reflected in the Minutes of Settlement executed on •, between Horsley and the plaintiffs in Ontario Superior Court Action No, CV-11-431153-00CP, Quebec Superior Court No. 200-06-000132-111, and United States New York Southern District Court, Case Number 1:12-cv-01726 (AT) and the Litigation Trust

"Horsley Settlement Date" means the date that the Monitor's Horsley Settlement Certificate is delivered to Horsley.

"Insurance Policies" has the meaning ascribed to it in the Plan

"Insurers" means each of the entities who issued the Insurance Policies

"Litigation Trust" means Cosimo Borrelli, in his capacity as the trustee for the SFC Litigation Trust, and the SFC Litigation Trust

"The Litigation Trust Action" means the action bearing Court File No. CV-13-481761

"Monitor's Horsley Settlement Certificate" is the Monitor's Named Third Party Certificate contemplated at section 11.2(b) of the Plan, applicable and with respect to the Horsley Settlement

"Monitor's Named Third Party Settlement Certificate" has the meaning ascribed to it in the Plan

"Named Third Party Defendant" has the meaning ascribed to it in the Plan

"Named Third Party Defendant Settlement" has the meaning ascribed to it in the Plan

"Named Third Party Defendant Settlement Order" has the meaning ascribed to it in the Plan

"Named Third Party Defendant Release" has the meaning ascribed to it in the Plan

"Person" has the meaning ascribed to it in the Plan

"Quebec Class Action" means the action styled *Guining Liu v Sino-Forest Corporation, et al.*, Province of Quebec Superior Court, File No. 200-06-000132-11

"Securities" means common shares, notes or other securities defined in the Securities Act, RSO 1990, c. S.5, as amended

"Securities Claimants" means all Person and entities, wherever they may reside, who acquired any Securities of Sino-Forest Corporation including Securities acquired in the primary, secondary, and over-the-counter markets.

"Settlement Trust" has the meaning ascribed to it in the Horsley Settlement

"US Class Action" means the action styled *David Leopard, et al v. Allen TY Chan, et al.*, United States New York Southern District Court, Case Number 1:12-cv-01726 (AT)

APPENDIX "B"
MONITOR'S HORSLEY SETTLEMENT CERTIFICATE

Court File No.: CV-12-9667-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985,
 c. C-36, AS AMENDED, AND IN THE MATTER OF A PLAN OF COMPRISE OR
 ARRANGEMENT OF SINO-FOREST CORPORATION

Court File No.: CV-11-431153-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

THE TRUSTEES OF THE LABOURERS' PENSION FUND OF CENTRAL AND EASTERN
 CANADA, THE TRUSTEES OF THE INTERNATIONAL UNION OF OPERATING
 ENGINEERS LOCAL 793 PENSION PLAN FOR OPERATING ENGINEERS IN ONTARIO,
 SJUNDE AP-FONDEN, DAVID GRANT and ROBERT WONG

Plaintiffs

- and -

SINO-FOREST CORPORATION, ERNST & YOUNG LLP, BDO LIMITED (formerly known
 as BDO MCCABE LO LIMITED), ALLEN T.Y. CHAN, W. JUDSON MARTIN, KAI KIT
 POON, DAVID J. HORSLEY, WILLIAM E. ARDELL, JAMES P. BOWLAND, JAMES M.E.
 HYDE, EDMUND MAK, SIMON MURRAY, PETER WANG, GARRY J. WEST, PÖYRY
 (BEIJING) CONSULTING COMPANY LIMITED, CREDIT SUISSE SECURITIES
 (CANADA), INC., TD SECURITIES INC., DUNDEE SECURITIES CORPORATION, RBC
 DOMINION SECURITIES INC., SCOTIA CAPITAL INC., CIBC WORLD MARKETS INC.,
 MERRILL LYNCH CANADA INC., CANACCORD FINANCIAL LTD., MAISON
 PLACEMENTS CANADA INC., CREDIT SUISSE SECURITIES (USA) LLC and MERRILL
 LYNCH, PIERCE, FENNER & SMITH INCORPORATED (successor by merger to Banc of
 America Securities LLC)

Defendants

All capitalized, terms not otherwise defined herein shall have the meanings ascribed to them in the Order of the Court dated ■ (the "Horsley Settlement Approval Order") which, among other things, approved the Horsley Settlement and Horsley Release.

Pursuant to section 11.2 of the Plan and paragraph ■ of the Horsley Settlement Approval Order, FTI Consulting Canada Inc. (the "Monitor") in its capacity as Court-appointed Monitor of SFC delivers to Horsley this certificate and hereby certifies that:

1. Each of the parties to the Horsley Settlement has confirmed that all conditions precedent thereto have been satisfied or waived;
2. All settlement funds have been paid and received; and
3. Immediately upon the delivery of this Monitor's Horsley Settlement Certificate, the Horsley Release will be in full force and effect in accordance with the Plan.

DATED at Toronto this day of _____, 2014

FTI CONSULTING CANADA INC., solely
in its capacity as Monitor of Sino-Forest
Corporation and not in its personal capacity

Name: Title:

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE AND ARRANGEMENT OF SINO-FOREST
CORPORATION

THE TRUSTEES OF THE LABOURERS' PENSION FUND OF SINO-FOREST CORPORATION, et al.
CENTRAL AND EASTERN CANADA. et al.

Plaintiffs

Defendants

Court File No: CV-12-9667-00CL

Court File No. CV-11-431153-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

Proceeding under the *Class Proceedings Act, 1992*

ORDER

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Representative Counsel

TAB M

This is Exhibit "M" to the
Affidavit of Costmo Borelli
Sworn before me on 26 April 2015



A Commissioner, etc.

LI SIU FUNG
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Superior Court File No, CV-12-9667-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE**

COMMERCIAL LIST

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF SINO-FOREST CORPORATION

Superior Court File No, CV-11-431153-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

THE TRUSTEES OF THE LABOURERS' PENSION FUND OF CENTRAL AND EASTERN
CANADA and THE TRUSTEES OF THE INTERNATIONAL UNION OF OPERATING
ENGINEERS LOCAL 793 PENSION PLAN FOR OPERATING ENGINEERS IN ONTARIO

Plaintiffs

-and-

SINO-FOREST CORPORATION, ERNST & YOUNG LLP, ALLEN T.Y. CHAN, W.
JUDSON MARTIN, KAI KIT POON, DAVID J. HORSLEY, WILLIAM E. ARDELL, JAMES
P. BOWLAND, JAMES M.E. HYDE, EDMUN MAK, SIMON MURRAY, PETER WANG,
GARRY J. WEST, PÖYRY (BEIJING) CONSULTING COMPANY LIMITED, CREDIT
SUISSE SECURITIES (CANADA), INC., TD SECURITIES INC., DUNDEE SECURITIES
CORPORATION, RBC DOMINION SECURITIES INC., SCOTIA CAPITAL INC., CIBC
WORLD MARKETS INC., MERRILL LYNCH CANADA INC., CANACCORD FINANCIAL
LTD. and MAISON PLACEMENTS CANADA INC.

Defendants

Proceeding under the Class Proceedings Act, 1992

**RESPONDING MOTION RECORD OF SINO-FOREST CORPORATION AND THE
SINO-FOREST CORPORATION LITIGATION TRUSTEE**

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

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF SINO-FOREST CORPORATION**

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(as at January 2015)**

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 Proposed Class re New York action

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Lawyers for Travelers Insurance Company of
 Canada

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TAB 1

Superior Court File No. CV-12-9667-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE**

COMMERCIAL LIST

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF SINO-FOREST CORPORATION

Superior Court File No. CV-11-431153-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

THE TRUSTEES OF THE LABOURERS' PENSION FUND OF CENTRAL AND EASTERN
CANADA and THE TRUSTEES OF THE INTERNATIONAL UNION OF OPERATING
ENGINEERS LOCAL 793 PENSION PLAN FOR OPERATING ENGINEERS IN ONTARIO

Plaintiffs

-and-

SINO-FOREST CORPORATION, ERNST & YOUNG LLP, ALLEN T.Y. CHAN, W.
JUDSON MARTIN, KAI KIT POON, DAVID J. HORSLEY, WILLIAM E. ARDELL, JAMES
P. BOWLAND, JAMES M.E. HYDE, EDMUN MAK, SIMON MURRAY, PETER WANG,
GARRY J. WEST, PÖYRY (BEIJING) CONSULTING COMPANY LIMITED, CREDIT
SUISSE SECURITIES (CANADA), INC., TD SECURITIES INC., DUNDEE SECURITIES
CORPORATION, RBC DOMINION SECURITIES INC., SCOTIA CAPITAL INC., CIBC
WORLD MARKETS INC., MERRILL LYNCH CANADA INC., CANACCORD FINANCIAL
LTD. and MAISON PLACEMENTS CANADA INC.

Defendants

Proceeding under the Class Proceedings Act, 1992

**AFFIDAVIT OF LORRAINE KLEMENS
(Sworn January 27, 2015)**

I, LORRAINE KLEMENS, of the City of Mississauga, in the Province of Ontario,
MAKE OATH AND SAY:

1. I am a litigation clerk at Bennett Jones LLP. Bennett Jones LLP is counsel for Sino-Forest Corporation and for the Sino-Forest Corporation Litigation Trust, and I have assisted in our firm's representation of these entities. I therefore have personal knowledge of the matters set out below.

2. Attached as Exhibit "A" is a copy of a letter dated January 8, 2015, from Andrew Gray, counsel to the underwriters, to Robert Staley of Bennett Jones.

3. Attached as Exhibit "B" is a copy of a responding letter dated January 16, 2015 from Mr. Staley to Mr. Gray.

4. Attached as Exhibit "C" is a copy of the Plan Sanction Order of this Court dated December 10, 2012, which attaches as Schedule "A" the Plan of Compromise and Reorganization of Sino-Forest Corporation dated December 3, 2012.

SWORN BEFORE ME at the City of Toronto, in the Province of Ontario this 27th day of January, 2015)

Jonathan Bell
JONATHAN BELL

Lorraine Klemens

Lorraine Klemens

TAB A

TORYS
LLP

79 Wellington St. W., 30th Floor
Box 270, TD South Tower
Toronto, Ontario M5X 1R2 Canada
P. 416.863.0040 | F. 416.863.7880
www.torys.com

Andrew Gray
agray@torys.com
P. 416.863.7890

January 8, 2015

EMAIL

Robert Staley
Bennett Jones LLP
First Canadian Place
100 King Street West
Suite 3400
Toronto, Ontario
M5X 1B8 Canada

Dear Mr. Staley:

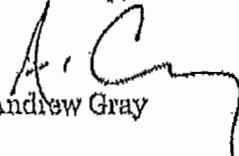
Re: Sino-Forest Corporation ("Sino-Forest")

As you know, the investment dealer defendants in the Ontario class action (the "Dealers") have settled the Sino-Forest-related litigation against them. I am enclosing a copy of the minutes of settlement (the "Settlement Agreement") which were previously delivered in connection with the plaintiffs' notice approval motion.

The Settlement Agreement requires that the Dealers Settlement (as that term is defined in the Settlement Agreement) is a "Named Third Party Settlement" under the CCAA plan of arrangement and compromise (the "Plan") and that the Dealers receive a "Named Third Party Settlement Release" in accordance with the terms of the Plan. The Plan, in turn, requires the consent of the Litigation Trustee to give effect to these aspects of the Settlement Agreement. On behalf of the Dealers, I write to seek that consent from the Litigation Trustee. Since the Litigation Trustee has not sought to pursue any claims in the face of the release of claims included in the Sino-Forest Litigation Trust Agreement, I do not expect that the consent of the Litigation Trustee will be an issue.

I look forward to hearing from you.

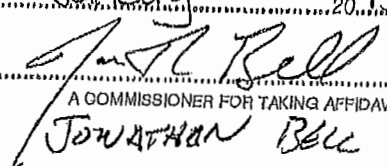
Yours truly,


Andrew Gray

AGS

Enclosure

cc: John Fabello
Jon Plak

This is Exhibit..... "A"referred to in the
affidavit of..... Lorraine Klemen S.....
sworn before me, this..... 27th
day of..... January..... 20.15.....

A COMMISSIONER FOR TAKING AFFIDAVITS
Jonathan Bell

TAB B

Bennett Jones LLP
 9400 One First Canadian Place, PO Box 130
 Toronto, Ontario, Canada M5X 1A4
 Tel: 416.863.1200 Fax: 416.863.1716

Robert W. Staley
 Direct Line: 416.777.4837
 e-mail: rstaley@bennettjones.com

January 16, 2015

By E-Mail: agray@torrys.com

Andrew Gray
 Torys LLP
 Suite 3000
 79 Wellington St W
 Box 270 TD Centre
 Toronto ON M5K 1N2

Dear Mr. Gray:

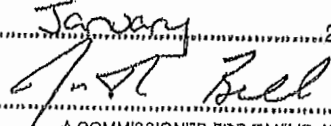
Re: **Sino-Forest Corporation**

We have consulted with the Litigation Trustee concerning your January 8, 2015 letter, and have been instructed to respond as follows.

As you know, the Plan of Compromise and Reorganization (the "Plan") of Sino-Forest Corporation ("Sino-Forest") creates a structure under which a Named Third Party Defendant¹ may settle specified litigation in relation to Sino-Forest, including the Class Actions in which your clients, the Underwriters, are defendants. The Plan allows Named Third Party Defendants, subject to certain conditions, to obtain a Named Third Party Defendant Release. Among the conditions specified in the Plan is the consent of Sino-Forest (pre-Plan implementation) and the Litigation Trustee (post-Plan implementation). The Plan was sanctioned by the court on December 10, 2012, and efforts to appeal from the Plan sanction order were unsuccessful. The Plan is binding on the Underwriters.

As part of the arrangements negotiated between the Underwriters and Sino-Forest leading to approval of the Plan, Sino-Forest agreed that the Plan would extinguish claims of the Litigation Trust against the Underwriters. As part of the same bargain, the Underwriters were listed in the Plan as Named Third Party Defendants, making them eligible to receive a Named Third Party Defendant Release. Even though the Plan extinguished claims of the Litigation Trust against the Underwriters, the Plan nevertheless provides that the consent of the Litigation Trust is required before the court has jurisdiction to grant a Named Third Party Defendant Release to the Underwriters.

¹ Named Third Party Defendant and the remaining defined terms in this letter are as defined in the Plan.

This is Exhibit....."B".....referred to in the
 affidavit of.....Lorraine Klemens.....
 sworn before me, this.....27th.....
 day of.....January.....20.15.....

 A COMMISSIONER FOR TAKING AFFIDAVITS
 JONATHAN BELL

January 16, 2015
Page Two

As you know, a Named Third Party Defendant Release offers settling parties protections substantially greater than those available if Class Actions are settled in the normal course, including protection against opt-outs. When the claims in the Class Actions against Ernst & Young were settled using a structure identical to that created for Named Third Party Defendants, evidence was filed with the court to support the proposition that these protections increased the consideration that Ernst & Young was prepared to pay to settle the litigation.

Similarly, the Litigation Trust believes that the significant benefit to the Underwriters in obtaining a Named Third Party Defendant Release is reflected in the consideration that the Underwriters are proposing to pay in settlement. The Litigation Trust also believes that the Underwriters would have paid less, or there would be no settlement, if the claims in the Class Actions against the Underwriters were settled in the ordinary course under the *Class Proceedings Act* and similar statutes in other jurisdictions.

Going back to 2013, the Litigation Trust and counsel for the plaintiffs in the Class Actions have had periodic discussions about the possible settlement of litigation claims, in which the settling party would receive a Named Third Party Defendant Release. In the case of Mr. Horsley, counsel for the plaintiffs and the Litigation Trust were able to reach an agreement under which the Litigation Trust consented to Mr. Horsley receiving such a release. The Litigation Trust received consideration as part of that settlement.

The Litigation Trust has repeatedly advised counsel for the plaintiffs in the Class Actions that they should not presume to settle the Class Actions by offering a Named Third Party Defendant Release to defendants in the Class Actions without the prior knowledge and concurrence of the Litigation Trust. We assume that counsel for the plaintiffs advised you of the Litigation Trust's position, and that a conscious decision was taken by the Underwriters to exclude the Litigation Trust from your settlement discussions, and to execute a settlement agreement without first seeking the Litigation Trust's consent.

The beneficiaries of the Litigation Trust differ from the beneficiaries of the Class Actions. The Litigation Trust and the class action parties are competing to obtain recoveries for the benefit of their stakeholders, in many cases from the same parties. A Named Third Party Defendant Settlement can be granted only with the consent of the Litigation Trust. The Litigation Trust is not prepared to consent to a settlement in which all of the incremental value to a settling party represented by the Named Third Party Defendant Release is enjoyed solely by beneficiaries to the Class Actions, and none of that value is paid to the Litigation Trust for the benefit of its beneficiaries. To be acceptable to the Litigation Trust, any settlement that includes a Named Third Party Defendant Release must provide for a fair allocation of that incremental value as between the Litigation Trust and the Class Action beneficiaries.

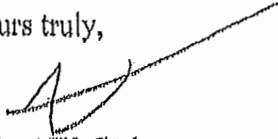
The Litigation Trust is prepared to engage in without prejudice discussions with the Underwriters, with a view to negotiating terms on which the Litigation Trust would consent to a settlement in which the Underwriters would receive a Named Third Party Defendant Release.



January 16, 2015
Page Three

Please let us know how the Underwriters wish to proceed.

Yours truly,



Robert W. Staley

RWS/jm

cc: Derek Bell, Bennett Jones LLP
cc: Jonathan Bell, Bennett Jones LLP

WSLogin\059250\00013\11392313v2



TAB C

Court File No. CV-12-9667-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.)
JUSTICE MORAWETZ)
MONDAY, THE 10th DAY
OF DECEMBER, 2012



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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF SINO-FOREST CORPORATION
This is Exhibit "C" referred to in the
affidavit of Lorraine Klemens
sworn before me, this 2nd
day of January 2015

PLAN SANCTION ORDER

J. St. Bell
A COMMISSIONER FOR TAKING AFFIDAVITS
JONATHAN BELL

THIS MOTION, made by Sino-Forest Corporation ("SFC"), for an order (i) pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"), sanctioning the plan of compromise and reorganization dated December 3, 2012 (including all schedules thereto), which Plan is attached as Schedule "A" hereto, as supplemented by the plan supplement dated November 21, 2012 previously filed with the Court, as the Plan may be further amended, varied or supplemented from time to time in accordance with the terms thereof (the "Plan"), and (ii) pursuant to the section 191 of the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44, as amended (the "CBCA"), approving the Plan and amending the articles of SFC and giving effect to the changes and transactions arising therefrom, was heard on December 7, 2012 at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion, the Affidavit of W. Judson Martin sworn November 29, 2012 (the "Martin Affidavit"), the Thirteenth Report of FTI Consulting Canada Inc. in its capacity as monitor of SFC (the "Monitor") dated November 22, 2012 (the "Monitor's Thirteenth Report"), the supplemental report to the Monitor's Thirteenth Report (the "Supplemental Report"), and the second supplemental report to the Monitor's Thirteenth Report (the "Second Supplemental Report") and on hearing the submissions of counsel for

SFC, the Monitor, the *ad hoc* committee of Noteholders (the "Ad Hoc Noteholders"), and such other counsel as were present, no one else appearing for any other party, although duly served with the Motion Record as appears from the Affidavit of Service, filed.

DEFINED TERMS

1. **THIS COURT ORDERS** that any capitalized terms not otherwise defined in this Plan Sanction Order shall have the meanings ascribed to such terms in the Plan and/or the Plan Filing and Meeting Order granted by the Court on August 31, 2012 (the "**Plan Filing and Meeting Order**"), as the case may be.

SERVICE, NOTICE AND MEETING

2. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record in support of this motion, the Monitor's Thirteenth Report, the Supplemental Report and the Second Supplemental Report be and are hereby abridged and validated so that the motion is properly returnable today and service upon any interested party other than those parties served is hereby dispensed with.

3. **THIS COURT ORDERS AND DECLARES** that there has been good and sufficient notice, service and delivery of the Plan Filing and Meeting Order and the Meeting Materials (including, without limitation, the Plan) to all Persons upon which notice, service and delivery was required.

4. **THIS COURT ORDERS AND DECLARES** that the Meeting was duly convened and held, all in conformity with the CCAA and the Orders of this Court made in the CCAA Proceeding, including, without limitation, the Plan Filing and Meeting Order.

5. **THIS COURT ORDERS AND DECLARES** that: (i) the hearing of the Plan Sanction Order was open to all of the Affected Creditors and all other Persons with an interest in SFC and that such Affected Creditors and other Persons were permitted to be heard at the hearing in respect of the Plan Sanction Order; and (ii) prior to the hearing, all of the Affected Creditors and all other Persons on the Service List in respect of the CCAA Proceeding were given adequate notice thereof.

SANCTION OF THE PLAN

6. **THIS COURT ORDERS** that the relevant class of Affected Creditors of SFC for the purposes of voting to approve the Plan is the Affected Creditors Class.

7. **THIS COURT ORDERS AND DECLARES** that the Plan, and all the terms and conditions thereof, and matters and transactions contemplated thereby, are fair and reasonable.

8. **THIS COURT ORDERS** that the Plan is hereby sanctioned and approved pursuant to section 6 of the CCAA.

PLAN IMPLEMENTATION

9. **THIS COURT ORDERS AND DECLARES** that the Plan and all associated steps, compromises, releases, discharges, cancellations, transactions, arrangements and reorganizations effected thereby are approved and shall be deemed to be implemented, binding and effective in accordance with the provisions of the Plan as of the Plan Implementation Date at the Effective Time, or at such other time, times or manner as may be set forth in the Plan, and shall enure to the benefit of and be binding upon SFC, the other Released Parties, the Affected Creditors and all other Persons and parties named or referred to in, affected by, or subject to the Plan, including, without limitation, their respective heirs, administrators, executors, legal representatives, successors, and assigns.

10. **THIS COURT ORDERS** that each of SFC and the Monitor are authorized and directed to take all steps and actions, and to do all things, necessary or appropriate to implement the Plan in accordance with its terms and to enter into, execute, deliver, complete, implement and consummate all of the steps, transactions, distributions, deliveries, allocations, instruments and agreements contemplated pursuant to the Plan, and such steps and actions are hereby authorized, ratified and approved. Furthermore, neither SFC nor the Monitor shall incur any liability as a result of acting in accordance with terms of the Plan and the Plan Sanction Order.

11. **THIS COURT ORDERS** that SFC, the Monitor, Newco, the Litigation Trustee, the Trustees, DTC, the Unresolved Claims Escrow Agent, all Transfer Agents and any other Person required to make any distributions, deliveries or allocations or take any steps or actions related

thereto pursuant to the Plan are hereby directed to complete such distributions, deliveries or allocations and to take any such related steps and/or actions in accordance with the terms of the Plan, and such distributions, deliveries and allocations, and steps and actions related thereto, are hereby approved.

12. **THIS COURT ORDERS** that upon the satisfaction or waiver, as applicable, of the conditions precedent set out in section 9.1 of the Plan in accordance with the terms of the Plan, as confirmed by SFC and Goodmans LLP to the Monitor in writing, the Monitor is authorized and directed to deliver to SFC and Goodmans LLP a certificate substantially in the form attached hereto as Schedule "B" (the "**Monitor's Certificate**") signed by the Monitor, certifying that the Plan Implementation Date has occurred and that the Plan and this Plan Sanction Order are effective in accordance with their terms. Following the Plan Implementation Date, the Monitor shall file the Monitor's Certificate with this Court.

13. **THIS COURT ORDERS AND DECLARES** that the steps, compromises, releases, discharges, cancellations, transactions, arrangements and reorganizations to be effected on the Plan Implementation Date are deemed to occur and be effected in the sequential order contemplated in the Plan, without any further act or formality, beginning at the Effective Time.

14. **THIS COURT ORDERS** that SFC, the Monitor and the Initial Consenting Noteholders are hereby authorized and empowered to exercise all such consent and approval rights in the manner set forth in the Plan, whether prior to or after implementation of the Plan.

15. **THIS COURT ORDERS** that from and after the Plan Implementation Date, and for the purposes of the Plan only, (i) if SFC does not have the ability or the capacity pursuant to Applicable Law to provide its agreement, waiver, consent or approval to any matter requiring SFC's agreement, waiver, consent or approval under this Plan, such agreement, waiver consent or approval may be provided by the Monitor; and (ii) if SFC does not have the ability or the capacity pursuant to Applicable Law to provide its agreement, waiver, consent or approval to any matter requiring SFC's agreement, waiver, consent or approval under this Plan, and the Monitor has been discharged pursuant to an Order, such agreement, waiver consent or approval shall be deemed not to be necessary.

COMPROMISE OF CLAIMS AND EFFECT OF PLAN

16. **THIS COURT ORDERS AND DECLARES** that, pursuant to and in accordance with the terms of the Plan, on the Plan Implementation Date, any and all Affected Claims shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred, subject only to the right of the applicable Persons to receive the distributions and interests to which they are entitled pursuant to the Plan.

17. **THIS COURT ORDERS AND DECLARES** that, pursuant to and in accordance with the terms of the Plan, on the Plan Implementation Date and at the time specified in Section 6.4 of the Plan, all accrued and unpaid interest owing on, or in respect of, or as part of, Affected Creditor Claims (including any Accrued Interest on the Notes and any interest accruing on the Notes or any Ordinary Affected Creditor Claim after the Filing Date) shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred for no consideration and no Person shall have any entitlement to any such accrued and unpaid interest.

18. **THIS COURT ORDERS AND DECLARES** that, on the Plan Implementation Date, the ability of any Person to proceed against SFC or the Subsidiaries in respect of any Released Claims shall be forever discharged, barred and restrained, and all proceedings with respect to, in connection with, or relating to any such matter shall be permanently stayed.

19. **THIS COURT ORDERS** that each Affected Creditor is hereby deemed to have consented to all of the provisions of the Plan, in its entirety, and each Affected Creditor is hereby deemed to have executed and delivered to SFC all consents, releases, assignments and waivers, statutory or otherwise, required to implement and carry out the Plan in its entirety.

20. **THIS COURT ORDERS** that, on the Plan Implementation Date and at the time specified in Section 6.4 of the Plan, the SFC Assets (including for greater certainty the Direct Subsidiary Shares, the SFC Intercompany Claims and all other SFC Assets assigned, transferred and conveyed to Newco and/or Newco II pursuant to section 6.4 of the Plan) shall vest in the Person to whom such assets are being assigned, transferred and conveyed, in accordance with the terms of the Plan, free and clear of and from any and all Charges, Claims (including, notwithstanding anything to the contrary herein, any Unaffected Claims), D&O Claims, D&O Indemnity Claims, Section 5.1(2) D&O Claims, Conspiracy Claims, Continuing Other D&O

Claims, Non-Released D&O Claims, Affected Claims, Class Action Claims, Class Action Indemnity Claims, claims or rights of any kind in respect of the Notes or the Note Indentures, and any right or claim that is based in whole or in part on facts, underlying transactions, Causes of Action or events relating to the Restructuring Transaction, the CCAA Proceedings or any of the foregoing, and any guarantees or indemnities with respect to any of the foregoing. Any Encumbrances or claims affecting, attaching to or relating to the SFC Assets in respect of the foregoing are and shall be deemed to be irrevocably expunged and discharged as against the SFC Assets, and no such Encumbrances or claims shall be pursued or enforceable as against Newco, Newco II or any other Person.

21. **THIS COURT ORDERS** that any securities, interests, rights or claims pursuant to the Plan, including the Newco Shares, the Newco Notes and the Litigation Trust Interests, issued, assigned, transferred or conveyed pursuant to the Plan will be free and clear of and from any and all Charges, Claims (including, notwithstanding anything to the contrary herein, any Unaffected Claims), D&O Claims, D&O Indemnity Claims, Affected Claims, Section 5.1(2) D&O Claims, Conspiracy Claims, Continuing Other D&O Claims, Non-Released D&O Claims, Class Action Claims, Class Action Indemnity Claims, claims or rights of any kind in respect of the Notes or the Note Indentures, and any right or claim that is based in whole or in part on facts, underlying transactions, causes of action or events relating to the Restructuring Transaction, the CCAA Proceedings or any of the foregoing, and any guarantees or indemnities with respect to any of the foregoing.

22. **THIS COURT ORDERS** that the Litigation Trust Agreement is hereby approved and deemed effective as of the Plan Implementation Date, including with respect to the transfer, assignment and delivery of the Litigation Trust Claims to the Litigation Trustee which shall, and are hereby deemed to, occur on and as of the Plan Implementation Date. For greater certainty, the Litigation Trust Claims transferred, assigned and delivered to the Litigation Trustee shall not include any Excluded Litigation Trust Claims and all Affected Creditors shall be deemed to have consented to the release of any such Excluded Litigation Trust Claims pursuant to the Plan.

23. **THIS COURT ORDERS** that section 36.1 of the CCAA, sections 95 to 101 of the BIA and any other federal or provincial Law relating to preferences, fraudulent conveyances or transfers at undervalue, shall not apply to the Plan or to any payments, distributions, transfers,

allocations or transactions made or completed in connection with the restructuring and recapitalization of SFC, whether before or after the Filing Date, including, without limitation, to any and all of the payments, distributions, transfers, allocations or transactions contemplated by and to be implemented pursuant to the Plan.

24. **THIS COURT ORDERS** that the articles of reorganization to be filed by SFC pursuant to section 191 of the CBCA, substantially in the form attached as Schedule "C" hereto, are hereby approved, and SFC is hereby authorized to file the articles of reorganization with the Director (as defined in the CBCA).

25. **THIS COURT ORDERS** that on the Equity Cancellation Date, or such other date as agreed to by the Monitor, SFC and the Initial Consenting Noteholders, all Existing Shares and other Equity Interests shall be fully, finally and irrevocably cancelled.

26. **THIS COURT ORDERS AND DECLARES** that the Newco Shares shall be and are hereby deemed to have been validly authorized, created, issued and outstanding as fully-paid and non-assessable shares in the capital of Newco as of the Effective Time.

27. **THIS COURT ORDERS AND DECLARES** that upon the Plan Implementation Date the initial Newco Share in the capital of Newco held by the Initial Newco Shareholder shall be deemed to have been redeemed and cancelled for no consideration.

28. **THIS COURT ORDERS AND DECLARES** that it was advised prior to the hearing in respect of the Plan Sanction Order that the Plan Sanction Order will be relied upon by SFC and Newco as an approval of the Plan for the purpose of relying on the exemption from the registration requirements of the *United States Securities Act of 1933*, as amended, pursuant to section 3(a)(10) thereof for the issuance of the Newco Shares, Newco Notes and, to the extent they may be deemed to be securities, the Litigation Trust Interests, and any other securities to be issued pursuant to the Plan.

STAY OF PROCEEDINGS

29. **THIS COURT ORDERS** that all obligations, agreements or leases to which (i) SFC remains a party on the Plan Implementation Date, or (ii) Newco and/or Newco II becomes a party as a result of the conveyance of the SFC Assets to Newco and the further conveyance of

the SFC Assets to Newco II on the Plan Implementation Date, shall be and remain in full force and effect, unamended, as at the Plan Implementation Date and no party to any such obligation, agreement or lease shall on or following the Plan Implementation Date, accelerate, terminate, refuse to renew, rescind, refuse to perform or otherwise disclaim or resiliate its obligations thereunder, or enforce or exercise (or purport to enforce or exercise) any right or remedy under or in respect of any such obligation, agreement or lease, (including any right of set-off, dilution or other remedy), or make any demand against SFC, Newco, Newco II, any Subsidiary or any other Person under or in respect of any such agreement with Newco, Newco II or any Subsidiary, by reason:

- (a) of any event which occurred prior to, and not continuing after, the Plan Implementation Date, or which is or continues to be suspended or waived under the Plan, which would have entitled any other party thereto to enforce those rights or remedies;
- (b) that SFC sought or obtained relief under the CCAA or by reason of any steps or actions taken as part of the CCAA Proceeding or this Plan Sanction Order or prior orders of this Court;
- (c) of any default or event of default arising as a result of the financial condition or insolvency of SFC;
- (d) of the completion of any of the steps, actions or transactions contemplated under the Plan, including, without limitation, the transfer, conveyance and assignment of the SFC Assets to Newco and the further transfer, conveyance and assignment of the SFC Assets by Newco to Newco II; or
- (e) of any steps, compromises, releases, discharges, cancellations, transactions, arrangements or reorganizations effected pursuant to the Plan.

30. **THIS COURT ORDERS** that from and after the Plan Implementation Date, any and all Persons shall be and are hereby stayed from commencing, taking, applying for or issuing or continuing any and all steps or proceedings, including without limitation, administrative hearings and orders, declarations or assessments, commenced, taken or proceeded with or that may be commenced, taken or proceed with to advance any Released Claims.

31. **THIS COURT ORDERS** that between (i) the Plan Implementation Date and (ii) the earlier of the Ernst & Young Settlement Date or such other date as may be ordered by the Court on a motion to the Court on reasonable notice to Ernst & Young, any and all Persons shall be and are hereby stayed from commencing, taking, applying for or issuing or continuing any and all steps or proceedings against Ernst & Young (other than all steps or proceedings to implement the Ernst & Young Settlement) pursuant to the terms of the Order of the Honourable Justice Morawetz dated May 8, 2012, provided that no steps or proceedings against Ernst & Young by the Ontario Securities Commission or by staff of the Ontario Securities Commission under the *Securities Act* (Ontario) shall be stayed by this Order.

RELEASES

32. **THIS COURT ORDERS** that, subject to section 7.2 of the Plan, all of the following shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred on the Plan Implementation Date at the time or times and in the manner set forth in section 6.4 of the Plan:

- (a) all Affected Claims, including, without limitation, all Affected Creditor Claims, Equity Claims, D&O Claims (other than Section 5.1(2) D&O Claims, Conspiracy Claims, Continuing Other D&O Claims and Non-Released D&O Claims), D&O Indemnity Claims (except as set forth in section 7.1(d) of the Plan) and Noteholder Class Action Claims (other than the Continuing Noteholder Class Action Claims);
- (b) all Claims of the Ontario Securities Commission or any other Governmental Entity that have or could give rise to a monetary liability, including, without limitation, fines, awards, penalties, costs, claims for reimbursement or other claims having a monetary value;
- (c) all Class Action Claims (including, without limitation, the Noteholder Class Action Claims) against SFC, the Subsidiaries or the Named Directors or Officers of SFC or the Subsidiaries (other than Class Action Claims that are Section 5.1(2) D&O Claims, Conspiracy Claims or Non-Released D&O Claims);
- (d) all Class Action Indemnity Claims (including, without limitation, related D&O Indemnity Claims), other than any Class Action Indemnity Claim by the Third Party

Defendants against SFC in respect of the Indemnified Noteholder Class Action Claims (including, without limitation, any D&O Indemnity Claim in that respect), which shall be limited to the Indemnified Noteholder Class Action Limit pursuant to the releases set out in section 7.1(f) of the Plan and the injunctions set out in section 7.3 of the Plan;

- (e) any portion or amount of liability of the Third Party Defendants for the Indemnified Noteholder Class Action Claims (on a collective, aggregate basis in reference to all Indemnified Noteholder Class Action Claims together) that exceeds the Indemnified Noteholder Class Action Limit;
- (f) any portion or amount of liability of the Underwriters for the Noteholder Class Action Claims (other than any Noteholder Class Action Claims against the Underwriters for fraud or criminal conduct) (on a collective, aggregate basis in reference to all such Noteholder Class Action Claims together) that exceeds the Indemnified Noteholder Class Action Limit;
- (g) any portion or amount of, or liability of SFC for, any Class Action Indemnity Claims by the Third Party Defendants against SFC in respect of the Indemnified Noteholder Class Action Claims (on a collective, aggregate basis in reference to all such Noteholder Class Action Claims together) to the extent that such Class Action Indemnity Claims exceed the Indemnified Noteholder Class Action Limit;
- (h) any and all Excluded Litigation Trust Claims;
- (i) any and all Causes of Action against Newco, Newco II, the directors and officers of Newco, the directors and officers of Newco II, the Noteholders, members of the *ad hoc* committee of Noteholders, the Trustees, the Transfer Agent, the Monitor, FTI Consulting Canada Inc., FTI HK, counsel for the current Directors of SFC, counsel for the Monitor, counsel for the Trustees, the SFC Advisors, the Noteholder Advisors, and each and every member (including, without limitation, members of any committee or governance council), partner or employee of any of the foregoing, for or in connection with or in any way relating to: any Claims (including, without limitation, notwithstanding anything to the contrary herein, any Unaffected Claims);

Affected Claims; Section 5.1(2) D&O Claims; Conspiracy Claims; Continuing Other D&O Claims; Non-Released D&O Claims; Class Action Claims; Class Action Indemnity Claims; any right or claim in connection with or liability for the Notes or the Note Indentures; any guarantees, indemnities, claims for contribution, share pledges or Encumbrances related to the Notes or the Note Indentures; any right or claim in connection with or liability for the Existing Shares, Equity Interests or any other securities of SFC; any rights or claims of the Third Party Defendants relating to SFC or the Subsidiaries;

- (j) any and all Causes of Action against Newco, Newco II, the directors and officers of Newco, the directors and officers of Newco II, the Noteholders, members of the *ad hoc* committee of Noteholders, the Trustees, the Transfer Agent, the Monitor, FTI Consulting Canada Inc., FTI HK, the Named Directors and Officers, counsel for the current Directors of SFC, counsel for the Monitor, counsel for the Trustees, the SFC Advisors, the Noteholder Advisors, and each and every member (including, without limitation, members of any committee or governance council), partner or employee of any of the foregoing, based in whole or in part on any act, omission, transaction, duty, responsibility, indebtedness, liability, obligation, dealing or other occurrence existing or taking place on or prior to the Plan Implementation Date (or, with respect to actions taken pursuant to the Plan after the Plan Implementation Date, the date of such actions) in any way relating to, arising out of, leading up to, for, or in connection with the CCAA Proceeding, RSA, the Restructuring Transaction, the Plan, any proceedings commenced with respect to or in connection with the Plan, or the transactions contemplated by the RSA and the Plan, including, without limitation, the creation of Newco and/or Newco II and the creation, issuance or distribution of the Newco Shares, the Newco Notes, the Litigation Trust or the Litigation Trust Interests, provided that nothing in this paragraph shall release or discharge any of the Persons listed in this paragraph from or in respect of any obligations any of them may have under or in respect of the RSA, the Plan or under or in respect of any of Newco, Newco II, the Newco Shares, the Newco Notes, the Litigation Trust or the Litigation Trust Interests, as the case may be;

- (k) any and all Causes of Action against the Subsidiaries for or in connection with any Claim (including, without limitation, notwithstanding anything to the contrary herein, any Unaffected Claim); any Affected Claim (including, without limitation, any Affected Creditor Claim, Equity Claim, D&O Claim, D&O Indemnity Claim and Noteholder Class Action Claim); any Section 5.1(2) D&O Claim; any Conspiracy Claim; any Continuing Other D&O Claim; any Non-Released D&O Claim; any Class Action Claim; any Class Action Indemnity Claim; any right or claim in connection with or liability for the Notes or the Note Indentures; any guarantees, indemnities, share pledges or Encumbrances relating to the Notes or the Note Indentures; any right or claim in connection with or liability for the Existing Shares, Equity Interests or any other securities of SFC; any rights or claims of the Third Party Defendants relating to SFC or the Subsidiaries; any right or claim in connection with or liability for the RSA, the Plan, the CCAA Proceedings, the Restructuring Transaction, the Litigation Trust, the business and affairs of SFC and the Subsidiaries (whenever or however conducted), the administration and/or management of SFC and the Subsidiaries, or any public filings, statements, disclosures or press releases relating to SFC; any right or claim in connection with or liability for any indemnification obligation to Directors or Officers of SFC or the Subsidiaries pertaining to SFC, the Notes, the Note Indentures, the Existing Shares, the Equity Interests, any other securities of SFC or any other right, claim or liability for or in connection with the RSA, the Plan, the CCAA Proceedings, the Restructuring Transaction, the Litigation Trust, the business and affairs of SFC (whenever or however conducted), the administration and/or management of SFC, or any public filings, statements, disclosures or press releases relating to SFC; any right or claim in connection with or liability for any guaranty, indemnity or claim for contribution in respect of any of the foregoing; and any Encumbrance in respect of the foregoing;
- (l) all Subsidiary Intercompany Claims as against SFC (which are assumed by Newco and then Newco II pursuant to the Plan);
- (m) any entitlements of Ernst & Young to receive distributions of any kind (including, without limitation, Newco Shares, Newco Notes and Litigation Trust Interests) under this Plan;

- (n) any entitlements of the Underwriters to receive distributions of any kind (including, without limitation, Newco Shares, Newco Notes and Litigation Trust Interests) under this Plan; and
- (o) any entitlements of the Named Third Party Defendants to receive distributions of any kind (including, without limitation, Newco Shares, Newco Notes and Litigation Trust Interests) under this Plan.

33. **THIS COURT ORDERS** that nothing in the Plan nor in this Plan Sanction Order shall waive, compromise, release, discharge, cancel or bar any of the claims listed in section 7.2 of the Plan.

34. **THIS COURT ORDERS** that, for greater certainty, nothing in the Plan nor in this Plan Sanction Order shall release any obligations of the Subsidiaries owed to (i) any employees, directors or officers of those Subsidiaries in respect of any wages or other compensation related arrangements, or (ii) to suppliers and trade creditors of the Subsidiaries in respect of goods or services supplied to the Subsidiaries.

35. **THIS COURT ORDERS** that any guarantees, indemnities, Encumbrances or other obligations owing by or in respect of SFC relating to the Notes or the Note Indentures shall be and are hereby deemed to be released, discharged and cancelled.

36. **THIS COURT ORDERS** that the Trustees are hereby authorized and directed to release, discharge and cancel any guarantees, indemnities, Encumbrances or other obligations owing by or in respect of any Subsidiary relating to the Notes or the Note Indentures.

37. **THIS COURT ORDERS** that any claims against the Named Directors and Officers in respect of Section 5.1(2) D&O Claims or Conspiracy Claims shall be limited to recovery from any insurance proceeds payable in respect of such Section 5.1(2) D&O Claims or Conspiracy Claims, as applicable, pursuant to the Insurance Policies, and Persons with any such Section 5.1(2) D&O Claims against Named Directors and Officers or Conspiracy Claims against Named Directors and Officers shall have no right to, and shall not, make any claim or seek any recoveries from any Person, (including SFC, any of the Subsidiaries, Newco or Newco II), other than enforcing such Persons' rights to be paid from the proceeds of an Insurance Policy by the applicable insurer(s).

38. **THIS COURT ORDERS** that all Persons are permanently and forever barred, estopped, stayed and enjoined, on and after the Effective Time, with respect to any and all Released Claims, from (i) commencing, conducting or continuing in any manner, directly or indirectly, any action, suits, demands or other proceedings of any nature or kind whatsoever (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against the Released Parties; (ii) enforcing, levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, decree or order against the Released Parties or their property; (iii) commencing, conducting or continuing in any manner, directly or indirectly, any action, suits or demands, including without limitation, by way of contribution or indemnity or other relief, in common law, or in equity, breach of trust or breach of fiduciary duty or under the provisions of any statute or regulation, or other proceedings of any nature or kind whatsoever (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against any Person who makes such a claim or might reasonably be expected to make such a claim, in any manner or forum, against one or more of the Released Parties; (iv) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any lien or encumbrance of any kind against the Released Parties or their property; or (v) taking any actions to interfere with the implementation or consummation of this Plan; provided, however, that the foregoing shall not apply to the enforcement of any obligations under the Plan.

39. **THIS COURT ORDERS AND DECLARES** that from and after the Plan Implementation Date, (i) subject to the prior consent of the Initial Consenting Noteholders and the terms of the Litigation Trust Agreement, each of the Litigation Trustee and the Monitor shall have the right to seek and obtain an order from any court of competent jurisdiction, including an Order of the Court in the CCAA or otherwise, that gives effect to any releases of any Litigation Trust Claims agreed to by the Litigation Trustee in accordance with the Litigation Trust Agreement, and (ii) all Affected Creditors shall be deemed to consent to any such treatment of any Litigation Trust Claims.

40. **THIS COURT ORDERS** that the Ernst & Young Settlement and the release of the Ernst & Young Claims pursuant to section 11.1 of the Plan shall become effective upon the satisfaction of the following conditions precedent:

- (a) approval by this Honourable Court of the terms of the Ernst & Young Settlement, including the terms and scope of the Ernst & Young Release and the Settlement Trust Order;
- (b) issuance by this Honourable Court of the Settlement Trust Order;
- (c) the granting of orders under Chapter 15 of the United States *Bankruptcy Code* recognizing and enforcing the Sanction Order and the Settlement Trust Order and any court orders necessary in the United States to approve the Ernst & Young Settlement and any other necessary ancillary order;
- (d) any other order necessary to give effect to the Ernst & Young Settlement (the orders referenced in (c) and (d) being collectively the “**Ernst & Young Orders**”);
- (e) the fulfillment of all conditions precedent in the Ernst & Young Settlement and the fulfillment by the Ontario Class Action Plaintiffs of all of their obligations thereunder;
- (f) the Sanction Order, the Settlement Trust Order and all Ernst & Young Orders being final orders and not subject to further appeal or challenge; and
- (g) the payment by Ernst & Young of the settlement amount as provided in the Ernst & Young Settlement to the trust established pursuant to the Settlement Trust Order;

Upon the foregoing conditions precedent having been satisfied and upon receipt of a certificate from Ernst & Young confirming it has paid the settlement amount to the Settlement Trust in accordance with the Ernst & Young Settlement and the trustee of the Settlement Trust confirming receipt of such settlement amount, the Monitor shall be authorized and directed to deliver to Ernst & Young the Monitor’s Ernst & Young Settlement Certificate and the Monitor shall file the Monitor’s Ernst & Young Settlement Certificate with this Honourable Court after delivery of such certificate to Ernst & Young, all as provided for in section 11.1 of the Plan.

41. **THIS COURT ORDERS** that any Named Third Party Defendant Settlement, Named Third Party Defendant Settlement Order and Named Third Party Defendant Release, the terms

and scope of which remain in each case subject to future court approval in accordance with the Plan, shall only become effective after the Plan Implementation Date and upon the satisfaction of the conditions precedent to the applicable Named Third Party Defendant Settlement and the delivery of the applicable Monitor's Named Third Party Settlement Certificate to the applicable Named Third Party Defendant, all as set forth in section 11.2 of the Plan.

THE MONITOR

42. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA and the powers provided to the Monitor herein and in the Plan, shall be and is hereby authorized, directed and empowered to perform its functions and fulfill its obligations under the Plan to facilitate the implementation of the Plan.

43. **THIS COURT ORDERS** that the Monitor shall not make any payment from the Monitor's Post-Implementation Reserve to any third party professional services provider (other than its counsel) that exceeds \$250,000 (alone or in a series of related payments) without the prior consent of the Initial Consenting Noteholders or an Order of this Court.

44. **THIS COURT ORDERS** that: (i) in carrying out the terms of this Plan Sanction Order and the Plan, the Monitor shall have all the protections given to it by the CCAA, the Initial Order, the Order of this Court dated April 20, 2012 expanding the powers of the Monitor, and as an officer of the Court, including the stay of proceedings in its favour; (ii) the Monitor shall incur no liability or obligation as a result of carrying out the provisions of this Plan Sanction Order and/or the Plan, save and except for any gross negligence or wilful misconduct on its part; (iii) the Monitor shall be entitled to rely on the books and records of SFC and any information provided by SFC without independent investigation; and (iv) the Monitor shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information.

45. **THIS COURT ORDERS** that upon completion by the Monitor of its duties in respect of SFC pursuant to the CCAA, the Plan and the Orders, the Monitor may file with the Court a certificate stating that all of its duties in respect of SFC pursuant to the CCAA, the Plan and the Orders have been completed and thereupon, FTI Consulting Canada Inc. shall be deemed to be

discharged from its duties as Monitor and released of all claims relating to its activities as Monitor.

46. **THIS COURT ORDERS** that in no circumstances will the Monitor have any liability for any of SFC's tax liabilities, if any, regardless of how or when such liabilities may have arisen.

47. **THIS COURT ORDERS** that, subject to the due performance of its obligations as set forth in the Plan and subject to its compliance with any written directions or instructions of the Monitor and/or directions of the Court in the manner set forth in the Plan, SFC Escrow Co, shall have no liabilities whatsoever arising from the performance of its obligations under the Plan.

RESERVES AND OTHER AMOUNTS

48. **THIS COURT ORDERS AND DECLARES** that the amount of each of the Indemnified Noteholder Class Action Limit, the Litigation Funding Amount, the Unaffected Claims Reserve, the Administration Charge Reserve, the Monitor's Post-Implementation Reserve and the Unresolved Claims Reserve, is as provided for in the Plan, the Plan Supplement or in Schedule "D" hereto, or such other amount as may be agreed by SFC, the Monitor and the Initial Consenting Noteholders, as applicable, in accordance with the terms of the Plan.

49. **THIS COURT ORDERS** that Goodmans LLP, in its capacity as counsel to the Initial Consenting Noteholders, shall be permitted to apply for an Order of the Court at any time directing the Monitor to make distributions from the Monitor's Post-Implementation Reserve.

50. **THIS COURT ORDERS AND DECLARES** that, on the Plan Implementation Date, at the time or times and in the manner set forth in section 6.4 of the Plan, each of the Charges shall be discharged, released and cancelled, and any obligations secured thereby shall be satisfied pursuant to section 4.2(b) of the Plan, and from and after the Plan Implementation Date the Administration Charge Reserve shall stand in place of the Administration Charge as security for the payment of any amounts secured by the Administration Charge.

51. **THIS COURT ORDERS AND DECLARES** that any Unresolved Claims that exceed \$1 million shall not be accepted or resolved without further Order of the Court. All parties with Unresolved Claims shall have standing in any proceeding with respect to the determination or status of any other Unresolved Claim. Counsel to the Initial Consenting Noteholders, Goodmans

LLP, shall continue to have standing in any such proceeding on behalf of the Initial Consenting Noteholders, in their capacity as Affected Creditors with Proven Claims.

DOCUMENT PRESERVATION

52. **THIS COURT ORDERS AND DECLARES** that, prior to the Effective Time, SFC shall: (i) preserve or cause to be preserved copies of any documents (as such term is defined in the *Rules of Civil Procedure* (Ontario)) that are relevant to the issues raised in the Class Actions; and (ii) make arrangements acceptable to SFC, the Monitor, the Initial Consenting Noteholders, counsel to Ontario Class Action Plaintiffs, counsel to Ernst & Young, counsel to the Underwriters and counsel to the Named Third Party Defendants to provide the parties to the Class Actions with access thereto, subject to customary commercial confidentiality, privilege or other applicable restrictions, including lawyer-client privilege, work product privilege and other privileges or immunities, and to restrictions on disclosure arising from s. 16 of the *Securities Act* (Ontario) and comparable restrictions on disclosure in other relevant jurisdictions, for purposes of prosecuting and/or defending the Class Actions, as the case may be, provided that nothing in the foregoing reduces or otherwise limits the parties' rights to production and discovery in accordance with the *Rules of Civil Procedure* (Ontario) and the *Class Proceedings Act, 1992* (Ontario).

EFFECT, RECOGNITION AND ASSISTANCE

53. **THIS COURT ORDERS** that nothing in this Plan Sanction Order or as a result of the implementation of the Plan shall affect the standing any Person has at the date of this Plan Sanction Order in respect of the CCAA Proceeding or the Litigation Trust.

54. **THIS COURT ORDERS** that the transfer, assignment and delivery to the Litigation Trustee pursuant to the Litigation Trust of (i) rights, title and interests in and to the Litigation Trust Claims and (ii) all respective rights, title and interests in and to any lawyer-client privilege, work product privilege or other privilege or immunity attaching to any documents or communications (whether written or oral) associated with the Litigation Trust Claims, regardless of whether such documents or copies thereof have been requested by the Litigation Trustee pursuant to the Litigation Trust Agreement (collectively, the "**Privileges**") shall not constitute a waiver of any such Privileges, and that such Privileges are expressly maintained.

55. **THIS COURT ORDERS** that the current directors of SFC shall be deemed to have resigned on the Plan Implementation Date. The current directors of SFC shall have no liability in such capacity for any and all demands, claims, actions, causes of action, counterclaims, suits, debts, sums of money, accounts, covenants, damages, judgments, orders, including, without limitation, for injunctive relief or specific performance and compliance orders, expenses, executions, Encumbrances and other recoveries on account of any liability, obligation, demand or cause of action of whatever nature which any Person may be entitled to assert, whether known or unknown, matured or unmatured, direct, indirect or derivative, foreseen or unforeseen, arising on or after the Plan Implementation Date.

56. **THIS COURT ORDERS** that SFC and the Monitor may apply to this Court for advice and direction with respect to any matter arising from or under the Plan or this Plan Sanction Order.

57. **THIS COURT ORDERS** that this Plan Sanction Order shall have full force and effect in all provinces and territories of Canada and abroad as against all persons and parties against whom it may otherwise be enforced.

58. **THIS COURT ORDERS** that, from and after the Plan Implementation Date, the Monitor is hereby authorized and appointed to act as the foreign representative in respect of the within proceedings for the purposes of having these proceedings recognized in the United States pursuant to chapter 15 of title 11 of the United States Code.

59. **THIS COURT ORDERS** that, as promptly as practicable following the Plan Implementation Date, but in no event later than the third Business Day following the Plan Implementation Date, the Monitor, as the foreign representative of SFC and of the within proceedings, is hereby authorized and directed to commence a proceeding in a court of competent jurisdiction in the United States seeking recognition of the Plan and this Plan Sanction Order and confirming that the Plan and this Plan Sanction Order are binding and effective in the United States.

60. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court or any judicial, regulatory or administrative body having jurisdiction in Canada, the United States, Barbados, the British Virgin Islands, Cayman Islands, Hong Kong, the People's Republic of

China or in any other foreign jurisdiction, to give effect to this Plan Sanction Order and to assist SFC, the Monitor and their respective agents in carrying out the terms of this Plan Sanction Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to SFC and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Plan Sanction Order, to grant representative status to the Monitor in any foreign proceeding, or to assist SFC and the Monitor and their respective agents in carrying out the terms of this Plan Sanction Order.

61. **THIS COURT ORDERS** that each of SFC and the Monitor shall, following consultation with Goodmans LLP, be at liberty, and is hereby authorized and empowered, to make such further applications, motions or proceedings to or before such other courts and judicial, regulatory and administrative bodies, and take such steps in Canada, the United States of America, the British Virgin Islands, Cayman Islands, Hong Kong, the People's Republic of China or in any other foreign jurisdiction, as may be necessary or advisable to give effect to this Plan Sanction Order and any other Order granted by this Court, including for recognition of this Plan Sanction Order and for assistance in carrying out its terms.

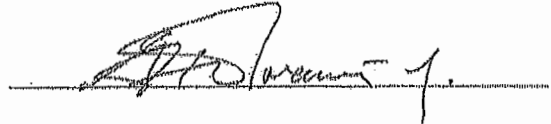
62. **THIS COURT ORDERS** that this Plan Sanction Order shall be posted on the Monitor's Website at <http://cfcanada.fticonsulting.com/sfc> and only be required to be served upon the parties on the Service List and those parties who appeared at the hearing of the motion for this Plan Sanction Order.

63. **THIS COURT ORDERS AND DECLARES** that any conflict or inconsistency between the Plan and this Plan Sanction Order shall be governed by the terms, conditions and provisions of the Plan, which shall take precedence and priority.

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LE / DANS LE REGISTRE NO..



DEC 12 2012



Schedule "A"

Court File No. CV-12-9667-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE AND
ARRANGEMENT OF SINO-FOREST
CORPORATION**

APPLICANT

PLAN OF COMPROMISE AND REORGANIZATION

*pursuant to the Companies' Creditors Arrangement Act
and the Canada Business Corporations Act
concerning, affecting and involving*

SINO-FOREST CORPORATION

December 3, 2012

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PLAN OF COMPROMISE AND REORGANIZATION

WHEREAS Sino-Forest Corporation (“SFC”) is insolvent;

AND WHEREAS, on March 30, 2012 (the “Filing Date”), the Honourable Justice Morawetz of the Ontario Superior Court of Justice (Commercial List) (the “Court”) granted an initial Order in respect of SFC (as such Order may be amended, restated or varied from time to time, the “Initial Order”) pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “CCAA”) and the *Canada Business Corporation Act*, R.S.C. 1985, c. C-44, as amended (the “CBCA”);

AND WHEREAS, on August 31, 2012, the Court granted a Plan Filing and Meeting Order (as such Order may be amended, restated or varied from time to time, the “Meeting Order”) pursuant to which, among other things, SFC was authorized to file this plan of compromise and reorganization and to convene a meeting of affected creditors to consider and vote on this plan of compromise and reorganization.

NOW THEREFORE, SFC hereby proposes this plan of compromise and reorganization pursuant to the CCAA and CBCA.

**ARTICLE 1
INTERPRETATION**

1.1 Definitions

In the Plan, unless otherwise stated or unless the subject matter or context otherwise requires:

“2013 Note Indenture” means the indenture dated as of July 23, 2008, by and between SFC, the entities listed as subsidiary guarantors therein, and The Bank of New York Mellon, as trustee, as amended, modified or supplemented.

“2014 Note Indenture” means the indenture dated as of July 27, 2009, by and between SFC, the entities listed as subsidiary guarantors therein, and Law Debenture Trust Company of New York, as trustee, as amended, modified or supplemented.

“2016 Note Indenture” means the indenture dated as of December 17, 2009, by and between SFC, the entities listed as subsidiary guarantors therein, and The Bank of New York Mellon, as trustee, as amended, modified or supplemented.

“2017 Note Indenture” means the indenture dated as of October 21, 2010, by and between SFC, the entities listed as subsidiary guarantors therein, and Law Debenture Trust Company of New York, as trustee, as amended, modified or supplemented.

“2013 Notes” means the aggregate principal amount of US\$345,000,000 of 5.00% Convertible Senior Notes Due 2013 issued pursuant to the 2013 Note Indenture.

"2014 Notes" means the aggregate principal amount of US\$399,517,000 of 10.25% Guaranteed Senior Notes Due 2014 Issued pursuant to the 2014 Note Indenture.

"2016 Notes" means the aggregate principal amount of US\$460,000,000 of 4.25% Convertible Senior Notes Due 2016 issued pursuant to the 2016 Note Indenture.

"2017 Notes" means the aggregate principal amount of US\$600,000,000 of 6.25% Guaranteed Senior Notes Due 2017 Issued pursuant to the 2017 Note Indenture.

"Accrued Interest" means, in respect of any series of Notes, all accrued and unpaid interest on such Notes, at the regular rates provided in the applicable Note Indentures, up to and including the Filing Date.

"Administration Charge" has the meaning ascribed thereto in the Initial Order.

"Administration Charge Reserve" means the cash reserve to be established by SFC on the Plan Implementation Date in the amount of \$500,000 or such other amount as agreed to by the Monitor and the Initial Consenting Noteholders, which cash reserve: (i) shall be maintained and administered by the Monitor, in trust, for the purpose of paying any amounts secured by the Administration Charge; and (ii) upon the termination of the Administration Charge pursuant to the Plan, shall stand in place of the Administration Charge as security for the payment of any amounts secured by the Administration Charge.

"Affected Claim" means any Claim, D&O Claim or D&O Indemnity Claim that is not: an Unaffected Claim; a Section 5.1(2) D&O Claim; a Conspiracy Claim; a Continuing Other D&O Claim; a Non-Released D&O Claim; or a Subsidiary Intercompany Claim, and "Affected Claim" includes any Class Action Indemnity Claim. For greater certainty, all of the following are Affected Claims: Affected Creditor Claims; Equity Claims; Noteholder Class Action Claims (other than the Continuing Noteholder Class Action Claims); and Class Action Indemnity Claims.

"Affected Creditor" means a Person with an Affected Creditor Claim, but only with respect to and to the extent of such Affected Creditor Claim.

"Affected Creditor Claim" means any Ordinary Affected Creditor Claim or Noteholder Claim.

"Affected Creditors Class" has the meaning ascribed thereto in section 3.2(a) hereof.

"Affected Creditors Equity Sub-Pool" means an amount of Newco Shares representing 92.5% of the Newco Equity Pool.

"Alternative Sale Transaction" has the meaning ascribed thereto in section 10.1 hereof.

"Alternative Sale Transaction Consideration" has the meaning ascribed thereto in section 10.1 hereof.

"Applicable Law" means any applicable law, statute, order, decree, consent decree, judgment, rule, regulation, ordinance or other pronouncement having the effect of law whether in Canada,

the United States, Hong Kong, the PRC or any other country, or any domestic or foreign state, county, province, city or other political subdivision or of any Governmental Entity.

"Auditors" means the former auditors of SFC that are named as defendants to the Class Actions Claims, including for greater certainty Ernst & Young LLP and BDO Limited.

"Barbados Loans" means the aggregate amount outstanding at the date hereof pursuant to three loans made by SFC Barbados to SFC in the amounts of US\$65,997,468.10 on February 1, 2011, US\$59,000,000 on June 7, 2011 and US\$176,000,000 on June 7, 2011.

"Barbados Property" has the meaning ascribed thereto in section 6.4(j) hereof.

"BIA" means the *Bankruptcy and Insolvency Act*, R. S. C. 1985, c. B-3.

"Business Day" means a day, other than Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Toronto, Ontario.

"Canadian Tax Act" means the *Income Tax Act* (Canada) and the *Income Tax Regulations*, in each case as amended from time to time.

"Causes of Action" means any and all claims, actions, causes of action, demands, counterclaims, suits, rights, entitlements, litigation, arbitration, proceeding, hearing, complaint, debt, obligation, sums of money, accounts, covenants, damages, judgments, orders, including for injunctive relief or specific performance and compliance orders, expenses, executions, Encumbrances and other recoveries of whatever nature that any Person may be entitled to assert in law, equity or otherwise, whether known or unknown, foreseen or unforeseen, reduced to judgment or not reduced to judgment, liquidated or unliquidated, contingent or non-contingent, matured or unmatured, disputed or undisputed, secured or unsecured, assertable directly, indirectly or derivatively, existing or hereafter arising and whether pertaining to events occurring before, on or after the Filing Date.

"CBCA" has the meaning ascribed thereto in the recitals.

"CCAA" has the meaning ascribed thereto in the recitals.

"CCAA Proceeding" means the proceeding commenced by SFC under the CCAA on the Filing Date in the Ontario Superior Court of Justice (Commercial List) under court file number CV-12-9667-00CL.

"Charges" means the Administration Charge and the Directors' Charge.

"Claim" means any right or claim of any Person that may be asserted or made against SFC, in whole or in part, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, and any interest accrued thereon or costs payable in respect thereof, including by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express,

implied, resulting, constructive or otherwise), and whether or not any indebtedness, liability or obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present or future, known or unknown, by guarantee, surety or otherwise, and whether or not any right or claim is executory or anticipatory in nature, including any right or ability of any Person (including any Directors or Officers of SFC or any of the Subsidiaries) to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation, and any interest accrued thereon or costs payable in respect thereof (A) is based in whole or in part on facts prior to the Filing Date, (B) relates to a time period prior to the Filing Date, or (C) is a right or claim of any kind that would be a claim provable against SFC in bankruptcy within the meaning of the BIA had SFC become bankrupt on the Filing Date, or is an Equity Claim, a Noteholder Class Action Claim against SFC, a Class Action Indemnity Claim against SFC, a Restructuring Claim or a Lien Claim, provided, however, that "Claim" shall not include a D&O Claim or a D&O Indemnity Claim.

"Claims Bar Date" has the meaning ascribed thereto in the Claims Procedure Order.

"Claims Procedure" means the procedure established for determining the amount and status of Claims, D&O Claims and D&O Indemnity Claims, including in each case any such claims that are Unresolved Claims, pursuant to the Claims Procedure Order.

"Claims Procedure Order" means the Order under the CCAA of the Honourable Justice Morawetz dated May 14, 2012, establishing, among other things, a claims procedure in respect of SFC and calling for claims in respect of the Subsidiaries, as such Order may be amended, restated or varied from time to time.

"Class Action Claims" means, collectively, any rights or claims of any kind advanced or which may subsequently be advanced in the Class Actions or in any other similar proceeding, whether a class action proceeding or otherwise, and for greater certainty includes any Noteholder Class Action Claims.

"Class Actions" means, collectively, the following proceedings: (i) *Trustees of the Labourers' Pension Fund of Central and Eastern Canada et al v. Sino-Forest Corporation et al.* (Ontario Superior Court of Justice, Court File No. CV-11-431153-00CP); (ii) *Guining Liu v. Sino-Forest Corporation et al.* (Quebec Superior Court, Court File No. 200-06-000132-111); (iii) *Allan Haigh v. Sino-Forest Corporation et al.* (Saskatchewan Court of Queen's Bench, Court File No. 2288 of 2011); and (iv) *David Leopard et al. v. Allen T.Y. Chan et al.* (District Court of the Southern District of New York, Court File No. 650258/2012).

"Class Action Court" means, with respect to the Class Action Claims, the court of competent jurisdiction that is responsible for administering the applicable Class Action Claim.

"Class Action Indemnity Claim" means any right or claim of any Person that may be asserted or made in whole or in part against SFC and/or any Subsidiary for indemnity, contribution, reimbursement or otherwise from or in connection with any Class Action Claim asserted against

such Person. For greater certainty, Class Action Indemnity Claims are distinct from and do not include Class Action Claims.

"Consent Date" means May 15, 2012.

"Conspiracy Claim" means any D&O Claim alleging that the applicable Director or Officer committed the tort of civil conspiracy, as defined under Canadian common law.

"Continuing Noteholder Class Action Claim" means any Noteholder Class Action Claim that is: (i) a Section 5.1(2) D&O Claim; (ii) a Conspiracy Claim; (iii) a Non-Released D&O Claim; (iv) a Continuing Other D&O Claim; (v) a Noteholder Class Action Claim against one or more Third Party Defendants that is not an Indemnified Noteholder Class Action Claim; (vi) the portion of an Indemnified Noteholder Class Action Claim that is permitted to continue against the Third Party Defendants, subject to the Indemnified Noteholder Class Action Limit, pursuant to section 4.4(b)(1) hereof.

"Continuing Other D&O Claims" has the meaning ascribed thereto in section 4.9(b) hereof.

"Court" has the meaning ascribed thereto in the recitals.

"D&O Claim" means (i) any right or claim of any Person that may be asserted or made in whole or in part against one or more Directors or Officers of SFC that relates to a Claim for which such Directors or Officers are by law liable to pay in their capacity as Directors or Officers of SFC, or (ii) any right or claim of any Person that may be asserted or made in whole or in part against one or more Directors or Officers of SFC, in that capacity, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, and any interest accrued thereon or costs payable in respect thereof, including by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including any legal, statutory, equitable or fiduciary duty and including, for greater certainty, any monetary administrative or other monetary penalty or claim for costs asserted against any Officer or Director of SFC by any Government Entity) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise), and whether or not any indebtedness, liability or obligation, and any interest accrued thereon or costs payable in respect thereof, is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present or future, known or unknown, by guarantee, surety or otherwise, and whether or not any right or claim is executory or anticipatory in nature, including any right or ability of any Person to advance a claim for contribution or indemnity from any such Directors or Officers of SFC or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation, and any interest accrued thereon or costs payable in respect thereof (A) is based in whole or in part on facts prior to the Filing Date, or (B) relates to a time period prior to the Filing Date.

"D&O Indemnity Claim" means any existing or future right of any Director or Officer of SFC against SFC that arose or arises as a result of any Person filing a D&O Proof of Claim (as

defined in the Claims Procedure Order) in respect of such Director or Officer of SFC for which such Director or Officer of SFC is entitled to be indemnified by SFC.

"Defence Costs" has the meaning ascribed thereto in section 4.8 hereof.

"Director" means, with respect to SFC or any Subsidiary, anyone who is or was, or may be deemed to be or have been, whether by statute, operation of law or otherwise, a director or *de facto* director of such SFC Company.

"Directors' Charge" has the meaning ascribed thereto in the Initial Order.

"Direct Registration Account" means, if applicable, a direct registration account administered by the Transfer Agent in which those Persons entitled to receive Newco Shares and/or Newco Notes pursuant to the Plan will hold such Newco Shares and/or Newco Notes in registered form.

"Direct Registration Transaction Advice" means, if applicable, a statement delivered by the Monitor, the Trustees, the Transfer Agent or any such Person's agent to any Person entitled to receive Newco Shares or Newco Notes pursuant to the Plan on the Initial Distribution Date and each subsequent Distribution Date, as applicable, indicating the number of Newco Shares and/or Newco Notes registered in the name of or as directed by the applicable Person in a Direct Registration Account.

"Direct Subsidiaries" means, collectively, Sino-Panel Holdings Limited, Sino-Global Holdings Inc., Sino-Panel Corporation, Sino-Capital Global Inc., SFC Barbados, Sino-Forest Resources Inc, Sino-Wood Partners, Limited.

"Distribution Date" means the date or dates from time to time set in accordance with the provisions of the Plan to effect distributions in respect of the Proven Claims, excluding the Initial Distribution Date.

"Distribution Escrow Position" has the meaning ascribed thereto in section 5.2(d) hereof.

"Distribution Record Date" means the Plan Implementation Date, or such other date as SFC, the Monitor and the Initial Consenting Noteholders may agree.

"DTC" means The Depository Trust Company, or any successor thereof.

"Early Consent Equity Sub-Pool" means an amount of Newco Shares representing 7.5% of the Newco Equity Pool.

"Early Consent Noteholder" means any Noteholder that:

- (a) (i) as confirmed by the Monitor on June 12, 2012, executed the (A) RSA, (B) a support agreement with SFC and the Direct Subsidiaries in the form of the RSA or (C) a joinder agreement in the form attached as Schedule C to the RSA; (ii) provided evidence satisfactory to the Monitor in accordance with section 2(a) of the RSA of the Notes held by such Noteholder as at the Consent Date (the "Early Consent Notes"), as such list of Noteholders and Notes held has been verified

and is maintained by the Monitor on a confidential basis; and (iii) continues to hold such Early Consent Notes as at the Distribution Record Date; or

- (b) (i) has acquired Early Consent Notes; (ii) has signed the necessary transfer and Joinder documentation as required by the RSA and has otherwise acquired such Early Consent Notes in compliance with the RSA; and (iii) continues to hold such Early Consent Notes as at the Distribution Record Date.

"Effective Time" means 8:00 a.m. (Toronto time) on the Plan Implementation Date or such other time on such date as SFC, the Monitor and the Initial Consenting Noteholders may agree.

"Eligible Third Party Defendant" means any of the Underwriters, BDO Limited and Ernst & Young (in the event that the Ernst & Young Settlement is not completed), together with any of their respective present and former affiliates, partners, associates, employees, servants, agents, contractors, directors, officers, insurers and successors, administrators, heirs and assigns (but excluding any Director or Officer and successors, administrators, heirs and assigns of any Director or Officer in their capacity as such), and any Director or Officer together with their respective successors, administrators, heirs and assigns.

"Employee Priority Claims" means the following Claims of employees and former employees of SFC:

- (a) Claims equal to the amounts that such employees and former employees would have been qualified to receive under paragraph 136(1)(d) of the BIA if SFC had become bankrupt on the Filing Date; and
- (b) Claims for wages, salaries, commissions or compensation for services rendered by them after the Filing Date and on or before the Plan Implementation Date.

"Encumbrance" means any security interest (whether contractual, statutory, or otherwise), hypothec, mortgage, trust or deemed trust (whether contractual, statutory, or otherwise), lien, execution, levy, charge, demand, action, liability or other claim, action, demand or liability of any kind whatsoever, whether proprietary, financial or monetary, and whether or not it has attached or been perfected, registered or filed and whether secured, unsecured or otherwise, including: (i) any of the Charges; and (ii) any charge, security interest or claim evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system.

"Equity Cancellation Date" means the date that is the first Business Day at least 31 days after the Plan Implementation Date, or such other date as may be agreed to by SFC, the Monitor and the Initial Consenting Noteholders.

"Equity Claim" means a Claim that meets the definition of "equity claim" in section 2(1) of the CCAA and, for greater certainty, includes any of the following:

- (a) any claim against SFC resulting from the ownership, purchase or sale of an equity interest in SFC, including the claims by or on behalf of current or former shareholders asserted in the Class Actions;

- (b) any indemnification claim against SFC related to or arising from the claims described in sub-paragraph (a), including any such indemnification claims against SFC by or on behalf of any and all of the Third Party Defendants (other than for Defence Costs, unless any such claims for Defence Costs have been determined to be Equity Claims subsequent to the date of the Equity Claims Order); and
- (c) any other claim that has been determined to be an Equity Claim pursuant to an Order of the Court.

"Equity Claimant" means any Person having an Equity Claim, but only with respect to and to the extent of such Equity Claim.

"Equity Claimant Class" has the meaning ascribed thereto in section 3.2(b).

"Equity Claims Order" means the Order under the CCAA of the Honourable Justice Morawetz dated July 27, 2012, in respect of Shareholder Claims and Related Indemnity Claims against SFC, as such terms are defined therein.

"Equity Interest" has the meaning set forth in section 2(1) of the CCAA.

"Ernst & Young" means Ernst & Young LLP (Canada), Ernst & Young Global Limited and all other member firms thereof, and all present and former affiliates, partners, associates, employees, servants, agents, contractors, directors, officers, insurers and successors, administrators, heirs and assigns of each, but excludes any Director or Officer (in their capacity as such) and successors, administrators, heirs and assigns of any Director or Officer (in their capacity as such).

"Ernst & Young Claim" means any and all demands, claims, actions, Causes of Action, counterclaims, suits, debts, sums of money, accounts, covenants, damages, judgments, orders, including injunctive relief or specific performance and compliance orders, expenses, executions, Encumbrances and other recoveries on account of any claim, indebtedness, liability, obligation, demand or cause of action of whatever nature that any Person, including any Person who may claim contribution or indemnification against or from them and also including for greater certainty the SFC Companies, the Directors (in their capacity as such), the Officers (in their capacity as such), the Third Party Defendants, Newco, Newco II, the directors and officers of Newco and Newco II, the Noteholders or any Noteholder, any past, present or future holder of a direct or indirect equity interest in the SFC Companies, any past, present or future direct or indirect investor or security holder of the SFC Companies, any direct or indirect security holder of Newco or Newco II, the Trustees, the Transfer Agent, the Monitor, and each and every member (including members of any committee or governance council), present and former affiliate, partner, associate, employee, servant, agent, contractor, director, officer, insurer and each and every successor, administrator, heir and assign of each of any of the foregoing may or could (at any time past present or future) be entitled to assert against Ernst & Young, including any and all claims in respect of statutory liabilities of Directors (in their capacity as such), Officers (in their capacity as such) and any alleged fiduciary (in any capacity) whether known or unknown, matured or unmatured, direct or derivative, foreseen or unforeseen, suspected or unsuspected, contingent or not contingent, existing or hereafter arising, based in whole or in part

on any act or omission, transaction, dealing or other occurrence existing or taking place on, prior to or after the Ernst & Young Settlement Date relating to, arising out of or in connection with the SFC Companies, the SFC Business, any Director or Officer (in their capacity as such) and/or professional services performed by Ernst & Young or any other acts or omissions of Ernst & Young in relation to the SFC Companies, the SFC Business, any Director or Officer (in their capacity as such), including for greater certainty but not limited to any claim arising out of:

- (a) all audit, tax, advisory and other professional services provided to the SFC Companies or related to the SFC Business up to the Ernst & Young Settlement Date, including for greater certainty all audit work performed, all auditors' opinions and all consents in respect of all offering of SFC securities and all regulatory compliance delivered in respect of all fiscal periods and all work related thereto up to and including the Ernst & Young Settlement Date;
- (b) all claims advanced or which could have been advanced in any or all of the Class Actions;
- (c) all claims advanced or which could have been advanced in any or all actions commenced in all jurisdictions prior the Ernst & Young Settlement Date; or
- (d) all Noteholder Claims, Litigation Trust Claims or any claim of the SFC Companies,

provided that "Ernst & Young Claim" does not include any proceedings or remedies that may be taken against Ernst & Young by the Ontario Securities Commission or by staff of the Ontario Securities Commission, and the jurisdiction of the Ontario Securities Commission and staff of the Ontario Securities Commission in relation to Ernst & Young under the Securities Act, R.S.O. 1990, c. S-5 is expressly preserved.

"Ernst & Young Orders" has the meaning ascribed thereto in section 11.1(a) hereof.

"Ernst & Young Release" means the release described in 11.1(b) hereof.

"Ernst & Young Settlement" means the settlement as reflected in the Minutes of Settlement executed on November 29, 2012 between Ernst & Young LLP, on behalf of itself and Ernst & Young Global Limited and all member firms thereof and the plaintiffs in Ontario Superior Court Action No. CV-11-4351153-00CP and in Quebec Superior Court No. 200-06-00132-111, and such other documents contemplated thereby.

"Ernst & Young Settlement Date" means the date that the Monitor's Ernst & Young Settlement Certificate is delivered to Ernst & Young.

"Excluded Litigation Trust Claims" has the meaning ascribed thereto in section 4.12(a) hereof.

"Excluded SFC Assets" means (i) the rights of SFC to be transferred to the Litigation Trust in accordance with section 6.4(o) hereof; (ii) any entitlement to insurance proceeds in respect of Insured Claims, Section 5.1(2) D&O Claims and/or Conspiracy Claims; (iii) any secured property of SFC that is to be returned in satisfaction of a Lien Claim pursuant to section 4.2(c)(i)

hereof; (iv) any input tax credits or other refunds received by SFC after the Effective Time; and (v) cash in the aggregate amount of (and for the purpose of): (A) the Litigation Funding Amount; (B) the Unaffected Claims Reserve; (C) the Administration Charge Reserve; (D) the Expense Reimbursement and the other payments to be made pursuant to section 6.4(d) hereof (having regard to the application of any outstanding retainers, as applicable); (E) any amounts in respect of Lien Claims to be paid in accordance with section 4.2(c)(ii) hereof; and (F) the Monitor's Post-Implementation Reserve; (vi) any office space, office furniture or other office equipment owned or leased by SFC in Canada; (vii) the SFC Escrow Co. Share; (viii) Newco Promissory Note 1; and (ix) Newco Promissory Note 2.

"Existing Shares" means all existing shares in the equity of SFC issued and outstanding immediately prior to the Effective Time and all warrants, options or other rights to acquire such shares, whether or not exercised as at the Effective Time.

"Expense Reimbursement" means the aggregate amount of (i) the reasonable and documented fees and expenses of the Noteholder Advisors, pursuant to their respective engagement letters with SFC, and other advisors as may be agreed to by SFC and the Initial Consenting Noteholders and (ii) the reasonable fees and expenses of the Initial Consenting Noteholders incurred in connection with the negotiation and development of the RSA and this Plan, including in each case an estimated amount for any such fees and expenses expected to be incurred in connection with the implementation of the Plan, including in the case of (ii) above, an aggregate work fee of up to \$5 million (which work fee may, at the request of the Monitor, be paid by any of the Subsidiaries instead of SFC).

"Filing Date" has the meaning ascribed thereto in the recitals.

"Fractional Interests" has the meaning given in section 5.12 hereof.

"FTI HK" means FTI Consulting (Hong Kong) Limited.

"Governmental Entity" means any government, regulatory authority, governmental department, agency, commission, bureau, official, minister, Crown corporation, court, board, tribunal or dispute settlement panel or other law, rule or regulation-making organization or entity: (a) having or purporting to have jurisdiction on behalf of any nation, province, territory or state or any other geographic or political subdivision of any of them; or (b) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power.

"Government Priority Claims" means all Claims of Governmental Entities in respect of amounts that were outstanding as of the Plan Implementation Date and that are of a kind that could be subject to a demand under:

- (a) subsections 224(1.2) of the Canadian Tax Act;
- (b) any provision of the *Canada Pension Plan* or the *Employment Insurance Act* (Canada) that refers to subsection 224(1.2) of the Canadian Tax Act and provides for the collection of a contribution, as defined in the *Canada Pension Plan*, or employee's premium or employer's premium as defined in the *Employment*

Insurance Act (Canada), or a premium under Part VII.1 of that Act, and of any related interest, penalties or other amounts; or

- (c) any provision of provincial legislation that has a similar purpose to subsection 224(1.2) of the Canadian Tax Act, 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 Canadian Tax Act; 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.

"Greenheart" means Greenheart Group Limited, a company established under the laws of Bermuda.

"Indemnified Noteholder Class Action Claims" has the meaning ascribed thereto in section 4.4(b)(i) hereof.

"Indemnified Noteholder Class Action Limit" means \$150 million or such lesser amount agreed to by SFC, the Monitor, the Initial Consenting Noteholders and counsel to the Ontario Class Action Plaintiffs prior to the Plan Implementation Date or agreed to by the Initial Consenting Noteholders and counsel to the Class Action Plaintiffs after the Plan Implementation Date.

"Initial Consenting Noteholders" means, subject to section 12.7 hereof, the Noteholders that executed the RSA on March 30, 2012.

"Initial Distribution Date" means a date no more than ten (10) Business Days after the Plan Implementation Date or such other date as SFC, the Monitor and the Initial Consenting Noteholders may agree.

"Initial Newco Shareholder" means a Person to be determined by the Initial Consenting Noteholders prior to the Effective Time, with the consent of SFC and the Monitor, to serve as the initial sole shareholder of Newco pursuant to section 6.2(a) hereof.

"Initial Order" has the meaning ascribed thereto in the recitals.

"Insurance Policies" means, collectively, the following insurance policies, as well as any other insurance policy pursuant to which SFC or any Director or Officer is insured; ACE INA Insurance Policy Number DO024464; Chubb Insurance Company of Canada Policy Number 8209-4449; Lloyds of London, England Policy Number XTFF0420; Lloyds of London, England

Policy Number XTFF0373; and Travelers Guarantee Company of Canada Policy Number 10181108, and **"Insurance Policy"** means any one of the Insurance Policies,

"Insured Claim" means all or that portion of any Claim for which SFC is insured and all or that portion of any D&O Claim for which the applicable Director or Officer is insured, in each case pursuant to any of the Insurance Policies.

"Intellectual Property" means: (i) patents, and applications for patents, including divisional and continuation patents; (ii) registered and unregistered trade-marks, logos and other indicia of origin, pending trade-mark registration applications, and proposed use application or similar reservations of marks, and all goodwill associated therewith; (iii) registered and unregistered copyrights, including all copyright in and to computer software programs, and applications for and registration of such copyright (including all copyright in and to the SFC Companies' websites); (iv) world wide web addresses and internet domain names, applications and reservations for world wide web addresses and internet domain names, uniform resource locators and the corresponding internet sites; (v) industrial designs; and (vi) trade secrets and proprietary information not otherwise listed in (i) through (v) above, including all inventions (whether or not patentable), invention disclosures, moral and economic rights of authors and inventors (however denominated), confidential information, technical data, customer lists, corporate and business names, trade names, trade dress, brand names, know-how, formulae, methods (whether or not patentable), designs, processes, procedures, technology, business methods, source codes, object codes, computer software programs (in either source code or object code form), databases, data collections and other proprietary information or material of any type, and all derivatives, improvements and refinements thereof, howsoever recorded, or unrecorded.

"Letter of Instruction" means a form, to be completed by each Ordinary Affected Creditor and each Early Consent Noteholder, and that is to be delivered to the Monitor in accordance with section 5.1 hereof, which form shall set out:

- (a) the registration details for the Newco Shares and, if applicable, Newco Notes to be distributed to such Ordinary Affected Creditor or Early Consent Noteholder in accordance with the Plan; and
- (b) the address to which such Ordinary Affected Creditor's or Early Consent Noteholder's Direct Registration Transaction Advice or its Newco Share Certificates and Newco Note Certificates, as applicable, are to be delivered.

"Lien Claim" means any Proven Claim of a Person indicated as a secured creditor in Schedule "B" to the Initial Order (other than the Trustees) that is secured by a lien or encumbrance on any property of SFC, which lien is valid, perfected and enforceable pursuant to Applicable Law, provided that the Charges and any Claims in respect of Notes shall not constitute "Lien Claims".

"Lien Claimant" means a Person having a Lien Claim, other than any Noteholder or Trustee in respect of any Noteholder Claim.

"Litigation Funding Amount" means the cash amount of \$1,000,000 to be advanced by SFC to the Litigation Trustee for purposes of funding the Litigation Trust on the Plan Implementation Date in accordance with section 6.4(o) hereof.

"Litigation Funding Receivable" has the meaning ascribed thereto in section 6.4(o) hereof.

"Litigation Trust" means the trust to be established on the Plan Implementation Date at the time specified in section 6.4(p) in accordance with the Litigation Trust Agreement pursuant to the laws of a jurisdiction that is acceptable to SFC and the Initial Consenting Noteholders, which trust will acquire the Litigation Trust Claims and will be funded with the Litigation Funding Amount in accordance with the Plan and the Litigation Trust Agreement.

"Litigation Trust Agreement" means the trust agreement dated as of the Plan Implementation Date, between SFC and the Litigation Trustee, establishing the Litigation Trust.

"Litigation Trust Claims" means any Causes of Action that have been or may be asserted by or on behalf of: (a) SFC against any and all third parties; or (b) the Trustees (on behalf of the Noteholders) against any and all Persons in connection with the Notes issued by SFC; provided, however, that in no event shall the Litigation Trust Claims include any (i) claim, right or cause of action against any Person that is released pursuant to Article 7 hereof or (ii) any Excluded Litigation Trust Claim. For greater certainty: (x) the claims being advanced or that are subsequently advanced in the Class Actions are not being transferred to the Litigation Trust; and (y) the claims transferred to the Litigation Trust shall not be advanced in the Class Actions.

"Litigation Trust Interests" means the beneficial interests in the Litigation Trust to be created on the Plan Implementation Date.

"Litigation Trustee" means a Person to be determined by SFC and the Initial Consenting Noteholders prior to the Effective Time, with the consent of the Monitor, to serve as trustee of the Litigation Trust pursuant to and in accordance with the terms thereof.

"Material" means a fact, circumstance, change, effect, matter, action, condition, event, occurrence or development that, individually or in the aggregate, is, or would reasonably be expected to be, material to the business, affairs, results of operations or financial condition of the SFC Companies (taken as a whole).

"Material Adverse Effect" means a fact, event, change, occurrence, circumstance or condition that, individually or together with any other event, change or occurrence, has or would reasonably be expected to have a material adverse impact on the assets, condition (financial or otherwise), business, liabilities, obligations (whether absolute, accrued, conditional or otherwise) or operations of the SFC Companies (taken as a whole); provided, however, that a Material Adverse Effect shall not include and shall be deemed to exclude the impact of any fact, event, change, occurrence, circumstance or condition resulting from or relating to: (A) changes in Applicable Laws of general applicability or interpretations thereof by courts or Governmental Entities or regulatory authorities, which changes do not have a Material disproportionate effect on the SFC Companies (taken as a whole), (B) any change in the forestry industry generally, which does not have a Material disproportionate effect on the SFC Companies (taken as a whole) (relative to other industry participants operating primarily in the PRC), (C) actions and omissions

of any of the SFC Companies required pursuant to the RSA or this Plan or taken with the prior written consent of the Initial Consenting Noteholders, (D) the effects of compliance with the RSA or this Plan, including on the operating performance of the SFC Companies, (E) the negotiation, execution, delivery, performance, consummation, potential consummation or public announcement of the RSA or this Plan or the transactions contemplated thereby or hereby, (F) any change in U.S. or Canadian interest rates or currency exchange rates unless such change has a Material disproportionate effect on the SFC Companies (taken as a whole), and (G) general political, economic or financial conditions in Canada, the United States, Hong Kong or the PRC, which changes do not have a Material disproportionate effect on the SFC Companies (taken as a whole).

"Meeting" means the meeting of Affected Creditors, and any adjournment or extension thereof, that is called and conducted in accordance with the Meeting Order for the purpose of considering and voting on the Plan.

"Meeting Order" has the meaning ascribed thereto in the recitals.

"Monitor" means FTI Consulting Canada Inc., in its capacity as Court-appointed Monitor of SFC in the CCAA Proceeding.

"Monitor's Post-Implementation Reserve" means the cash reserve to be established by SFC on the Plan Implementation Date in the amount of \$5,000,000 or such other amount as may be agreed by SFC, the Monitor and the Initial Consenting Noteholders, which cash reserve shall be maintained and administered by the Monitor for the purpose of administering SFC and the Claims Procedure, as necessary, from and after the Plan Implementation Date.

"Monitor's Ernst & Young Settlement Certificate" has the meaning ascribed thereto in section 11.1(a) hereof.

"Monitor's Named Third Party Settlement Certificate" has the meaning ascribed thereto in section 11.2(b) hereof.

"Named Directors and Officers" means Andrew Agnew, William E. Ardell, James Bowland, Leslie Chan, Michael Cheng, Lawrence Hon, James M.E. Hyde, Richard M. Kimel, R. John (Jack) Lawrence, Jay A. Lefton, Edmund Mak, Tom Maradin, Judson Martin, Simon Murray, James F. O'Donnell, William P. Rosenfeld, Peter Donghong Wang, Garry West and Kee Y. Wong, in their respective capacities as Directors or Officers, and **"Named Director or Officer"** means any one of them.

"Named Third Party Defendant Settlement" means a binding settlement between any applicable Named Third Party Defendant and one or more of: (i) the plaintiffs in any of the Class Actions; and (ii) the Litigation Trustee (on behalf of the Litigation Trust) (if after the Plan Implementation Date), provided that, in each case, such settlement must be acceptable to SFC (if on or prior to the Plan Implementation Date), the Monitor, the Initial Consenting Noteholders (if on or prior to the Plan Implementation Date) and the Litigation Trustee (if after the Plan Implementation Date), and provided further that such settlement shall not affect the plaintiffs in the Class Actions without the consent of counsel to the Ontario Class Action Plaintiffs.

"Named Third Party Defendant Settlement Order" means a court order approving a Named Third Party Defendant Settlement in form and in substance satisfactory to the applicable Named Third Party Defendant, SFC (if occurring on or prior to the Plan Implementation Date), the Monitor, the Initial Consenting Noteholders (if on or prior to the Plan Implementation Date), the Litigation Trustee (if after the Plan Implementation Date) and counsel to the Ontario Class Action Plaintiffs (if the plaintiffs in any of the Class Actions are affected by the applicable Named Third Party Defendant Settlement).

"Named Third Party Defendant Release" means a release of any applicable Named Third Party Defendant agreed to pursuant to a Named Third Party Defendant Settlement and approved pursuant to a Named Third Party Defendant Settlement Order, provided that such release must be acceptable to SFC (if on or prior to the Plan Implementation Date), the Monitor, the Initial Consenting Noteholders (if on or prior to the Plan Implementation Date) and the Litigation Trustee (if after the Plan Implementation Date), and provided further that such release shall not affect the plaintiffs in the Class Actions without the consent of counsel to the Ontario Class Action Plaintiffs.

"Named Third Party Defendants" means the Third Party Defendants listed on Schedule "A" to the Plan in accordance with section 11.2(a) hereof, provided that only Eligible Third Party Defendants may become Named Third Party Defendants.

"Newco" means the new corporation to be incorporated pursuant to section 6.2(a) hereof under the laws of the Cayman Islands or such other jurisdiction as agreed to by SFC, the Monitor and the Initial Consenting Noteholders.

"Newco II" means the new corporation to be incorporated pursuant to section 6.2(b) hereof under the laws of the Cayman Islands or such other jurisdiction as agreed to by SFC, the Monitor and the Initial Consenting Noteholders.

"Newco II Consideration" has the meaning ascribed thereto in section 6.4(x) hereof.

"Newco Equity Pool" means all of the Newco Shares to be issued by Newco on the Plan Implementation Date. The number of Newco Shares to be issued on the Plan Implementation Date shall be agreed by SFC, the Monitor and the Initial Consenting Noteholders prior to the Plan Implementation Date.

"Newco Note Certificate" means a certificate evidencing Newco Notes.

"Newco Notes" means the new notes to be issued by Newco on the Plan Implementation Date in the aggregate principal amount of \$300,000,000, on such terms and conditions as are satisfactory to the Initial Consenting Noteholders and SFC, acting reasonably.

"Newco Promissory Note 1", **"Newco Promissory Note 2"**, **"Newco Promissory Note 3"** and **"Newco Promissory Notes"** have the meanings ascribed thereto in sections 6.4(k), 6.4(m), 6.4(n) and 6.4(q) hereof, respectively.

"Newco Share Certificate" means a certificate evidencing Newco Shares.

"Newco Shares" means common shares in the capital of Newco.

"Non-Released D&O Claims" has the meaning ascribed thereto in section 4.9(f) hereof.

"Noteholder Advisors" means Goodmans LLP, Hogan Lovells and Conyers, Dill & Pearman LLP in their capacity as legal advisors to the Initial Consenting Noteholders, and Moells & Company LLC and Moells and Company Asia Limited, in their capacity as the financial advisors to the Initial Consenting Noteholders.

"Noteholder Claim" means any Claim by a Noteholder (or a Trustee or other representative on the Noteholder's behalf) in respect of or in relation to the Notes owned or held by such Noteholder, including all principal and Accrued Interest payable to such Noteholder pursuant to such Notes or the Note Indentures, but for greater certainty does not include any Noteholder Class Action Claim.

"Noteholder Class Action Claim" means any Class Action Claim, or any part thereof, against SFC, any of the Subsidiaries, any of the Directors and Officers of SFC or the Subsidiaries, any of the Auditors, any of the Underwriters and/or any other defendant to the Class Action Claims that relates to the purchase, sale or ownership of Notes, but for greater certainty does not include a Noteholder Claim.

"Noteholder Class Action Claimant" means any Person having or asserting a Noteholder Class Action Claim.

"Noteholder Class Action Representative" means an individual to be appointed by counsel to the Ontario Class Action Plaintiffs.

"Noteholders" means, collectively, the beneficial owners of Notes as of the Distribution Record Date and, as the context requires, the registered holders of Notes as of the Distribution Record Date, and **"Noteholder"** means any one of the Noteholders.

"Note Indentures" means, collectively, the 2013 Note Indenture, the 2014 Note Indenture, the 2016 Note Indenture and the 2017 Note Indenture.

"Notes" means, collectively, the 2013 Notes, the 2014 Notes, the 2016 Notes and the 2017 Notes.

"Officer" means, with respect to SFC or any Subsidiary, anyone who is or was, or may be deemed to be or have been, whether by statute, operation of law or otherwise, an officer or *de facto* officer of such SFC Company.

"Ontario Class Action Plaintiffs" means the plaintiffs in the Ontario class action case styled as *Trustees of the Labourers' Pension Fund of Central and Eastern Canada et al v. Sino-Forest Corporation et al.* (Ontario Superior Court of Justice, Court File No. CV-11-431153-00CP).

"Order" means any order of the Court made in connection with the CCAA Proceeding or this Plan.

"Ordinary Affected Creditor" means a Person with an Ordinary Affected Creditor Claim.

"Ordinary Affected Creditor Claim" means a Claim that is not: an Unaffected Claim; a Noteholder Claim; an Equity Claim; a Subsidiary Intercompany Claim; a Noteholder Class Action Claim; or a Class Action Indemnity Claim (other than a Class Action Indemnity Claim by any of the Third Party Defendants in respect of the Indemnified Noteholder Class Action Claims).

"Other Directors and/or Officers" means any Directors and/or Officers other than the Named Directors and Officers.

"Permitted Continuing Retainer" has the meaning ascribed thereto in section 6.4(d) hereof.

"Person" means any individual, sole proprietorship, limited or unlimited liability corporation, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, body corporate, joint venture, trust, pension fund, union, Governmental Entity, and a natural person including in such person's capacity as trustee, heir, beneficiary, executor, administrator or other legal representative.

"Plan" means this Plan of Compromise and Reorganization (including all schedules hereto) filed by SFC pursuant to the CCAA and the CBCA, as it may be further amended, supplemented or restated from time to time in accordance with the terms hereof or an Order.

"Plan Implementation Date" means the Business Day on which this Plan becomes effective, which shall be the Business Day on which the Monitor has filed with the Court the certificate contemplated in section 9.2 hereof, or such other date as SFC, the Monitor and the Initial Consenting Noteholders may agree.

"PRC" means the People's Republic of China.

"Proof of Claim" means the "Proof of Claim" referred to in the Claims Procedure Order, substantially in the form attached to the Claims Procedure Order.

"Pro-Rata" means:

- (a) with respect to any Noteholder in relation to all Noteholders, the proportion of (i) the principal amount of Notes beneficially owned by such Noteholder as of the Distribution Record Date plus the Accrued Interest owing on such Notes as of the Filing Date, in relation to (ii) the aggregate principal amount of all Notes outstanding as of the Distribution Record Date plus the aggregate of all Accrued Interest owing on all Notes as of the Filing Date;
- (b) with respect to any Early Consent Noteholder in relation to all Early Consent Noteholders, the proportion of the principal amount of Early Consent Notes beneficially owned by such Early Consent Noteholder as of the Distribution Record Date in relation to the aggregate principal amount of Early Consent Notes held by all Early Consent Noteholders as of the Distribution Record Date; and

- (c) with respect to any Affected Creditor in relation to all Affected Creditors, the proportion of such Affected Creditor's Affected Creditor Claim as at any relevant time in relation to the aggregate of all Proven Claims and Unresolved Claims of Affected Creditors as at that time.

"Proven Claim" means an Affected Creditor Claim to the extent that such Affected Creditor Claim is finally determined and valued in accordance with the provisions of the Claims Procedure Order, the Meeting Order or any other Order, as applicable.

"Released Claims" means all of the rights, claims and liabilities of any kind released pursuant to Article 7 hereof.

"Released Parties" means, collectively, those Persons released pursuant to Article 7 hereof, but only to the extent so released, and each such Person is referred to individually as a **"Released Party"**.

"Required Majority" means a majority in number of Affected Creditors with Proven Claims, and two-thirds in value of the Proven Claims held by such Affected Creditors, in each case who vote (in person or by proxy) on the Plan at the Meeting.

"Remaining Post-Implementation Reserve Amount" has the meaning ascribed thereto in section 5.7(b) hereof.

"Restructuring Claim" means any right or claim of any Person that may be asserted or made in whole or in part against SFC, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind arising out of the restructuring, termination, repudiation or disclaimer of any lease, contract, or other agreement or obligation on or after the Filing Date and whether such restructuring, termination, repudiation or disclaimer took place or takes place before or after the date of the Claims Procedure Order.

"Restructuring Transaction" means the transactions contemplated by this Plan (including any Alternative Sale Transaction that occurs pursuant to section 10.1 hereof).

"RSA" means the Restructuring Support Agreement executed as of March 30, 2012 by SFC, the Direct Subsidiaries and the Initial Consenting Noteholders, and subsequently executed or otherwise agreed to by the Early Consent Noteholders, as such Restructuring Support Agreement may be amended, restated and varied from time to time in accordance with its terms.

"Sanction Date" means the date that the Sanction Order is granted by the Court.

"Sanction Order" means the Order of the Court sanctioning and approving this Plan.

"Section 5.1(2) D&O Claim" means any D&O Claim that is not permitted to be compromised pursuant to section 5.1(2) of the CCAA, but only to the extent not so permitted, provided that any D&O Claim that qualifies as a Non-Released D&O Claim or a Continuing Other D&O Claim shall not constitute a Section 5.1(2) D&O Claim.

"Settlement Trust" has the meaning ascribed thereto in section 11.1(a) hereof.

"Settlement Trust Order" means a court order that establishes the Settlement Trust and approves the Ernst & Young Settlement and the Ernst & Young Release, in form and in substance satisfactory to Ernst & Young and counsel to the Ontario Class Action Plaintiffs, provided that such order shall also be acceptable to SFC (if occurring on or prior to the Plan Implementation Date), the Monitor and the Initial Consenting Noteholders, as applicable, to the extent, if any, that such order affects SFC, the Monitor or the Initial Consenting Noteholders, each acting reasonably.

"SFC" has the meaning ascribed thereto in the recitals.

"SFC Advisors" means Bennett Jones LLP, Appleby Global Group, King & Wood Mallesons and Linklaters LLP, in their respective capacities as legal advisors to SFC, and Houlihan Lokey Howard & Zukin Capital, Inc., in its capacity as financial advisor to SFC.

"SFC Assets" means all of SFC's right, title and interest in and to all of SFC's properties, assets and rights of every kind and description (including all restricted and unrestricted cash, contracts, real property, receivables or other debts owed to SFC, Intellectual Property, SFC's corporate name and all related marks, all of SFC's ownership interests in the Subsidiaries (including all of the shares of the Direct Subsidiaries and any other Subsidiaries that are directly owned by SFC immediately prior to the Effective Time), all of SFC's ownership interest in Greenheart and its subsidiaries, all SFC Intercompany Claims, any entitlement of SFC to any insurance proceeds and a right to the Remaining Post-Implementation Reserve Amount), other than the Excluded SFC Assets.

"SFC Barbados" means Sino-Forest International (Barbados) Corporation, a wholly-owned subsidiary of SFC established under the laws of Barbados.

"SFC Business" means the business operated by the SFC Companies.

"SFC Continuing Shareholder" means the Litigation Trustee or such other Person as may be agreed to by the Monitor and the Initial Consenting Noteholders.

"SFC Companies" means, collectively, SFC and all of the Subsidiaries, and **"SFC Company"** means any of them.

"SFC Escrow Co." means the company to be incorporated as a wholly-owned subsidiary of SFC pursuant to section 6.3 hereof under the laws of the Cayman Islands or such other jurisdiction as agreed to by SFC, the Monitor and the Initial Consenting Noteholders.

"SFC Escrow Co. Share" has the meaning ascribed thereto in section 6.3 hereof.

"SFC Intercompany Claim" means any amount owing to SFC by any Subsidiary or Greenheart and any claim by SFC against any Subsidiary or Greenheart.

"Subsidiaries" means all direct and indirect subsidiaries of SFC, other than (i) Greenheart and its direct and indirect subsidiaries and (ii) SFC Escrow Co., and **"Subsidiary"** means any one of the Subsidiaries.

“Subsidiary Intercompany Claim” means any Claim by any Subsidiary or Greenheart against SFC.

“Tax” or **“Taxes”** means any and all federal, provincial, municipal, local and foreign taxes, assessments, reassessments and other governmental charges, duties, impositions and liabilities including for greater certainty taxes based upon or measured by reference to income, gross receipts, profits, capital, transfer, land transfer, sales, goods and services, harmonized sales, use, value-added, excise, withholding, business, franchising, property, development, occupancy, employer health, payroll, employment, health, social services, education and social security taxes, all surtaxes, all customs duties and import and export taxes, all licence, franchise and registration fees and all employment insurance, health insurance and government pension plan premiums or contributions, together with all interest, penalties, fines and additions with respect to such amounts.

“Taxing Authorities” means any one of Her Majesty the Queen, Her Majesty the Queen in right of Canada, Her Majesty the Queen in right of any province or territory of Canada, the Canada Revenue Agency, any similar revenue or taxing authority of Canada and each and every province or territory of Canada and any political subdivision thereof, any similar revenue or taxing authority of the United States, the PRC, Hong Kong or other foreign state and any political subdivision thereof, and any Canadian, United States, Hong Kong, PRC or other government, regulatory authority, government department, agency, commission, bureau, minister, court, tribunal or body or regulation-making entity exercising taxing authority or power, and **“Taxing Authority”** means any one of the Taxing Authorities.

“Third Party Defendants” means any defendants to the Class Action Claims (present or future) other than SFC, the Subsidiaries, the Named Directors and Officers or the Trustees.

“Transfer Agent” means Computershare Limited (or a subsidiary or affiliate thereof) or such other transfer agent as Newco may appoint, with the prior written consent of the Monitor and the Initial Consenting Noteholders.

“Trustee Claims” means any rights or claims of the Trustees against SFC under the Note Indentures for compensation, fees, expenses, disbursements or advances, including reasonable legal fees and expenses, incurred or made by or on behalf of the Trustees before or after the Plan Implementation Date in connection with the performance of their respective duties under the Note Indentures or this Plan.

“Trustees” means, collectively, The Bank of New York Mellon in its capacity as trustee for the 2013 Notes and the 2016 Notes, and Law Debenture Trust Company of New York in its capacity as trustee for the 2014 Notes and the 2017 Notes, and **“Trustee”** means either one of them.

“Unaffected Claim” means any:

- (a) Claim secured by the Administration Charge;
- (b) Government Priority Claim;
- (c) Employee Priority Claim;

- (d) Lien Claim;
- (e) any other Claim of any employee, former employee, Director or Officer of SFC in respect of wages, vacation pay, bonuses, termination pay, severance pay or other remuneration payable to such Person by SFC, other than any termination pay or severance pay payable by SFC to a Person who ceased to be an employee, Director or Officer of SFC prior to the date of this Plan;
- (f) Trustee Claims; and
- (g) any trade payables that were incurred by SFC (i) after the Filing Date but before the Plan Implementation Date; and (ii) in compliance with the Initial Order or other Order issued in the CCAA Proceeding.

"Unaffected Claims Reserve" means the cash reserve to be established by SFC on the Plan Implementation Date and maintained by the Monitor, in escrow, for the purpose of paying certain Unaffected Claims in accordance with section 4.2 hereof.

"Unaffected Creditor" means a Person who has an Unaffected Claim, but only in respect of and to the extent of such Unaffected Claim.

"Undeliverable Distribution" has the meaning ascribed thereto in section 5.4.

"Underwriters" means any underwriters of SFC that are named as defendants in the Class Action Claims, including for greater certainty Credit Suisse Securities (Canada), Inc., TD Securities Inc., Dundee Securities Corporation, RBC Dominion Securities Inc., Scotia Capital Inc., CIBC World Markets Inc., Merrill Lynch Canada Inc., Canaccord Financial Ltd., Malson Placements Canada Inc., Credit Suisse Securities (USA) LLC and Merrill Lynch, Pierce, Fenner & Smith Incorporated (successor by merger to Banc of America Securities LLC).

"Unresolved Claim" means an Affected Creditor Claim in respect of which a Proof of Claim has been filed in a proper and timely manner in accordance with the Claims Procedure Order but that, as at any applicable time, has not been finally (i) determined to be a Proven Claim or (ii) disallowed in accordance with the Claims Procedure Order, the Meeting Order or any other Order.

"Unresolved Claims Escrow Agent" means SFC Escrow Co. or such other Person as may be agreed by SFC, the Monitor and the Initial Consenting Noteholders.

"Unresolved Claims Reserve" means the reserve of Newco Shares, Newco Notes and Litigation Trust Interests, if any, to be established pursuant to sections 6.4(h)(ii) and 6.4(r) hereof in respect of Unresolved Claims as at the Plan Implementation Date, which reserve shall be held and maintained by the Unresolved Claims Escrow Agent, in escrow, for distribution in accordance with the Plan. As at the Plan Implementation Date, the Unresolved Claims Reserve will consist of that amount of Newco Shares, Newco Notes and Litigation Trust Interests as is necessary to make any potential distributions under the Plan in respect of the following Unresolved Claims: (i) Class Action Indemnity Claims in an amount up to the Indemnified Noteholder Class Action Limit; (ii) Claims in respect of Defence Costs in the amount of \$30 million or such other amount

as may be agreed by the Monitor and the Initial Consenting Noteholders; and (iii) other Affected Creditor Claims that have been identified by the Monitor as Unresolved Claims in an amount up to \$500,000 or such other amount as may be agreed by the Monitor and the Initial Consenting Noteholders.

"Website" means the website maintained by the Monitor in respect of the CCAA Proceeding pursuant to the Initial Order at the following web address: <http://cfcanada.fticonsulting.com/sfo>.

1.2 Certain Rules of Interpretation

For the purposes of the Plan:

- (a) any reference in the Plan to an Order, agreement, contract, instrument, indenture, release, exhibit or other document means such Order, agreement, contract, instrument, indenture, release, exhibit or other document as it may have been or may be validly amended, modified or supplemented;
- (b) the division of the Plan into "articles" and "sections" and the insertion of a table of contents are for convenience of reference only and do not affect the construction or interpretation of the Plan, nor are the descriptive headings of "articles" and "sections" intended as complete or accurate descriptions of the content thereof;
- (c) unless the context otherwise requires, words importing the singular shall include the plural and *vice versa*, and words importing any gender shall include all genders;
- (d) the words "includes" and "including" and similar terms of inclusion shall not, unless expressly modified by the words "only" or "solely", be construed as terms of limitation, but rather shall mean "includes but is not limited to" and "including but not limited to", so that references to included matters shall be regarded as illustrative without being either characterizing or exhaustive;
- (e) unless otherwise specified, all references to time herein and in any document issued pursuant hereto mean local time in Toronto, Ontario and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. (Toronto time) on such Business Day;
- (f) unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next succeeding Business Day if the last day of the period is not a Business Day;
- (g) unless otherwise provided, any reference to a statute or other enactment of parliament or a legislature includes all regulations made thereunder, all amendments to or re-enactments of such statute or regulations in force from time

to time, and, if applicable, any statute or regulation that supplements or supersedes such statute or regulation; and

- (h) references to a specified "article" or "section" shall, unless something in the subject matter or context is inconsistent therewith, be construed as references to that specified article or section of the Plan, whereas the terms "the Plan", "hereof", "herein", "hereto", "hereunder" and similar expressions shall be deemed to refer generally to the Plan and not to any particular "article", "section" or other portion of the Plan and include any documents supplemental hereto.

1.3 Currency

For the purposes of this Plan, all amounts shall be denominated in Canadian dollars and all payments and distributions to be made in cash shall be made in Canadian dollars. Any Claims or other amounts denominated in a foreign currency shall be converted to Canadian dollars at the Reuters closing rate on the Filing Date.

1.4 Successors and Assigns

The Plan shall be binding upon and shall enure to the benefit of the heirs, administrators, executors, legal personal representatives, successors and assigns of any Person named or referred to in the Plan.

1.5 Governing Law

The Plan shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. All questions as to the interpretation of or application of the Plan and all proceedings taken in connection with the Plan and its provisions shall be subject to the jurisdiction of the Court.

1.6 Schedule "A"

Schedule "A" to the Plan is incorporated by reference into the Plan and forms part of the Plan.

ARTICLE 2 PURPOSE AND EFFECT OF THE PLAN

2.1 Purpose

The purpose of the Plan is:

- (a) to effect a full, final and irrevocable compromise, release, discharge, cancellation and bar of all Affected Claims;
- (b) to effect the distribution of the consideration provided for herein in respect of Proven Claims;

- (c) to transfer ownership of the SFC Business to Newco and then from Newco to Newco II, in each case free and clear of all claims against SFC and certain related claims against the Subsidiaries, so as to enable the SFC Business to continue on a viable, going concern basis; and
- (d) to allow Affected Creditors and Noteholder Class Action Claimants to benefit from contingent value that may be derived from litigation claims to be advanced by the Litigation Trustee.

The Plan is put forward in the expectation that the Persons with an economic interest in SFC, when considered as a whole, will derive a greater benefit from the implementation of the Plan and the continuation of the SFC Business as a going concern than would result from a bankruptcy or liquidation of SFC.

2.2 Claims Affected

The Plan provides for, among other things, the full, final and irrevocable compromise, release, discharge, cancellation and bar of Affected Claims and effectuates the restructuring of SFC. The Plan will become effective at the Effective Time on the Plan Implementation Date, other than such matters occurring on the Equity Cancellation Date (if the Equity Cancellation date does not occur on the Plan Implementation Date) which will occur and be effective on such date, and the Plan shall be binding on and enure to the benefit of SFC, the Subsidiaries, Newco, Newco II, SFC Escrow Co., any Person having an Affected Claim, the Directors and Officers of SFC and all other Persons named or referred to in, or subject to, the Plan, as and to the extent provided for in the Plan.

2.3 Unaffected Claims against SFC Not Affected

Any amounts properly owing by SFC in respect of Unaffected Claims will be satisfied in accordance with section 4.2 hereof. Consistent with the foregoing, all liabilities of the Released Parties in respect of Unaffected Claims (other than the obligation of SFC to satisfy such Unaffected Claims in accordance with section 4.2 hereof) will be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred pursuant to Article 7 hereof. Nothing in the Plan shall affect SFC's rights and defences, both legal and equitable, with respect to any Unaffected Claims, including all rights with respect to legal and equitable defences or entitlements to set-offs or recoupments against such Unaffected Claims.

2.4 Insurance

- (a) Subject to the terms of this section 2.4, nothing in this Plan shall prejudice, compromise, release, discharge, cancel, bar or otherwise affect any right, entitlement or claim of any Person against SFC or any Director or Officer, or any insurer, in respect of an Insurance Policy or the proceeds thereof.
- (b) Nothing in this Plan shall prejudice, compromise, release or otherwise affect any right or defence of any such insurer in respect of any such Insurance Policy. Furthermore, nothing in this Plan shall prejudice, compromise, release or otherwise affect (i) any right of subrogation any such insurer may have against

any Person, including against any Director or Officer in the event of a determination of fraud against SFC or any Director or Officer in respect of whom such a determination is specifically made, and /or (ii) the ability of such insurer to claim repayment of Defense Costs (as defined in any such policy) from SFC and/or any Director or Officer in the event that the party from whom repayment is sought is not entitled to coverage under the terms and conditions of any such Insurance Policy

- (c) Notwithstanding anything herein (including section 2.4(b) and the releases and injunctions set forth in Article 7 hereof), but subject to section 2.4(d) hereof, all Insured Claims shall be deemed to remain outstanding and are not released following the Plan Implementation Date, but recovery as against SFC and the Named Directors and Officers is limited only to proceeds of Insurance Policies that are available to pay such Insured Claims, either by way of judgment or settlement. SFC and the Directors or Officers shall make all reasonable efforts to meet all obligations under the Insurance Policies. The insurers agree and acknowledge that they shall be obliged to pay any Loss payable pursuant to the terms and conditions of their respective Insurance Policies notwithstanding the releases granted to SFC and the Named Directors and Officers under this Plan, and that they shall not rely on any provisions of the Insurance Policies to argue, or otherwise assert, that such releases excuse them from, or relieve them of, the obligation to pay Loss that otherwise would be payable under the terms of the Insurance Policies. For greater certainty, the insurers agree and consent to a direct right of action against the insurers, or any of them, in favour of any plaintiff who or which has (a) negotiated a settlement of any Claim covered under any of the Insurance Policies, which settlement has been consented to in writing by the insurers or such of them as may be required or (b) obtained a final judgment against one or more of SFC and/or the Directors or Officers which such plaintiff asserts, in whole or in part, represents Loss covered under the Insurance Policies, notwithstanding that such plaintiff is not a named insured under the Insurance Policies and that neither SFC nor the Directors or Officers are parties to such action.
- (d) Notwithstanding anything in this section 2.4, from and after the Plan Implementation Date, any Person having an Insured Claim shall, as against SFC and the Named Directors and Officers, be irrevocably limited to recovery solely from the proceeds of the Insurance Policies paid or payable on behalf of SFC or its Directors or Officers, and Persons with any Insured Claims shall have no right to, and shall not, directly or indirectly, make any claim or seek any recoveries from SFC, any of the Named Directors and Officers, any of the Subsidiaries, Newco or Newco II, other than enforcing such Person's rights to be paid from the proceeds of an Insurance Policy by the applicable insurer(s), and this section 2.4(d) may be relied upon and raised or pled by SFC, Newco, Newco II, any Subsidiary and any Named Director and Officer in defence or estoppel of or to enjoin any claim, action or proceeding brought in contravention of this section

2.5 Claims Procedure Order

For greater certainty, nothing in this Plan revives or restores any right or claim of any kind that is barred or extinguished pursuant to the terms of the Claims Procedure Order, provided that nothing in this Plan, the Claims Procedure Order or any other Order compromises, releases, discharges, cancels or bars any claim against any Person for fraud or criminal conduct, regardless of whether or not any such claim has been asserted to date.

ARTICLE 3 CLASSIFICATION, VOTING AND RELATED MATTERS

3.1 Claims Procedure

The procedure for determining the validity and quantum of the Affected Claims shall be governed by the Claims Procedure Order, the Meeting Order, the CCAA, the Plan and any other Order, as applicable. SFC, the Monitor and any other creditor in respect of its own Claim, shall have the right to seek the assistance of the Court in valuing any Claim, whether for voting or distribution purposes, if required, and to ascertain the result of any vote on the Plan.

3.2 Classification

- (a) The Affected Creditors shall constitute a single class, the "Affected Creditors Class", for the purposes of considering and voting on the Plan.
- (b) The Equity Claimants shall constitute a single class, separate from the Affected Creditors Class, but shall not, and shall have no right to, attend the Meeting or vote on the Plan in such capacity.

3.3 Unaffected Creditors

No Unaffected Creditor, in respect of an Unaffected Claim, shall:

- (a) be entitled to vote on the Plan;
- (b) be entitled to attend the Meeting; or
- (c) receive any entitlements under this Plan in respect of such Unaffected Creditor's Unaffected Claims (other than its right to have its Unaffected Claim addressed in accordance with section 4.2 hereof).

3.4 Creditors' Meeting

The Meeting shall be held in accordance with the Plan, the Meeting Order and any further Order of the Court. The only Persons entitled to attend and vote on the Plan at the Meeting are those specified in the Meeting Order.

3.5 Approval by Creditors

In order to be approved, the Plan must receive the affirmative vote of the Required Majority of the Affected Creditors Class.

ARTICLE 4 DISTRIBUTIONS, PAYMENTS AND TREATMENT OF CLAIMS

4.1 Affected Creditors

All Affected Creditor Claims shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred on the Plan Implementation Date. Each Affected Creditor that has a Proven Claim shall be entitled to receive the following in accordance with the Plan:

- (a) such Affected Creditor's Pro-Rata number of the Newco Shares to be issued by Newco from the Affected Creditors Equity Sub-Pool in accordance with the Plan;
- (b) such Affected Creditor's Pro-Rata amount of the Newco Notes to be issued by Newco in accordance with the Plan; and
- (c) such Affected Creditor's Pro-Rata share of the Litigation Trust Interests to be allocated to the Affected Creditors in accordance with 4.11 hereof and the terms of the Litigation Trust.

From and after the Plan Implementation Date, each Affected Creditor, in such capacity, shall have no rights as against SFC in respect of its Affected Creditor Claim.

4.2 Unaffected Creditors

Each Unaffected Claim that is finally determined as such, as to status and amount, and that is finally determined to be valid and enforceable against SFC, in each case in accordance with the Claims Procedure Order or other Order:

- (a) subject to sections 4.2(b) and 4.2(c) hereof, shall be paid in full from the Unaffected Claims Reserve and limited to recovery against the Unaffected Claims Reserve, and Persons with Unaffected Claims shall have no right to, and shall not, make any claim or seek any recoveries from any Person in respect of Unaffected Claims, other than enforcing such Person's right against SFC to be paid from the Unaffected Claims Reserve;
- (b) In the case of Claims secured by the Administration Charge:
 - (i) if billed or invoiced to SFC prior to the Plan Implementation Date, such Claims shall be paid by SFC in accordance with section 6.4(d) hereof; and
 - (ii) if billed or invoiced to SFC on or after the Plan Implementation Date, such Claims shall be paid from the Administration Charge Reserve, and all such

Claims shall be limited to recovery against the Administration Charge Reserve, and any Person with such Claims shall have no right to, and shall not, make any claim or seek any recoveries from any Person in respect of such Claims, other than enforcing such Person's right against the Administration Charge Reserve; and

- (c) in the case of Lien Claims:
- (i) at the election of the Initial Consenting Noteholders, and with the consent of the Monitor, SFC shall satisfy such Lien Claim by the return of the applicable property of SFC that is secured as collateral for such Lien Claim, and the applicable Lien Claimant shall be limited to its recovery against such secured property in respect of such Lien Claim.
 - (ii) If the Initial Consenting Noteholders do not elect to satisfy such Lien Claim by the return of the applicable secured property: (A) SFC shall repay the Lien Claim in full in cash on the Plan Implementation Date; and (B) the security held by the applicable Lien Claimant over the property of SFC shall be fully, finally, irrevocably and forever released, discharged, cancelled and barred; and
 - (iii) upon the satisfaction of a Lien Claim in accordance with sections 4.2(c)(i) or 4.2(c)(ii) hereof, such Lien Claims shall be fully, finally, irrevocably and forever released, discharged, cancelled and barred.

4.3 Early Consent Noteholders

As additional consideration for the compromise, release, discharge, cancellation and bar of the Affected Creditor Claims in respect of its Notes, each Early Consent Noteholder shall receive (in addition to the consideration it is entitled to receive in accordance with section 4.1 hereof) its Pro-Rata number of the Newco Shares to be issued by Newco from the Early Consent Equity Sub-Pool in accordance with the Plan.

4.4 Noteholder Class Action Claimants

- (a) All Noteholder Class Action Claims against SFC, the Subsidiaries or the Named Directors or Officers (other than any Noteholder Class Action Claims against the Named Directors or Officers that are Section 5.1(2) D&O Claims, Conspiracy Claims or Non-Released D&O Claims) shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred without consideration as against all said Persons on the Plan Implementation Date. Subject to section 4.4(f) hereof, Noteholder Class Action Claimants shall not receive any consideration or distributions under the Plan in respect of their Noteholder Class Action Claims. Noteholder Class Action Claimants shall not be entitled to attend or to vote on the Plan at the Meeting in respect of their Noteholder Class Action Claims.

- (b) Notwithstanding anything to the contrary in section 4.4(a), Noteholder Class Action Claims as against the Third Party Defendants (x) are not compromised, discharged, released, cancelled or barred, (y) shall be permitted to continue as against the Third Party Defendants and (z) shall not be limited or restricted by this Plan in any manner as to quantum or otherwise (including any collection or recovery for such Noteholder Class Action Claims that relates to any liability of the Third Party Defendants for any alleged liability of SFC), provided that:
- (i) in accordance with the releases set forth in Article 7 hereof, the collective aggregate amount of all rights and claims asserted or that may be asserted against the Third Party Defendants in respect of any such Noteholder Class Action Claims for which any such Persons in each case have a valid and enforceable Class Action Indemnity Claim against SFC (the "Indemnified Noteholder Class Action Claims") shall not exceed, in the aggregate, the Indemnified Noteholder Class Action Limit, and in accordance with section 7.3 hereof, all Persons shall be permanently and forever barred, estopped, stayed and enjoined, on and after the Effective Time, from seeking to enforce any liability in respect of the Indemnified Noteholder Class Action Claims that exceeds the Indemnified Noteholder Class Action Limit;
 - (ii) subject to section 4.4(g), any Class Action Indemnity Claims against SFC by the Third Party Defendants in respect of the Indemnified Noteholder Class Action Claims shall be treated as Affected Creditor Claims against SFC, but only to the extent that any such Class Action Indemnity Claims that are determined to be properly indemnified by SFC, enforceable against SFC and are not barred or extinguished by the Claims Procedure Order, and further provided that the aggregate liability of SFC in respect of all such Class Action Indemnity Claims shall be limited to the lesser of: (A) the actual aggregate liability of the Third Party Defendants pursuant to any final judgment, settlement or other binding resolution in respect of the Indemnified Noteholder Class Action Claims; and (B) the Indemnified Noteholder Class Action Limit; and
 - (iii) for greater certainty, in the event that any Third Party Defendant is found to be liable for or agrees to a settlement in respect of a Noteholder Class Action Claim (other than a Noteholder Class Action Claim for fraud or criminal conduct) and such amounts are paid by or on behalf of the applicable Third Party Defendant, then the amount of the Indemnified Noteholder Class Action Limit applicable to the remaining Third Party Defendants shall be reduced by the amount paid in respect of such Noteholder Class Action Claim, as applicable.
- (c) Subject to section 7.1(o), the Claims of the Underwriters for indemnification in respect of any Noteholder Class Action Claims (other than Noteholder Class Action Claims against the Underwriters for fraud or criminal conduct) shall, for purposes of the Plan, be deemed to be valid and enforceable Class Action

Indemnity Claims against SFC (as limited pursuant to section 4.4(b) hereof), provided that: (i) the Underwriters shall not be entitled to receive any distributions of any kind under the Plan in respect of such Claims; (ii) such Claims shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred on the Plan Implementation Date; and (iii) the amount of such Claims shall not affect the calculation of any Pro-Rata entitlements of the Affected Creditors under this Plan. For greater certainty, to the extent of any conflict with respect to the Underwriters between section 4.4(e) hereof and this section 4.4(c), this section 4.4(c) shall prevail.

- (d) Subject to section 7.1(m), any and all indemnification rights and entitlements of Ernst & Young at common law and any and all indemnification agreements between Ernst & Young and SFC shall be deemed to be valid and enforceable in accordance with their terms for the purpose of determining whether the Claims of Ernst & Young for indemnification in respect of Noteholder Class Action Claims are valid and enforceable within the meaning of section 4.4(b) hereof. With respect to Claims of Ernst & Young for indemnification in respect of Noteholder Class Action Claims that are valid and enforceable: (i) Ernst & Young shall not be entitled to receive any distributions of any kind under the Plan in respect of such Claims; (ii) such Claims shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred on the Plan Implementation Date; and (iii) the amount of such Claims shall not affect the calculation of any Pro-Rata entitlements of the Affected Creditors under this Plan.
- (e) Subject to section 7.1(n), any and all indemnification rights and entitlements of the Named Third Party Defendants at common law and any and all indemnification agreements between the Named Third Party Defendants and SFC shall be deemed to be valid and enforceable in accordance with their terms for the purpose of determining whether the Claims of the Named Third Party Defendants for indemnification in respect of Noteholder Class Action Claims are valid and enforceable within the meaning of section 4.4(b) hereof. With respect to Claims of the Named Third Party Defendants for indemnification in respect of Noteholder Class Action Claims that are valid and enforceable: (i) the Named Third Party Defendants shall not be entitled to receive any distributions of any kind under the Plan in respect of such Claims; (ii) such Claims shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred on the Plan Implementation Date; and (iii) the amount of such Claims shall not affect the calculation of any Pro-Rata entitlements of the Affected Creditors under this Plan.
- (f) Each Noteholder Class Action Claimant shall be entitled to receive its share of the Litigation Trust Interests to be allocated to Noteholder Class Action Claimants in accordance with the terms of the Litigation Trust and section 4.11 hereof, as such Noteholder Class Action Claimant's share is determined by the applicable Class Action Court.

- (g) Nothing in this Plan impairs, affects or limits in any way the ability of SFC, the Monitor or the Initial Consenting Noteholders to seek or obtain an Order, whether before or after the Plan Implementation Date, directing that Class Action Indemnity Claims in respect of Noteholder Class Action Claims or any other Claims of the Third Party Defendants should receive the same or similar treatment as is afforded to Class Action Indemnity Claims in respect of Equity Claims under the terms of this Plan.

4.5 Equity Claimants

All Equity Claims shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred on the Plan Implementation Date. Equity Claimants shall not receive any consideration or distributions under the Plan and shall not be entitled to vote on the Plan at the Meeting.

4.6 Claims of the Trustees and Noteholders

For purposes of this Plan, all claims filed by the Trustees in respect of the Noteholder Claims (other than any Trustee Claims) shall be treated as provided in section 4.1 and the Trustees and the Noteholders shall have no other entitlements in respect of the guarantees and share pledges that have been provided by the Subsidiaries, or any of them, all of which shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred on the Plan Implementation Date as against the Subsidiaries pursuant to Article 7 hereof.

4.7 Claims of the Third Party Defendants

For purposes of this Plan, all claims filed by the Third Party Defendants against SFC and/or any of its Subsidiaries shall be treated as follows:

- (a) all such claims against the Subsidiaries shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred on the Plan Implementation Date in accordance with Article 7 hereof;
- (b) all such claims against SFC that are Class Action Indemnity Claims in respect of Indemnified Noteholder Class Action Claims shall be treated as set out in section 4.4(b)(ii) hereof;
- (c) all such claims against SFC for indemnification of Defence Costs shall be treated in accordance with section 4.8 hereof; and
- (d) all other claims shall be treated as Equity Claims.

4.8 Defence Costs

All Claims against SFC for indemnification of defence costs incurred by any Person (other than a Named Director or Officer) in connection with defending against Shareholder Claims (as defined in the Equity Claims Order), Noteholder Class Action Claims or any other

claims of any kind relating to SFC or the Subsidiaries ("Defence Costs") shall be treated as follows:

- (a) as Equity Claims to the extent they are determined to be Equity Claims under any Order; and
- (b) as Affected Creditor Claims to the extent that they are not determined to be Equity Claims under any Order, provided that:
 - (i) if such Defence Costs were incurred in respect of a claim against the applicable Person that has been successfully defended and the Claim for such Defence Costs is otherwise valid and enforceable against SFC, the Claim for such Defence Costs shall be treated as a Proven Claim, provided that if such Claim for Defence Costs is a Class Action Indemnity Claim of a Third Party Defendant against SFC in respect of any Indemnified Noteholder Class Action Claim, such Claim for Defence Costs shall be treated in the manner set forth in section 4.4(b)(ii) hereof;
 - (ii) if such Defence Costs were incurred in respect of a claim against the applicable Person that has not been successfully defended or such Defence Costs are determined not to be valid and enforceable against SFC, the Claim for such Defence Costs shall be disallowed and no consideration will be payable in respect thereof under the Plan; and
 - (iii) until any such Claim for Defence Costs is determined to be either a Claim within section 4.8(b)(i) or a Claim within section 4.8(b)(ii), such Claim shall be treated as an Unresolved Claim,

provided that nothing in this Plan impairs, affects or limits in any way the ability of SFC, the Monitor or the Initial Consenting Noteholders to seek an Order that Claims against SFC for indemnification of any Defence Costs should receive the same or similar treatment as is afforded to Equity Claims under the terms of this Plan.

4.9 D&O Claims

- (a) All D&O Claims against the Named Directors and Officers (other than Section 5.1(2) D&O Claims, Conspiracy Claims and Non-Released D&O Claims) shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred without consideration on the Plan Implementation Date.
- (b) All D&O Claims against the Other Directors and/or Officers shall not be compromised, released, discharged, cancelled or barred by this Plan and shall be permitted to continue as against the applicable Other Directors and/or Officers (the "Continuing Other D&O Claims"), provided that any Indemnified Noteholder Class Action Claims against the Other Directors and/or Officers shall be limited as described in section 4.4(b)(i) hereof.

- (c) All D&O Indemnity Claims and any other rights or claims for indemnification held by the Named Directors and Officers shall be deemed to have no value and shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred without consideration on the Plan Implementation Date.
- (d) All D&O Indemnity Claims and any other rights or claims for indemnification held by the Other Directors and/or Officers shall be deemed to have no value and shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred without consideration on the Plan Implementation Date, except that: (i) any such D&O Indemnity Claims for Defence Costs shall be treated in accordance with section 4.8 hereof; and (ii) any Class Action Indemnity Claim of an Other Director and/or Officer against SFC in respect of the Indemnified Noteholder Class Action Claims shall be treated in the manner set forth in section 4.4(b)(ii) hereof.
- (e) All Section 5.1(2) D&O Claims and all Conspiracy Claims shall not be compromised, released, discharged, cancelled or barred by this Plan, provided that any Section 5.1(2) D&O Claims against Named Directors and Officers and any Conspiracy Claims against Named Directors and Officers shall be limited to recovery from any insurance proceeds payable in respect of such Section 5.1(2) D&O Claims or Conspiracy Claims, as applicable, pursuant to the Insurance Policies, and Persons with any such Section 5.1(2) D&O Claims against Named Directors and Officers or Conspiracy Claims against Named Directors and Officers shall have no right to, and shall not, make any claim or seek any recoveries from any Person (including SFC, any of the Subsidiaries, Newco or Newco II), other than enforcing such Persons' rights to be paid from the proceeds of an Insurance Policy by the applicable insurer(s).
- (f) All D&O Claims against the Directors and Officers of SFC or the Subsidiaries for fraud or criminal conduct shall not be compromised, discharged, released, cancelled or barred by this Plan and shall be permitted to continue as against all applicable Directors and Officers ("Non-Released D&O Claims").
- (g) Notwithstanding anything to the contrary herein, from and after the Plan Implementation Date, a Person may only commence an action for a Non-Released D&O Claim against a Named Director or Officer if such Person has first obtained (i) the consent of the Monitor or (ii) leave of the Court on notice to the applicable Directors and Officers, SFC, the Monitor, the Initial Consenting Noteholders and any applicable insurers. For the avoidance of doubt, the foregoing requirement for the consent of the Monitor or leave of the Court shall not apply to any Non-Released D&O Claim that is asserted against an Other Director and/or Officer.

4.10 Intercompany Claims

All SFC Intercompany Claims (other than those transferred to SFC Barbados pursuant to section 6.4(j) hereof or set-off pursuant to section 6.4(l) hereof) shall be deemed to be assigned by SFC to Newco on the Plan Implementation Date pursuant to section 6.4(m) hereof, and shall

then be deemed to be assigned by Newco to Newco II pursuant to section 6.4(x) hereof. The obligations of SFC to the applicable Subsidiaries and Greenheart in respect of all Subsidiary Intercompany Claims (other than those set-off pursuant to section 6.4(l) hereof) shall be assumed by Newco on the Plan Implementation Date pursuant to 6.4(m) hereof, and then shall be assumed by Newco II pursuant to section 6.4(x) hereof. Notwithstanding anything to the contrary herein, Newco II shall be liable to the applicable Subsidiaries and Greenheart for such Subsidiary Intercompany Claims and SFC shall be released from such Subsidiary Intercompany Claims from and after the Plan Implementation Date, and the applicable Subsidiaries and Greenheart shall be liable to Newco II for such SFC Intercompany Claims from and after the Plan Implementation Date. For greater certainty, nothing in this Plan affects any rights or claims as between any of the Subsidiaries, Greenheart and Greenheart's direct and indirect subsidiaries.

4.11 Entitlement to Litigation Trust Interests

- (a) The Litigation Trust Interests to be created in accordance with this Plan and the Litigation Trust shall be allocated as follows:
- (i) the Affected Creditors shall be collectively entitled to 75% of such Litigation Trust Interests; and
 - (ii) the Noteholder Class Action Claimants shall be collectively entitled to 25% of such Litigation Trust Interests;

which allocations shall occur at the times and in the manner set forth in section 6.4 hereof and shall be recorded by the Litigation Trustee in its registry of Litigation Trust Interests.

- (b) Notwithstanding anything to the contrary in section 4.11(a) hereof, if any of the Noteholder Class Action Claims against any of the Third Party Defendants are finally resolved (whether by final judgment, settlement or any other binding means of resolution) within two years of the Plan Implementation Date, then the Litigation Trust Interests to which the applicable Noteholder Class Action Claimants would otherwise have been entitled in respect of such Noteholder Class Action Claims pursuant to section 4.11(a)(ii) hereof (based on the amount of such resolved Noteholder Class Action Claims in proportion to all Noteholder Class Action Claims in existence as of the Claims Bar Date) shall be fully, finally, irrevocably and forever cancelled.

4.12 Litigation Trust Claims

- (a) At any time prior to the Plan Implementation Date, SFC and the Initial Consenting Noteholders may agree to exclude one or more Causes of Action from the Litigation Trust Claims and/or to specify that any Causes of Action against a specified Person will not constitute Litigation Trust Claims ("**Excluded Litigation Trust Claims**"), in which case, any such Causes of Action shall not be transferred to the Litigation Trust on the Plan Implementation Date. Any such Excluded Litigation Trust Claims shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred on the Plan

Implementation Date in accordance with Article 7 hereof. All Affected Creditors shall be deemed to consent to such treatment of Excluded Litigation Trust Claims pursuant to this section 4.12(a).

- (b) All Causes of Action against the Underwriters by (i) SFC or (ii) the Trustees (on behalf of the Noteholders) shall be deemed to be Excluded Litigation Trust Claims that are fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred on the Plan Implementation Date in accordance with Article 7 hereof, provided that, unless otherwise agreed by SFC and the Initial Consenting Noteholders prior to the Plan Implementation Date in accordance with section 4.12(a) hereof, any such Causes of Action for fraud or criminal conduct shall not constitute Excluded Litigation Trust Claims and shall be transferred to the Litigation Trust in accordance with section 6.4(o) hereof.
- (c) At any time from and after the Plan Implementation Date, and subject to the prior consent of the Initial Consenting Noteholders and the terms of the Litigation Trust Agreement, the Litigation Trustee shall have the right to seek and obtain an order from any court of competent jurisdiction, including an Order of the Court in the CCAA or otherwise, that gives effect to any releases of any Litigation Trust Claims agreed to by the Litigation Trustee in accordance with the Litigation Trust Agreement, including a release that fully, finally, irrevocably and forever compromises, releases, discharges, cancels and bars the applicable Litigation Trust Claims as if they were Excluded Litigation Trust Claims released in accordance with Article 7 hereof. All Affected Creditors shall be deemed to consent to any such treatment of any Litigation Trust Claims pursuant to this section 4.12(b).

4.13 Multiple Affected Claims

On the Plan Implementation Date, any and all liabilities for and guarantees and indemnities of the payment or performance of any Affected Claim, Unaffected Claim, Section 5.1(2) D&O Claim, Conspiracy Claim, Continuing Other D&O Claim or Non-Released D&O Claim by any of the Subsidiaries, and any purported liability for the payment or performance of such Affected Claim, Unaffected Claim, Section 5.1(2) D&O Claim, Conspiracy Claim, Continuing Other D&O Claim or Non-Released D&O Claim by Newco or Newco II, will be deemed eliminated and cancelled, and no Person shall have any rights whatsoever to pursue or enforce any such liabilities for or guarantees or indemnities of the payment or performance of any such Affected Claim, Unaffected Claim, Section 5.1(2) D&O Claim, Conspiracy Claim, Continuing Other D&O Claim or Non-Released D&O Claim against any Subsidiary, Newco or Newco II.

4.14 Interest

Subject to section 12.4 hereof, no holder of an Affected Claim shall be entitled to interest accruing on or after the Filing Date.

4.15 Existing Shares

Holders of Existing Shares and Equity Interests shall not receive any consideration or distributions under the Plan in respect thereof and shall not be entitled to vote on the Plan at the Meeting. Unless otherwise agreed between the Monitor, SFC and the Initial Consenting Noteholders, all Existing Shares and Equity Interests shall be fully, finally and irrevocably cancelled in accordance with and at the time specified in section 6.5 hereof.

4.16 Canadian Exempt Plans

If an Affected Creditor is a trust governed by a plan which is exempt from tax under Part I of the Canadian Tax Act (including, for example, a registered retirement savings plan), such Affected Creditor may make arrangements with Newco (if Newco so agrees) and the Litigation Trustee (if the Litigation Trustee so agrees) to have the Newco Shares, Newco Notes and Litigation Trust Interests to which it is entitled under this Plan directed to (or in the case of Litigation Trust Interests, registered in the name of) an affiliate of such Affected Creditor or the annuitant or controlling person of the governing tax-deferred plan.

ARTICLE 5 DISTRIBUTION MECHANICS

5.1 Letters of Instruction

In order to issue (i) Newco Shares and Newco Notes to Ordinary Affected Creditors and (ii) Newco Shares to Early Consent Noteholders, the following steps will be taken:

- (a) with respect to Ordinary Affected Creditors with Proven Claims or Unresolved Claims:
 - (i) on the next Business Day following the Distribution Record Date, the Monitor shall send blank Letters of Instruction by prepaid first class mail, courier, email or facsimile to each such Ordinary Affected Creditor to the address of each such Ordinary Affected Creditor (as specified in the applicable Proof of Claim) as of the Distribution Record Date, or as evidenced by any assignment or transfer in accordance with section 5.10;
 - (ii) each such Ordinary Affected Creditor shall deliver to the Monitor a duly completed and executed Letter of Instruction that must be received by the Monitor on or before the date that is seven (7) Business Days after the Distribution Record Date or such other date as the Monitor may determine; and
 - (iii) any such Ordinary Affected Creditor that does not return a Letter of Instruction to the Monitor in accordance with section 5.1(a)(ii) shall be deemed to have requested that such Ordinary Affected Creditor's Newco Shares and Newco Notes be registered or distributed, as applicable, in accordance with the information set out in such Ordinary Affected Creditor's Proof of Claim; and

- (b) with respect to Early Consent Noteholders;
- (i) on the next Business Day following the Distribution Record Date the Monitor shall send blank Letters of Instruction by prepaid first class mail, courier, email or facsimile to each Early Consent Noteholder to the address of each such Early Consent Noteholder as confirmed by the Monitor on or before the Distribution Record Date;
 - (ii) each Early Consent Noteholder shall deliver to the Monitor a duly completed and executed Letter of Instruction that must be received by the Monitor on or before the date that is seven (7) Business Days after the Distribution Record Date or such other date as the Monitor may determine; and
 - (iii) any such Early Consent Noteholder that does not return a Letter of Instruction to the Monitor in accordance with section 5.1(b)(ii) shall be deemed to have requested that such Early Consent Noteholder's Newco Shares be distributed or registered, as applicable, in accordance with information confirmed by the Monitor on or before the Distribution Record Date.

5.2 Distribution Mechanics with respect to Newco Shares and Newco Notes

- (a) To effect distributions of Newco Shares and Newco Notes, the Monitor shall deliver a direction at least two (2) Business Days prior to the Initial Distribution Date to Newco or its agent, as applicable, directing Newco or its agent, as applicable, to issue on such Initial Distribution Date or subsequent Distribution Date:
- (i) in respect of the Ordinary Affected Creditors with Proven Claims:
 - (A) the number of Newco Shares that each such Ordinary Affected Creditor is entitled to receive in accordance with section 4.1(a) hereof; and
 - (B) the amount of Newco Notes that each such Ordinary Affected Creditor is entitled to receive in accordance with section 4.1(b) hereof,all of which Newco Shares and Newco Notes shall be issued to such Ordinary Affected Creditors and distributed in accordance with this Article 5;
 - (ii) in respect of the Ordinary Affected Creditors with Unresolved Claims:
 - (A) the number of Newco Shares that each such Ordinary Affected Creditor would have been entitled to receive in accordance with section 4.1(a) hereof had such Ordinary Affected Creditor's

Unresolved Claim been a Proven Claim on the Plan Implementation Date; and

- (B) the amount of Newco Notes that each such Ordinary Affected Creditor would have been entitled to receive in accordance with section 4.1(b) hereof had such Ordinary Affected Creditor's Unresolved Claim been a Proven Claim on the Plan Implementation Date,

all of which Newco Shares and Newco Notes shall be issued in the name of the Unresolved Claims Escrow Agent for the benefit of the Persons entitled thereto under the Plan, which Newco Shares and Newco Notes shall comprise part of the Unresolved Claims Reserve and shall be held in escrow by the Unresolved Claims Escrow Agent until released and distributed in accordance with this Article 5;

- (iii) in respect of the Noteholders:

- (A) the number of Newco Shares that the Trustees are collectively required to receive such that, upon distribution to the Noteholders in accordance with this Article 5, each individual Noteholder receives the number of Newco Shares to which it is entitled in accordance with section 4.1(a) hereof; and
- (B) the amount of Newco Notes that the Trustees are collectively required to receive such that, upon distribution to the Noteholders in accordance with this Article 5, each individual Noteholder receives the amount of Newco Notes to which it is entitled in accordance with section 4.1(b) hereof,

all of which Newco Shares and Newco Notes shall be issued to such Noteholders and distributed in accordance with this Article 5; and

- (iv) in respect of Early Consent Noteholders, the number of Newco Shares that each such Early Consent Noteholder is entitled to receive in accordance with section 4.3 hereof, all of which Newco Shares shall be issued to such Early Consent Noteholders and distributed in accordance with this Article 5.

The direction delivered by the Monitor in respect of the applicable Ordinary Affected Creditors and Early Consent Noteholders shall: (A) indicate the registration and delivery details of each applicable Ordinary Affected Creditor and Early Consent Noteholder based on the information prescribed in section 5.1; and (B) specify the number of Newco Shares and, in the case of Ordinary Affected Creditors, the amount of Newco Notes to be issued to each such Person on the applicable Distribution Date. The direction delivered by the Monitor in respect of the Noteholders shall: (C) indicate that the registration and delivery details with respect to the number of Newco Shares and amount of Newco Notes

to be distributed to each Noteholder will be the same as the registration and delivery details in effect with respect to the Notes held by each Noteholder as of the Distribution Record Date; and (D) specify the number of Newco Shares and the amount of Newco Notes to be issued to each of the Trustees for purposes of satisfying the entitlements of the Noteholders set forth in sections 4.1(a) and 4.1(b) hereof. The direction delivered by the Monitor in respect of the Newco Shares and Newco Notes to be issued in the name of the Unresolved Claims Escrow Agent, for the benefit of the Persons entitled thereto under the Plan, for purposes of the Unresolved Claims Reserve shall specify the number of Newco Shares and the amount of Newco Notes to be issued in the name of the Unresolved Claims Escrow Agent for that purpose.

- (b) If the registers for the Newco Shares and/or Newco Notes are maintained by the Transfer Agent in a direct registration system (without certificates), the Monitor and/or Newco and/or the Unresolved Claims Escrow Agent, as applicable, shall, on the Initial Distribution Date or any subsequent Distribution Date, as applicable:
- (i) Instruct the Transfer Agent to record, and the Transfer Agent shall record, in the Direct Registration Account of each applicable Ordinary Affected Creditor and each Early Consent Noteholder the number of Newco Shares and, in the case of Ordinary Affected Creditors, the amount of Newco Notes that are to be distributed to each such Person, and the Monitor and/or Newco and/or the Unresolved Claims Escrow Agent, as applicable, shall send or cause to be sent to each such Ordinary Affected Creditor and Early Consent Noteholder a Direct Registration Transaction Advice based on the delivery information as determined pursuant to section 5.1; and
 - (ii) with respect to the distribution of Newco Shares and/or Newco Notes to Noteholders:
 - (A) if the Newco Shares and/or Newco Notes are DTC eligible, the Monitor and/or Newco and/or the Unresolved Claims Escrow Agent, as applicable, shall instruct the Transfer Agent to register, and the Transfer Agent shall register, the applicable Newco Shares and/or Newco Notes in the name of DTC (or its nominee) for the benefit of the Noteholders, and the Trustees shall provide their consent to DTC to the distribution of such Newco Shares and Newco Notes to the applicable Noteholders, in the applicable amounts, through the facilities of DTC in accordance with customary practices and procedures; and
 - (B) if the Newco Shares and/or Newco Notes are not DTC eligible, the Monitor and/or Newco and/or the Unresolved Claims Escrow Agent, as applicable, shall instruct the Transfer Agent to register the applicable Newco Shares and/or Newco Notes in the Direct Registration Accounts of the applicable Noteholders pursuant to the registration instructions obtained through DTC and the DTC

participants (by way of a letter of transmittal process or such other process as agreed by SFC, the Monitor, the Trustees and the Initial Consenting Noteholders), and the Transfer Agent shall (A) register such Newco Shares and/or Newco Notes, in the applicable amounts, in the Direct Registration Accounts of the applicable Noteholders; and (B) send or cause to be sent to each Noteholder a Direct Registration Transaction Advice in accordance with customary practices and procedures; provided that the Transfer Agent shall not be permitted to effect the foregoing registrations without the prior written consent of the Trustees.

- (c) If the registers for the Newco Shares and/or Newco Notes are not maintained by the Transfer Agent in a direct registration system, Newco shall prepare and deliver to the Monitor and/or the Unresolved Claims Escrow Agent, as applicable, and the Monitor and/or the Unresolved Claims Escrow Agent, as applicable, shall promptly thereafter, on the Initial Distribution Date or any subsequent Distribution Date, as applicable:
 - (i) deliver to each Ordinary Affected Creditor and each Early Consent Noteholder Newco Share Certificates and, in the case of Ordinary Affected Creditors, Newco Note Certificates representing the applicable number of Newco Shares and the applicable amount of Newco Notes that are to be distributed to each such Person; and
 - (ii) with respect to the distribution of Newco Shares and/or Newco Notes to Noteholders:
 - (A) if the Newco Shares and/or Newco Notes are DTC eligible, the Monitor and/or Newco and/or the Unresolved Claims Escrow Agent, as applicable, shall distribute to DTC (or its nominee), for the benefit of the Noteholders, Newco Share Certificates and/or Newco Note Certificates representing the aggregate of all Newco Shares and Newco Notes to be distributed to the Noteholders on such Distribution Date, and the Trustees shall provide their consent to DTC to the distribution of such Newco Shares and Newco Notes to the applicable Noteholders, in the applicable amounts, through the facilities of DTC in accordance with customary practices and procedures; and
 - (B) if the Newco Shares and/or Newco Notes are not DTC eligible, the Monitor and/or Newco and/or the Unresolved Claims Escrow Agent, as applicable, shall distribute to the applicable Trustees, Newco Share Certificates and/or Newco Note Certificates representing the aggregate of all Newco Shares and/or Newco Notes to be distributed to the Noteholders on such Distribution Date, and the Trustees shall make delivery of such Newco Share Certificates and Newco Note Certificates, in the applicable

amounts, directly to the applicable Noteholders pursuant to the delivery instructions obtained through DTC and the DTC participants (by way of a letter of transmittal process or such other process as agreed by SFC, the Monitor, the Trustees and the Initial Consenting Noteholders), all of which shall occur in accordance with customary practices and procedures,

- (d) Upon receipt of and in accordance with written instructions from the Monitor, the Trustees shall instruct DTC to and DTC shall: (i) set up an escrow position representing the respective positions of the Noteholders as of the Distribution Record Date for the purpose of making distributions on the Initial Distribution Date and any subsequent Distribution Dates (the "Distribution Escrow Position"); and (ii) block any further trading of the Notes, effective as of the close of business on the day immediately preceding the Plan Implementation Date, all in accordance with DTC's customary practices and procedures.
- (e) The Monitor, Newco, Newco II, the Trustees, SFC, the Named Directors and Officers and the Transfer Agent shall have no liability or obligation in respect of deliveries by DTC (or its nominee) to the DTC participants or the Noteholders pursuant to this Article 5.

5.3 Allocation of Litigation Trust Interests

The Litigation Trustee shall administer the Litigation Trust Claims and the Litigation Funding Amount for the benefit of the Persons that are entitled to the Litigation Trust Interests and shall maintain a registry of such Persons as follows:

- (a) with respect to Affected Creditors:
 - (i) the Litigation Trustee shall maintain a record of the amount of Litigation Trust Interests that each Ordinary Affected Creditor is entitled to receive in accordance with sections 4.1(c) and 4.11(a) hereof;
 - (ii) the Litigation Trustee shall maintain a record of the aggregate amount of all Litigation Trust Interests to which the Noteholders are collectively entitled in accordance with sections 4.1(c) and 4.11(a) hereof, and if cash is distributed from the Litigation Trust to Persons with Litigation Trust Interests, the amount of such cash that is payable to the Noteholders will be distributed through the Distribution Escrow Position (such that each beneficial Noteholder will receive a percentage of such cash distribution that is equal to its entitlement to Litigation Trust Interests (as set forth in section 4.1(c) hereof) as a percentage of all Litigation Trust Interests); and
 - (iii) with respect to any Litigation Trust Interests to be allocated in respect of the Unresolved Claims Reserve, the Litigation Trustee shall record such Litigation Trust Interests in the name of the Unresolved Claims Escrow Agent, for the benefit of the Persons entitled thereto in accordance with

this Plan, which shall be held by the Unresolved Claims Escrow Agent in escrow until released and distributed unless and until otherwise directed by the Monitor in accordance with this Plan;

- (b) with respect to the Noteholder Class Action Claimants, the Litigation Trustee shall maintain a record of the aggregate of all Litigation Trust Interests that the Noteholder Class Action Claimants are entitled to receive pursuant to sections 4.4(f) and 4.11(a) hereof, provided that such record shall be maintained in the name of the Noteholder Class Action Representative, to be allocated to Individual Noteholder Class Action Claimants in any manner ordered by the applicable Class Action Court, and provided further that if any such Litigation Trust Interests are cancelled in accordance with section 4.11(b) hereof, the Litigation Trustee shall record such cancellation in its registry of Litigation Trust Interests.

5.4 Treatment of Undeliverable Distributions

If any distribution under section 5.2 or section 5.3 of Newco Shares, Newco Notes or Litigation Trust Interests is undeliverable (that is, for greater certainty, that it cannot be properly registered or delivered to the Applicable Affected Creditor because of inadequate or incorrect registration or delivery information or otherwise) (an "Undeliverable Distribution"), it shall be delivered to SFC Escrow Co., which shall hold such Undeliverable Distribution in escrow and administer it in accordance with this section 5.4. No further distributions in respect of an Undeliverable Distribution shall be made unless and until SFC and the Monitor are notified by the applicable Person of its current address and/or registration information, as applicable, at which time the Monitor shall direct SFC Escrow Co. to make all such distributions to such Person, and SFC Escrow Co. shall make all such distributions to such Person. All claims for Undeliverable Distributions must be made on or before the date that is six months following the final Distribution Date, after which date the right to receive distributions under this Plan in respect of such Undeliverable Distributions shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred, without any compensation therefore, notwithstanding any federal, state or provincial laws to the contrary, at which time any such Undeliverable Distributions held by SFC Escrow Co. shall be deemed to have been gifted by the owner of the Undeliverable Distribution to Newco or the Litigation Trust, as applicable, without consideration, and, in the case of Newco Shares, Newco Notes and Litigation Trust Interests, shall be cancelled by Newco and the Litigation Trustee, as applicable. Nothing contained in the Plan shall require SFC, the Monitor, SFC Escrow Co. or any other Person to attempt to locate any owner of an Undeliverable Distribution. No interest is payable in respect of an Undeliverable Distribution. Any distribution under this Plan on account of the Notes, other than any distributions in respect of Litigation Trust Interests, shall be deemed made when delivered to DTC or the applicable Trustee, as applicable, for subsequent distribution to the applicable Noteholders in accordance with section 5.2.

5.5 Procedure for Distributions Regarding Unresolved Claims

- (a) An Affected Creditor that has asserted an Unresolved Claim will not be entitled to receive a distribution under the Plan in respect of such Unresolved Claim or any portion thereof unless and until such Unresolved Claim becomes a Proven Claim.

- (b) Distributions in respect of any Unresolved Claim in existence at the Plan Implementation Date will be held in escrow by the Unresolved Claims Escrow Agent in the Unresolved Claims Reserve until settlement or final determination of the Unresolved Claim in accordance with the Claims Procedure Order, the Meeting Order or this Plan, as applicable.
- (c) To the extent that Unresolved Claims become Proven Claims or are finally disallowed, the Unresolved Claims Escrow Agent shall release from escrow and deliver (or in the case of Litigation Trust Interests, cause to be registered) the following from the Unresolved Claims Reserve (on the next Distribution Date, as determined by the Monitor with the consent of SFC and the Initial Consenting Noteholders):
- (i) in the case of Affected Creditors whose Unresolved Claims are ultimately determined, in whole or in part, to be Proven Claims, the Unresolved Claims Escrow Agent shall release from escrow and deliver to such Affected Creditor that number of Newco Shares, Newco Notes and Litigation Trust Interests (and any income or proceeds therefrom) that such Affected Creditor is entitled to receive in respect of its Proven Claim pursuant to section 4.1 hereof;
 - (ii) in the case of Affected Creditors whose Unresolved Claims are ultimately determined, in whole or in part, to be disallowed, the Unresolved Claims Escrow Agent shall release from escrow and deliver to all Affected Creditors with Proven Claims the number of Newco Shares, Newco Notes and Litigation Trust Interests (and any income or proceeds therefrom) that had been reserved in the Unresolved Claims Reserve for such Affected Creditor whose Unresolved Claims has been disallowed, Claims such that, following such delivery, all of the Affected Creditors with Proven Claims have received the amount of Newco Shares, Newco Notes and Litigation Trust Interests that they are entitled to receive pursuant to section 4.1 hereof, which delivery shall be effected in accordance with sections 5.2 and 5.3 hereof.
- (d) As soon as practicable following the date that all Unresolved Claims have been finally resolved and any required distributions contemplated in section 5.5(o) have been made, the Unresolved Claims Escrow Agent shall distribute (or in the case of Litigation Trust Interests, cause to be registered) any Litigation Trust Interests, Newco Shares and Newco Notes (and any income or proceeds therefrom), as applicable, remaining in the Unresolved Claims Reserve to the Affected Creditors with Proven Claims such that after giving effect to such distributions each such Affected Creditor has received the amount of Litigation Trust Interests, Newco Shares and Newco Notes that it is entitled to receive pursuant to section 4.1 hereof.
- (e) During the time that Newco Shares, Newco Notes and/or Litigation Trust Interests are held in escrow in the Unresolved Claims Reserve, any income or proceeds

received therefrom or accruing thereon shall be added to the Unresolved Claims Reserve by the Unresolved Claims Escrow Agent and no Person shall have any right to such income or proceeds until such Newco Shares, Newco Notes or Litigation Trust Interests, as applicable, are distributed (or in the case of Litigation Trust Interests, registered) in accordance with section 5.5(c) and 5.5(d) hereof, at which time the recipient thereof shall be entitled to any applicable income or proceeds therefrom.

- (f) The Unresolved Claims Escrow Agent shall have no beneficial interest or right in the Unresolved Claims Reserve. The Unresolved Claims Escrow Agent shall not take any step or action with respect to the Unresolved Claims Reserve or any other matter without the consent or direction of the Monitor or the direction of the Court. The Unresolved Claims Escrow Agent shall forthwith, upon receipt of an Order of the Court or instruction of the Monitor directing the release of any Newco Shares, Newco Notes and/or Litigation Trust Interests from the Unresolved Claims Reserve, comply with any such Order or instruction.
- (g) Nothing in this Plan impairs, affects or limits in any way the ability of SFC, the Monitor or the Initial Consenting Noteholders to seek or obtain an Order, whether before or after the Plan Implementation Date, directing that any Unresolved Claims should be disallowed in whole or in part or that such Unresolved Claims should receive the same or similar treatment as is afforded to Equity Claims under the terms of this Plan.
- (h) Persons with Unresolved Claims shall have standing in any proceeding in respect of the determination or status of any Unresolved Claim, and Goodmans LLP (in its capacity as counsel to the Initial Consenting Noteholders) shall have standing in any such proceeding on behalf of the Initial Consenting Noteholders (in their capacity as Affected Creditors with Proven Claims).

5.6 Tax Refunds

Any input tax credits or tax refunds received by or on behalf of SFC after the Effective Time shall, immediately upon receipt thereof, be paid directly by, or on behalf of, SFC to Newco without consideration.

5.7 Final Distributions from Reserves

- (a) If there is any cash remaining in: (i) the Unaffected Claims Reserve on the date that all Unaffected Claims have been finally paid or otherwise discharged and/or (ii) the Administration Charge Reserve on the date that all Claims secured by the Administration Charge have been finally paid or otherwise discharged, the Monitor shall, in each case, forthwith transfer all such remaining cash to the Monitor's Post-Implementation Reserve.
- (b) The Monitor will not terminate the Monitor's Post-Implementation Reserve prior to the termination of each of the Unaffected Claims Reserve and the Administration Charge Reserve. The Monitor may, at any time, from time to time

and at its sole discretion, release amounts from the Monitor's Post-Implementation Reserve to Newco. Goodmans LLP (in its capacity as counsel to the Initial Consenting Noteholders) shall be permitted to apply for an Order of the Court directing the Monitor to make distributions from the Monitor's Post-Implementation Reserve. Once the Monitor has determined that the cash remaining in the Monitor's Post-Implementation Reserve is no longer necessary for administering SFC or the Claims Procedure, the Monitor shall forthwith transfer any such remaining cash (the "Remaining Post-Implementation Reserve Amount") to Newco.

5.8 Other Payments and Distributions

All other payments and distributions to be made pursuant to this Plan shall be made in the manner described in this Plan, the Sanction Order or any other Order, as applicable.

5.9 Note Indentures to Remain in Effect Solely for Purpose of Distributions

Following completion of the steps in the sequence set forth in section 6.4, all debentures, indentures, notes (including the Notes), certificates, agreements, invoices and other instruments evidencing Affected Claims will not entitle any holder thereof to any compensation or participation other than as expressly provided for in the Plan and will be cancelled and will be null and void. Any and all obligations of SFC and the Subsidiaries under and with respect to the Notes, the Note Indentures and any guarantees or indemnities with respect to the Notes or the Note Indentures shall be terminated and cancelled on the Plan Implementation Date and shall not continue beyond the Plan Implementation Date. Notwithstanding the foregoing and anything to the contrary in the Plan, the Note Indentures shall remain in effect solely for the purpose of and only to the extent necessary to allow the Trustees to make distributions to Noteholders on the Initial Distribution Date and, as necessary, each subsequent Distribution Date thereafter, and to maintain all of the rights and protections afforded to the Trustees as against the Noteholders under the applicable Note Indentures, including their lien rights with respect to any distributions under this Plan, until all distributions provided for hereunder have been made to the Noteholders. The obligations of the Trustees under or in respect of this Plan shall be solely as expressly set out herein. Without limiting the generality of the releases, injunctions and other protections afforded to the Trustees under this Plan and the applicable Note Indentures, the Trustees shall have no liability whatsoever to any Person resulting from the due performance of their obligations hereunder, except if such Trustee is adjudged by the express terms of a non-appealable judgment rendered on a final determination on the merits to have committed gross negligence or wilful misconduct in respect of such matter.

5.10 Assignment of Claims for Distribution Purposes

(a) Assignment of Claims by Ordinary Affected Creditors

Subject to any restrictions contained in Applicable Laws, an Ordinary Affected Creditor may transfer or assign the whole of its Affected Claim after the Meeting provided that neither SFC nor Newco nor Newco II nor the Monitor nor the Unresolved Claims Escrow Agent shall be obliged to make distributions to any such transferee or assignee or otherwise deal with such

transferee or assignee as an Ordinary Affected Creditor in respect thereof unless and until actual notice of the transfer or assignment, together with satisfactory evidence of such transfer or assignment and such other documentation as SFC and the Monitor may reasonably require, has been received by SFC and the Monitor on or before the Plan Implementation Date, or such other date as SFC and the Monitor may agree, failing which the original transferor shall have all applicable rights as the "Ordinary Affected Creditor" with respect to such Affected Claim as if no transfer of the Affected Claim had occurred. Thereafter, such transferee or assignee shall, for all purposes in accordance with this Plan, constitute an Ordinary Affected Creditor and shall be bound by any and all notices previously given to the transferor or assignor in respect of such Claim. For greater certainty, SFC shall not recognize partial transfers or assignments of Claims.

(b) *Assignment of Notes*

Only those Noteholders who have beneficial ownership of one or more Notes as at the Distribution Record Date shall be entitled to receive a distribution under this Plan on the Initial Distribution Date or any Distribution Date. Noteholders who have beneficial ownership of Notes shall not be restricted from transferring or assigning such Notes prior to or after the Distribution Record Date (unless the Distribution Record Date is the Plan Implementation Date), provided that if such transfer or assignment occurs after the Distribution Record Date, neither SFC nor Newco nor Newco II nor the Monitor nor the Unresolved Claims Escrow Agent shall have any obligation to make distributions to any such transferee or assignee of Notes in respect of the Claims associated therewith, or otherwise deal with such transferee or assignee as an Affected Creditor in respect thereof. Noteholders who assign or acquire Notes after the Distribution Record Date shall be wholly responsible for ensuring that Plan distributions in respect of the Claims associated with such Notes are in fact delivered to the assignee, and the Trustees shall have no liability in connection therewith.

5.11 Withholding Rights

SFC, Newco, Newco II, the Monitor, the Litigation Trustee, the Unresolved Claims Escrow Agent and/or any other Person making a payment contemplated herein shall be entitled to deduct and withhold from any consideration payable to any Person such amounts as it is required to deduct and withhold with respect to such payment under the Canadian Tax Act, the United States Internal Revenue Code of 1986 or any provision of federal, provincial, territorial, state, local or foreign Tax laws, in each case, as amended. To the extent that amounts are so withheld or deducted, such withheld or deducted amounts shall be treated for all purposes hereof as having been paid to the Person in respect of which such withholding was made, provided that such amounts are actually remitted to the appropriate Taxing Authority. To the extent that the amounts so required or permitted to be deducted or withheld from any payment to a Person exceed the cash portion of the consideration otherwise payable to that Person: (i) the payor is authorized to sell or otherwise dispose of such portion of the consideration as is necessary to provide sufficient funds to enable it to comply with such deduction or withholding requirement or entitlement, and the payor shall notify the applicable Person thereof and remit to such Person any unapplied balance of the net proceeds of such sale; or (ii) if such sale is not reasonably possible, the payor shall not be required to make such excess payment until the Person has directly satisfied any such withholding obligation and provides evidence thereof to the payor.

5.12 Fractional Interests

No fractional interests of Newco Shares or Newco Notes ("Fractional Interests") will be issued under this Plan. For purposes of calculating the number of Newco Shares and Newco Notes to be issued by Newco pursuant to this Plan, recipients of Newco Shares or Newco Notes will have their entitlements adjusted downwards to the nearest whole number of Newco Shares or Newco Notes, as applicable, to eliminate any such Fractional Interests and no compensation will be given for the Fractional Interest.

5.13 Further Direction of the Court

The Monitor shall, in its sole discretion, be entitled to seek further direction of the Court, including a plan implementation order, with respect to any matter relating to the implementation of the plan including with respect to the distribution mechanics and restructuring transaction as set out in Articles 5 and 6 of this Plan.

ARTICLE 6 RESTRUCTURING TRANSACTION

6.1 Corporate Actions

The adoption, execution, delivery, implementation and consummation of all matters contemplated under the Plan involving corporate action of SFC will occur and be effective as of the Plan Implementation Date, other than such matters occurring on the Equity Cancellation Date which will occur and be effective on such date, and in either case will be authorized and approved under the Plan and by the Court, where appropriate, as part of the Sanction Order, in all respects and for all purposes without any requirement of further action by shareholders, Directors or Officers of SFC. All necessary approvals to take actions shall be deemed to have been obtained from the directors or the shareholders of SFC, as applicable, including the deemed passing by any class of shareholders of any resolution or special resolution and no shareholders' agreement or agreement between a shareholder and another Person limiting in any way the right to vote shares held by such shareholder or shareholders with respect to any of the steps contemplated by the Plan shall be deemed to be effective and shall have no force and effect, provided that, subject to sections 12.6 and 12.7 hereof, where any matter expressly requires the consent or approval of SFC, the Initial Consenting Noteholders or SFC's board of directors pursuant to this Plan, such consent or approval shall not be deemed to be given unless actually given.

6.2 Incorporation of Newco and Newco II

- (a) Newco shall be incorporated prior to the Plan Implementation Date. Newco shall be authorized to issue an unlimited number of Newco Shares and shall have no restrictions on the number of its shareholders. At the time that Newco is incorporated, Newco shall issue one Newco Share to the Initial Newco Shareholder, as the sole shareholder of Newco, and the Initial Newco Shareholder shall be deemed to hold the Newco Share for the purpose of facilitating the

Restructuring Transaction. For greater certainty, the Initial Newco Shareholder shall not hold such Newco Share as agent of or for the benefit of SFC, and SFC shall have no rights in relation to such Newco Share. Newco shall not carry on any business or issue any other Newco Shares or other securities until the Plan Implementation Date, and then only in accordance with section 6.4 hereof. The Initial Newco Shareholder shall be deemed to have no liability whatsoever for any matter pertaining to its status as the Initial Newco Shareholder, other than its obligations under this Plan to act as the Initial Newco Shareholder.

- (b) Newco II shall be incorporated prior to the Plan Implementation Date as a wholly-owned subsidiary of Newco. The memorandum and articles of association of Newco II will be in a form customary for a wholly-owned subsidiary under the applicable jurisdiction and the initial board of directors of Newco II will consist of the same Persons appointed as the directors of Newco on or prior to the Plan Implementation Date.

6.3 Incorporation of SFC Escrow Co.

SFC Escrow Co. shall be incorporated prior to the Plan Implementation Date. SFC Escrow Co. shall be incorporated under the laws of the Cayman Islands, or such other jurisdiction as may be agreed by SFC, the Monitor and the Initial Consenting Noteholders. The sole director of SFC Escrow Co. shall be Codan Services (Cayman) Limited, or such other Person as may be agreed by SFC, the Monitor and the Initial Consenting Noteholders. At the time that SFC Escrow Co. is incorporated, SFC Escrow Co. shall issue one share (the "SFC Escrow Co. Share") to SFC, as the sole shareholder of SFC Escrow Co. and SFC shall be deemed to hold the SFC Escrow Co. Share for the purpose of facilitating the Restructuring Transaction. SFC Escrow Co. shall have no assets other than any assets that it is required to hold in escrow pursuant to the terms of this Plan, and it shall have no liabilities other than its obligations as set forth in this Plan. SFC Escrow Co. shall not carry on any business or issue any shares or other securities (other than the SFC Escrow Co. Share). The sole activity and function of SFC Escrow Co. shall be to perform the obligations of the Unresolved Claims Escrow Agent as set forth in this Plan and to administer Undeliverable Distributions as set forth in section 5.4 of this Plan. SFC Escrow Co. shall not make any sale, distribution, transfer or conveyance of any Newco Shares, Newco Notes or any other assets or property that it holds unless it is directed to do so by an Order of the Court or by a written direction from the Monitor, in which case SFC Escrow Co. shall promptly comply with such Order of the Court or such written direction from the Monitor. SFC shall not sell, transfer or convey the SFC Escrow Co. Share nor effect or cause to be effected any liquidation, dissolution, merger or other corporate reorganization of SFC Escrow Co. unless it is directed to do so by an Order of the Court or by a written direction from the Monitor, in which case SFC shall promptly comply with such Order of the Court or such written direction from the Monitor. SFC Escrow Co. shall not exercise any voting rights (including any right to vote at a meeting of shareholders or creditors held or in any written resolution) in respect of Newco Shares or Newco Notes held in the Unresolved Claims Reserve. SFC Escrow Co. shall not be entitled to receive any compensation for the performance of its obligations under this Plan.

6.4 Plan Implementation Date Transactions

The following steps and compromises and releases to be effected shall occur, and be deemed to have occurred in the following manner and order (sequentially, each step occurring five minutes apart, except that within such order steps (a) to (f) (Cash Payments) shall occur simultaneously and steps (t) to (w) (Releases) shall occur simultaneously) without any further act or formality, on the Plan Implementation Date beginning at the Effective Time (or in such other manner or order or at such other time or times as SFC, the Monitor and the Initial Consenting Noteholders may agree):

Cash Payments and Satisfaction of Lien Claims

- (a) SFC shall pay required funds to the Monitor for the purpose of funding the Unaffected Claims Reserve, and the Monitor shall hold and administer such funds in trust for the purpose of paying the Unaffected Claims pursuant to the Plan.
- (b) SFC shall pay the required funds to the Monitor for the purpose of funding the Administration Charge Reserve, and the Monitor shall hold and administer such funds in trust for the purpose of paying Unaffected Claims secured by Administration Charge.
- (c) SFC shall pay the required funds to the Monitor for the purpose of funding the Monitor's Post-Implementation Reserve, and the Monitor shall hold and administer such funds in trust for the purpose of administering SFC, as necessary, from and after the Plan Implementation Date.
- (d) SFC shall pay to the Noteholder Advisors and the Initial Consenting Noteholders, as applicable, each such Person's respective portion of the Expense Reimbursement. SFC shall pay all fees and expenses owing to each of the SFC Advisors, the advisors to the current Board of Directors of SFC, Chandler Fraser Keating Limited and Spencer Stuart and SFC or any of the Subsidiaries shall pay all fees and expenses owing to each of Indufor Asia Pacific Limited and Stewart Murray (Singapore) Pte. Ltd. If requested by the Monitor (with the consent of the Initial Consenting Noteholders) no more than 10 days prior to the Plan Implementation Date and provided that all fees and expenses set out in all previous invoices rendered by the applicable Person to SFC have been paid, SFC and the Subsidiaries, as applicable, shall, with respect to the final one or two invoices rendered prior to the Plan Implementation Date, pay any such fees and expenses to such Persons for all work up to and including the Plan Implementation Date (including any reasonable estimates of work to be performed on the Plan Implementation Date) first by applying any such monetary retainers currently held by such Persons and then by paying any remaining balance in cash.
- (e) If requested by the Monitor (with the consent of the Initial Consenting Noteholders) prior to the Plan Implementation Date, any Person with a monetary retainer from SFC that remains outstanding following the steps and payment of all

fees and expenses set out in section 6.4(d) hereof shall pay to SFC in cash the full amount of such remaining retainer, less any amount permitted by the Monitor (with the Consent of the Initial Consenting Noteholders and after prior discussion with the applicable Person as to any remaining work that may reasonably be required) to remain as a continuing monetary retainer in connection with completion of any remaining work after the Plan Implementation Date that may be requested by the Monitor, SFC or the Initial Consenting Noteholders (each such continuing monetary retainer being a "Permitted Continuing Retainer"). Such Persons shall have no duty or obligation to perform any further work or tasks in respect of SFC unless such Persons are satisfied that they are holding adequate retainers or other security or have received payment to compensate them for all fees and expenses in respect of such work or tasks. The obligation of such Persons to repay the remaining amounts of any monetary retainers (including the unused portions of any Permitted Continuing Retainers) and all cash received therefrom shall constitute SFC Assets.

- (f) The Lien Claims shall be satisfied in accordance with section 4.2(c) hereof.

Transaction Steps

- (g) All accrued and unpaid interest owing on, or in respect of, or as part of, Affected Creditor Claims (including any Accrued Interest on the Notes and any interest accruing on the Notes or any Ordinary Affected Creditor Claim after the Filing Date) shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred for no consideration, and from and after the occurrence of this step, no Person shall have any entitlement to any such accrued and unpaid interest.
- (h) All of the Affected Creditors shall be deemed to assign, transfer and convey to Newco all of their Affected Creditor Claims, and from and after the occurrence of this step, Newco shall be the legal and beneficial owner of all Affected Creditor Claims. In exchange for the assignment, transfer and conveyance of the Affected Creditor Claims to Newco:
- (i) with respect to Affected Creditor Claims that are Proven Claims at the Effective Time:
- (A) Newco shall issue to each applicable Affected Creditor the number of Newco Shares that each such Affected Creditor is entitled to receive in accordance with section 4.1(a) hereof;
- (B) Newco shall issue to each applicable Affected Creditor the amount of Newco Notes that each such Affected Creditor is entitled to receive in accordance with section 4.1(b) hereof;
- (C) Newco shall issue to each of the Early Consent Noteholders the number of Newco Shares that each such Early Consent Noteholder is entitled to receive pursuant to section 4.3 hereof;

- (D) such Affected Creditors shall be entitled to receive the Litigation Trust Interests to be acquired by Newco in section 6.4(q) hereof, following the establishment of the Litigation Trust;
- (E) such Affected Creditors shall be entitled to receive, at the time or times contemplated in sections 5.5(c) and 5.5(d) hereof, the Newco Shares, Newco Notes and Litigation Trust Interests that are subsequently distributed to (or in the case of Litigation Trust Interests registered for the benefit of) Affected Creditors with Proven Claims pursuant to sections 5.5(c) and 5.5(d) hereof (if any),

and all such Newco Shares and Newco Notes shall be distributed in the manner described in section 5.2 hereof; and

- (ii) with respect to Affected Creditor Claims that are Unresolved Claims as at the Effective Time, Newco shall issue in the name of the Unresolved Claims Escrow Agent, for the benefit of the Persons entitled thereto under the Plan, the Newco Shares and the Newco Notes that would have been distributed to the applicable Affected Creditors in respect of such Unresolved Claims if such Unresolved Claims had been Proven Claims at the Effective Time; such Newco Shares, Newco Notes and Litigation Trust Interests acquired by Newco in section 6.4(q) and assigned to and registered in the name of the Unresolved Claims Escrow Agent in accordance with section 6.4(r) shall comprise part of the Unresolved Claims Reserve and the Unresolved Claims Escrow Agent shall hold all such Newco Shares, Newco Notes and Litigation Trust Interests in escrow for the benefit of those Persons entitled to receive distributions thereof pursuant to the Plan.
- (i) The initial Newco Share in the capital of Newco held by the Initial Newco Shareholder shall be redeemed and cancelled for no consideration.
- (j) SFC shall be deemed to assign, transfer and convey to SFC Barbados those SFC Intercompany Claims and/or Equity Interests in one or more Direct Subsidiaries as agreed to by SFC and the Initial Consenting Noteholders prior to the Plan Implementation Date (the "Barbados Property") first in full repayment of the Barbados Loans and second, to the extent the fair market value of the Barbados Property exceeds the amount owing under the Barbados Loans, as a contribution to the capital of SFC Barbados by SFC. Immediately after the time of such assignment, transfer and conveyance, the Barbados Loans shall be considered to be fully paid by SFC and no longer outstanding.
- (k) SFC shall be deemed to assign, transfer and convey to Newco all shares and other Equity Interests (other than the Barbados Property) in the capital of (i) the Direct Subsidiaries and (ii) any other Subsidiaries that are directly owned by SFC immediately prior to the Effective Time, other than SFC Escrow Co. (all such

shares and other equity interests being the "Direct Subsidiary Shares") for a purchase price equal to the fair market value of the Direct Subsidiary Shares and, in consideration therefor, Newco shall be deemed to pay to SFC consideration equal to the fair market value of the Direct Subsidiary Shares, which consideration shall be comprised of a U.S. dollar denominated demand non-interest-bearing promissory note issued to SFC by Newco having a principal amount equal to the fair market value of the Direct Subsidiary Shares (the "Newco Promissory Note 1"). At the time of such assignment, transfer and conveyance, all prior rights that Newco had to acquire the Direct Subsidiary Shares, under the Plan or otherwise, shall cease to be outstanding. For greater certainty, SFC shall not assign, transfer or convey the SFC Escrow Co. Share, and the SFC Escrow Co. Share shall remain the property of SFC.

- (l) If the Initial Consenting Noteholders and SFC agree prior to the Plan Implementation Date, there will be a set-off of any SFC Intercompany Claim so agreed against a Subsidiary Intercompany Claim owing between SFC and the same Subsidiary. In such case, the amounts will be set-off in repayment of both claims to the extent of the lesser of the two amounts, and the excess (if any) shall continue as an SFC Intercompany Claim or a Subsidiary Intercompany Claim, as applicable.
- (m) SFC shall be deemed to assign, transfer and convey to Newco all SFC Intercompany Claims (other than the SFC Intercompany Claims transferred to SFC Barbados in section 6.4(j) hereof or set-off pursuant to section 6.4(l) hereof) for a purchase price equal to the fair market value of such SFC Intercompany Claims and, in consideration therefor, Newco shall be deemed to pay SFC consideration equal to the fair market value of the SFC Intercompany Claims, which consideration shall be comprised of the following: (i) the assumption by Newco of all of SFC's obligations to the Subsidiaries in respect of Subsidiary Intercompany Claims (other than the Subsidiary Intercompany Claims set-off pursuant to section 6.4(l) hereof); and (ii) if the fair market value of the transferred SFC Intercompany Claims exceeds the fair market value of the assumed Subsidiary Intercompany Claims, Newco shall issue to SFC a U.S. dollar denominated demand non-interest-bearing promissory note having a principal amount equal to such excess (the "Newco Promissory Note 2").
- (n) SFC shall be deemed to assign, transfer and convey to Newco all other SFC Assets (namely, all SFC Assets other than the Direct Subsidiary Shares and the SFC Intercompany Claims (which shall have already been transferred to Newco in accordance with sections 6.4(k) and 6.4(m) hereof)), for a purchase price equal to the fair market value of such other SFC Assets and, in consideration therefor, Newco shall be deemed to pay to SFC consideration equal to the fair market value of such other SFC Assets, which consideration shall be comprised of a U.S. dollar denominated demand non-interest-bearing promissory note issued to SFC by Newco having a principal amount equal to the fair market value of such other SFC Assets (the "Newco Promissory Note 3").

- (o) SFC shall establish the Litigation Trust and SFC and the Trustees (on behalf of the Noteholders) shall be deemed to convey, transfer and assign to the Litigation Trustee all of their respective rights, title and interest in and to the Litigation Trust Claims. SFC shall advance the Litigation Funding Amount to the Litigation Trustee for use by the Litigation Trustee in prosecuting the Litigation Trust Claims in accordance with the Litigation Trust Agreement, which advance shall be deemed to create a non-interest bearing receivable from the Litigation Trustee in favour of SFC in the amount of the Litigation Funding Amount (the "Litigation Funding Receivable"). The Litigation Funding Amount and Litigation Trust Claims shall be managed by the Litigation Trustee in accordance with the terms and conditions of the Litigation Trust Agreement.
- (p) The Litigation Trust shall be deemed to be effective from the time that it is established in section 6.4(o) hereof. Initially, all of the Litigation Trust Interests shall be held by SFC. Immediately thereafter, SFC shall assign, convey and transfer a portion of the Litigation Trust Interests to the Noteholder Class Action Claimants in accordance with the allocation set forth in section 4.11 hereof.
- (q) SFC shall settle and discharge the Affected Creditor Claims by assigning Newco Promissory Note 1, Newco Promissory Note 2 and Newco Promissory Note 3 (collectively, the "Newco Promissory Notes"), the Litigation Funding Receivable and the remaining Litigation Trust Interests held by SFC to Newco. Such assignment shall constitute payment, by set-off, of the full principal amount of the Newco Promissory Notes and of a portion of the Affected Creditor Claims equal to the aggregate principal amount of the Newco Promissory Notes, the Litigation Trust Receivable and the fair market value of the Litigation Trust Interests so transferred (with such payment being allocated first to the Noteholder Claims and then to the Ordinary Affected Creditor Claims). As a consequence thereof:
- (i) Newco shall be deemed to discharge and release SFC of and from all of SFC's obligations to Newco in respect of the Affected Creditor Claims, and all of Newco's rights against SFC of any kind in respect of the Affected Creditor Claims shall thereupon be fully, finally, irrevocably and forever compromised, released, discharged and cancelled; and
- (ii) SFC shall be deemed to discharge and release Newco of and from all of Newco's obligations to SFC in respect of the Newco Promissory Notes, and the Newco Promissory Notes and all of SFC's rights against Newco in respect thereof shall thereupon be fully, finally, irrevocably and forever released, discharged and cancelled.
- (r) Newco shall cause a portion of the Litigation Trust Interests it acquired in section 6.4(q) hereof to be assigned to and registered in the name of the Affected Creditors with Proven Claims as contemplated in section 6.4(h), and with respect to any Affected Creditor Claims that are Unresolved Claims as at the Effective Time, the remaining Litigation Trust Interests held by Newco that would have been allocated to the applicable Affected Creditors in respect of such Unresolved

Claims if such Unresolved Claims had been Proven Claims at the Effective Time shall be assigned and registered by the Litigation Trustee to the Unresolved Claims Escrow Agent and in the name of the Unresolved Claims Escrow Agent, in escrow for the benefit of Persons entitled thereto, and such Litigation Trust Interests shall comprise part of the Unresolved Claims Reserve. The Litigation Trustee shall record entitlements to the Litigation Trust Interests in the manner set forth in section 5.3.

Cancellation of Instruments and Guarantees

- (s) Subject to section 5.9 hereof, all debentures, indentures, notes, certificates, agreements, invoices, guarantees, pledges and other instruments evidencing Affected Claims, including the Notes and the Note Indentures, will not entitle any holder thereof to any compensation or participation other than as expressly provided for in the Plan and shall be cancelled and will thereupon be null and void. The Trustees shall be directed by the Court and shall be deemed to have released, discharged and cancelled any guarantees, indemnities, Encumbrances or other obligations owing by or in respect of any Subsidiary relating to the Notes or the Note Indentures.

Releases

- (t) Each of Newco and Newco II shall be deemed to have no liability or obligation of any kind whatsoever for: any Claim (including, notwithstanding anything to the contrary herein, any Unaffected Claim); any Affected Claim (including any Affected Creditor Claim, Equity Claim, D&O Claim, D&O Indemnity Claim and Noteholder Class Action Claim); any Section 5.1(2) D&O Claim; any Conspiracy Claim; any Continuing Other D&O Claim; any Non-Released D&O Claim; any Class Action Claim; any Class Action Indemnity Claim; any right or claim in connection with or liability for the Notes or the Note Indentures; any guarantees, indemnities, share pledges or Encumbrances relating to the Notes or the Note Indentures; any right or claim in connection with or liability for the Existing Shares or other Equity Interests or any other securities of SFC; any rights or claims of the Third Party Defendants relating to SFC or the Subsidiaries; any right or claim in connection with or liability for the RSA, the Plan, the CCAA Proceedings, the Restructuring Transaction, the Litigation Trust, the business and affairs of SFC and the Subsidiaries (whenever or however conducted), the administration and/or management of SFC and the Subsidiaries, or any public filings, statements, disclosures or press releases relating to SFC; any right or claim in connection with or liability for any guaranty, indemnity or claim for contribution in respect of any of the foregoing; and any Encumbrance in respect of the foregoing, provided only that Newco shall assume SFC's obligations to the applicable Subsidiaries in respect of the Subsidiary Intercompany Claims pursuant to section 6.4(l) hereof and Newco II shall assume Newco's obligations to the applicable Subsidiaries in respect of the Subsidiary Intercompany Claims pursuant to section 6.4(x) hereof.

- (u) Each of the Charges shall be discharged, released and cancelled.
- (v) The releases and injunctions referred to in Article 7 of the Plan shall become effective in accordance with the Plan.
- (w) Any contract defaults arising as a result of the CCAA Proceedings and/or the implementation of the Plan (including, notwithstanding anything to the contrary herein, any such contract defaults in respect of the Unaffected Claims) shall be deemed to be cured.

Newco II

- (x) Newco shall be deemed to assign, transfer and convey to Newco II all of Newco's right, title and interest in and to all of its properties, assets and rights of every kind and description (namely the SFC Assets acquired by Newco pursuant to the Plan) for a purchase price equal to the fair market value thereof and, in consideration therefor, Newco II shall be deemed to pay to Newco consideration equal to the fair market value of such properties, assets and rights (the "Newco II Consideration"). The Newco II Consideration shall be comprised of: (i) the assumption by Newco II of any and all indebtedness of Newco other than the indebtedness of Newco in respect of the Newco Notes (namely, any indebtedness of Newco in respect of the Subsidiary Intercompany Claims); and (ii) the issuance to Newco of that number of common shares in Newco II as is necessary to ensure that the value of the Newco II Consideration is equal to the fair market value of the properties, assets and rights conveyed by Newco to Newco II pursuant to this section 6.4(x).

6.5 Cancellation of Existing Shares and Equity Interests

Unless otherwise agreed between the Monitor, SFC and the Initial Consenting Noteholders, on the Equity Cancellation Date all Existing Shares and Equity Interests shall be fully, finally and irrevocably cancelled, and the following steps will be implemented pursuant to the Plan as a plan of reorganization under section 191 of the *CBCA*, to be effected by articles of reorganization to be filed by SFC, subject to the receipt of any required approvals from the Ontario Securities Commission with respect to the trades in securities contemplated by the following:

- (a) SFC will create a new class of common shares to be called Class A common shares that are equivalent to the current Existing Shares except that they carry two votes per share;
- (b) SFC will amend the share conditions of the Existing Shares to provide that they are cancellable for no consideration at such time as determined by the board of directors of SFC;
- (c) prior to the cancellation of the Existing Shares, SFC will issue for nominal consideration one Class A common share of SFC to the SFC Continuing Shareholder;

- (d) SFC will cancel the Existing Shares for no consideration on the Equity Cancellation Date; and
- (e) SFC will apply to Canadian securities regulatory authorities for SFC to cease to be a reporting issuer effective immediately before the Effective Time.

Unless otherwise agreed by SFC, the Monitor and the Initial Consenting Noteholders or as otherwise directed by Order of the Court, SFC shall maintain its corporate existence at all times from and after the Plan Implementation Date until the later of the date: (i) on which SFC Escrow Co. has completed all of its obligations as Unresolved Claims Escrow Agent under this Plan; (ii) on which SFC escrow Co. no longer holds any Undeliverable Distributions delivered to it in accordance with the section 5.4 hereof; and (iii) as determined by the Litigation Trustee.

6.6 Transfers and Vesting Free and Clear

- (a) All of the SFC Assets (including for greater certainty the Direct Subsidiary Shares, the SFC Interoompany Claims and all other SFC Assets assigned, transferred and conveyed to Newco and/or Newco II pursuant to section 6.4) shall be deemed to vest absolutely in Newco or Newco II, as applicable, free and clear of and from any and all Charges, Claims (including, notwithstanding anything to the contrary herein, any Unaffected Claims), D&O Claims, D&O Indemnity Claims, Section 5.1(2) D&O Claims, Conspiracy Claims, Continuing Other D&O Claims, Non-Released D&O Claims, Affected Claims, Class Action Claims, Class Action Indemnity Claims, claims or rights of any kind in respect of the Notes or the Note Indentures, and any right or claim that is based in whole or in part on facts, underlying transactions, Causes of Action or events relating to the Restructuring Transaction, the CCAA Proceedings or any of the foregoing, and any guarantees or indemnities with respect to any of the foregoing. Any Encumbrances or claims affecting, attaching to or relating to the SFC Assets in respect of the foregoing shall be deemed to be irrevocably expunged and discharged as against the SFC Assets, and no such Encumbrances or claims shall be pursued or enforceable as against Newco or Newco II. For greater certainty, with respect to the Subsidiaries, Greenheart and Greenheart's direct and indirect subsidiaries: (i) the vesting free and clear in Newco and/or Newco II, as applicable, and the expunging and discharging that occurs by operation of this paragraph shall only apply to SFC's ownership interests in the Subsidiaries, Greenheart and Greenheart's subsidiaries; and (ii) except as provided for in the Plan (including this section 6.6(a) and sections 4.9(g), 6.4(k), 6.4(l) and 6.4(m) hereof and Article 7 hereof) and the Sanction Order, the assets, liabilities, business and property of the Subsidiaries, Greenheart and Greenheart's direct and indirect subsidiaries shall remain unaffected by the Restructuring Transaction.
- (b) Any issuance, assignment, transfer or conveyance of any securities, interests, rights or claims pursuant to the Plan, including the Newco Shares, the Newco Notes and the Affected Creditor Claims, will be free and clear of and from any and all Charges, Claims (including, notwithstanding anything to the contrary herein, any Unaffected Claims), D&O Claims, D&O Indemnity Claims, Affected

Claims, Section 5.1(2) D&O Claims; Conspiracy Claims; Continuing Other D&O Claims, Non-Released D&O Claims; Class Action Claims, Class Action Indemnity Claims, claims or rights of any kind in respect of the Notes or the Note Indentures, and any right or claim that is based in whole or in part on facts, underlying transactions, Causes of Action or events relating to the Restructuring Transaction, the CCAA Proceedings or any of the foregoing, and any guarantees or indemnities with respect to any of the foregoing. For greater certainty, with respect to the Subsidiaries, Greenheart and Greenheart's direct and indirect subsidiaries: (i) the vesting free and clear in Newco and Newco II that occurs by operation of this paragraph shall only apply to SFC's direct and indirect ownership interests in the Subsidiaries, Greenheart and Greenheart's direct and indirect subsidiaries; and (ii) except as provided for in the Plan (including section 6.6(a) and sections 4.9(g), 6.4(k), 6.4(l) and 6.4(m) hereof and Article 7 hereof) and the Sanction Order, the assets, liabilities, business and property of the Subsidiaries, Greenheart and Greenheart's direct and indirect subsidiaries shall remain unaffected by the Restructuring Transaction.

ARTICLE 7 RELEASES

7.1 Plan Releases

Subject to 7.2 hereof, all of the following shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred on the Plan Implementation Date:

- (a) all Affected Claims, including all Affected Creditor Claims, Equity Claims, D&O Claims (other than Section 5.1(2) D&O Claims, Conspiracy Claims, Continuing Other D&O Claims and Non-Released D&O Claims), D&O Indemnity Claims (except as set forth in section 7.1(d) hereof) and Noteholder Class Action Claims (other than the Continuing Noteholder Class Action Claims);
- (b) all Claims of the Ontario Securities Commission or any other Governmental Entity that have or could give rise to a monetary liability, including fines, awards, penalties, costs, claims for reimbursement or other claims having a monetary value;
- (c) all Class Action Claims (including the Noteholder Class Action Claims) against SFC, the Subsidiaries or the Named Directors or Officers of SFC or the Subsidiaries (other than Class Action Claims that are Section 5.1(2) D&O Claims, Conspiracy Claims or Non-Released D&O Claims);
- (d) all Class Action Indemnity Claims (including related D&O Indemnity Claims), other than any Class Action Indemnity Claim by the Third Party Defendants against SFC in respect of the Indemnified Noteholder Class Action Claims (including any D&O Indemnity Claim in that respect), which shall be limited to the Indemnified Noteholder Class Action Limit pursuant to the releases set out in section 7.1(f) hereof and the injunctions set out in section 7.3 hereof;

- (e) any portion or amount of liability of the Third Party Defendants for the Indemnified Noteholder Class Action Claims (on a collective, aggregate basis in reference to all Indemnified Noteholder Class Action Claims together) that exceeds the Indemnified Noteholder Class Action Limit;
- (f) any portion or amount of liability of the Underwriters for the Noteholder Class Action Claims (other than any Noteholder Class Action Claims against the Underwriters for fraud or criminal conduct) (on a collective, aggregate basis in reference to all such Noteholder Class Action Claims together) that exceeds the Indemnified Noteholder Class Action Limit;
- (g) any portion or amount of, or liability of SFC for, any Class Action Indemnity Claims by the Third Party Defendants against SFC in respect of the Indemnified Noteholder Class Action Claims (on a collective, aggregate basis in reference to all such Class Action Indemnity Claims together) to the extent that such Class Action Indemnity Claims exceed the Indemnified Noteholder Class Action Limit;
- (h) any and all Excluded Litigation Trust Claims;
- (i) any and all Causes of Action against Newco, Newco II, the directors and officers of Newco, the directors and officers of Newco II, the Noteholders, members of the *ad hoc* committee of Noteholders, the Trustees, the Transfer Agent, the Monitor, FTI Consulting Canada Inc., FTI HK, counsel for the current Directors of SFC, counsel for the Monitor, counsel for the Trustees, the SFC Advisors, the Noteholder Advisors, and each and every member (including members of any committee or governance council), partner or employee of any of the foregoing, for or in connection with or in any way relating to: any Claims (including, notwithstanding anything to the contrary herein, any Unaffected Claims); Affected Claims; Section 5.1(2) D&O Claims; Conspiracy Claims; Continuing Other D&O Claims; Non-Released D&O Claims; Class Action Claims; Class Action Indemnity Claims; any right or claim in connection with or liability for the Notes or the Note Indentures; any guarantees, indemnities, claims for contribution, share pledges or Encumbrances related to the Notes or the Note Indentures; any right or claim in connection with or liability for the Existing Shares, Equity Interests or any other securities of SFC; any rights or claims of the Third Party Defendants relating to SFC or the Subsidiaries;
- (j) any and all Causes of Action against Newco, Newco II, the directors and officers of Newco, the directors and officers of Newco II, the Noteholders, members of the *ad hoc* committee of Noteholders, the Trustees, the Transfer Agent, the Monitor, FTI Consulting Canada Inc., FTI HK, the Named Directors and Officers, counsel for the current Directors of SFC, counsel for the Monitor, counsel for the Trustees, the SFC Advisors, the Noteholder Advisors, and each and every member (including members of any committee or governance council), partner or employee of any of the foregoing, based in whole or in part on any act, omission, transaction, duty, responsibility, indebtedness, liability, obligation, dealing or other occurrence existing or taking place on or prior to the Plan Implementation

Date (or, with respect to actions taken pursuant to the Plan after the Plan Implementation Date, the date of such actions) in any way relating to, arising out of, leading up to, for, or in connection with the CCAA Proceeding, RSA, the Restructuring Transaction, the Plan, any proceedings commenced with respect to or in connection with the Plan, or the transactions contemplated by the RSA and the Plan, including the creation of Newco and/or Newco II and the creation, issuance or distribution of the Newco Shares, the Newco Notes, the Litigation Trust or the Litigation Trust Interests, provided that nothing in this paragraph shall release or discharge any of the Persons listed in this paragraph from or in respect of any obligations any of them may have under or in respect of the RSA, the Plan or under or in respect of any of Newco, Newco II, the Newco Shares, the Newco Notes, the Litigation Trust or the Litigation Trust Interests, as the case may be;

- (k) any and all Causes of Action against the Subsidiaries for or in connection with any Claim (including, notwithstanding anything to the contrary herein, any Unaffected Claim); any Affected Claim (including any Affected Creditor Claim, Equity Claim, D&O Claim, D&O Indemnity Claim and Noteholder Class Action Claim); any Section 5.1(2) D&O Claim; any Conspiracy Claim; any Continuing Other D&O Claim; any Non-Released D&O Claim; any Class Action Claim; any Class Action Indemnity Claim; any right or claim in connection with or liability for the Notes or the Note Indentures; any guarantees, indemnities, share pledges or Encumbrances relating to the Notes or the Note Indentures; any right or claim in connection with or liability for the Existing Shares, Equity Interests or any other securities of SFC; any rights or claims of the Third Party Defendants relating to SFC or the Subsidiaries; any right or claim in connection with or liability for the RSA, the Plan, the CCAA Proceedings, the Restructuring Transaction, the Litigation Trust, the business and affairs of SFC and the Subsidiaries (whenever or however conducted), the administration and/or management of SFC and the Subsidiaries, or any public filings, statements, disclosures or press releases relating to SFC; any right or claim in connection with or liability for any indemnification obligation to Directors or Officers of SFC or the Subsidiaries pertaining to SFC, the Notes, the Note Indentures, the Existing Shares, the Equity Interests, any other securities of SFC or any other right, claim or liability for or in connection with the RSA, the Plan, the CCAA Proceedings, the Restructuring Transaction, the Litigation Trust, the business and affairs of SFC (whenever or however conducted), the administration and/or management of SFC, or any public filings, statements, disclosures or press releases relating to SFC; any right or claim in connection with or liability for any guaranty, indemnity or claim for contribution in respect of any of the foregoing; and any Encumbrance in respect of the foregoing;
- (l) all Subsidiary Intercompany Claims as against SFC (which are assumed by Newco and then Newco II pursuant to the Plan);
- (m) any entitlements of Ernst & Young to receive distributions of any kind (including Newco Shares, Newco Notes and Litigation Trust Interests) under this Plan;

- (n) any entitlements of the Named Third Party Defendants to receive distributions of any kind (including Newco Shares, Newco Notes and Litigation Trust Interests) under this Plan; and
- (o) any entitlements of the Underwriters to receive distributions of any kind (including Newco Shares, Newco Notes and Litigation Trust Interests) under this Plan.

7.2 Claims Not Released

Notwithstanding anything to the contrary in section 7.1 hereof, nothing in this Plan shall waive, compromise, release, discharge, cancel or bar any of the following:

- (a) SFC of its obligations under the Plan and the Sanction Order;
- (b) SFC from or in respect of any Unaffected Claims (provided that recourse against SFC in respect of Unaffected Claims shall be limited in the manner set out in section 4.2 hereof);
- (c) any Directors or Officers of SFC or the Subsidiaries from any Non-Released D&O Claims, Conspiracy Claims or any Section 5.1(2) D&O Claims, provided that recourse against the Named Directors or Officers of SFC in respect of any Section 5.1(2) D&O Claims and any Conspiracy Claims shall be limited in the manner set out in section 4.9(e) hereof;
- (d) any Other Directors and/or Officers from any Continuing Other D&O Claims, provided that recourse against the Other Directors and/or Officers in respect of the Indemnified Noteholder Class Action Claims shall be limited in the manner set out in section 4.4(b)(i) hereof;
- (e) the Third Party Defendants from any claim, liability or obligation of whatever nature for or in connection with the Class Action Claims, provided that the maximum aggregate liability of the Third Party Defendants collectively in respect of the Indemnified Noteholder Class Action Claims shall be limited to the Indemnified Noteholder Class Action Limit pursuant to section 4.4(b)(i) hereof and the releases set out in sections 7.1(e) and 7.1(f) hereof and the injunctions set out in section 7.3 hereof;
- (f) Newco II from any liability to the applicable Subsidiaries in respect of the Subsidiary Intercompany Claims assumed by Newco II pursuant to section 6.4(x) hereof;
- (g) the Subsidiaries from any liability to Newco II in respect of the SFC Intercompany Claims conveyed to Newco II pursuant to section 6.4(x) hereof;
- (h) SFC of or from any investigations by or non-monetary remedies of the Ontario Securities Commission, provided that, for greater certainty, all monetary rights, claims or remedies of the Ontario Securities Commission against SFC shall be

treated as Affected Creditor Claims in the manner described in section 4.1 hereof and released pursuant to section 7.1(b) hereof;

- (i) the Subsidiaries from their respective indemnification obligations (if any) to Directors or Officers of the Subsidiaries that relate to the ordinary course operations of the Subsidiaries and that have no connection with any of the matters listed in section 7.1(i) hereof;
- (j) SFC or the Directors and Officers from any Insured Claims, provided that recovery for Insured Claims shall be irrevocably limited to recovery solely from the proceeds of Insurance Policies paid or payable on behalf of SFC or its Directors and Officers in the manner set forth in section 2.4 hereof;
- (k) insurers from their obligations under insurance policies; and
- (l) any Released Party for fraud or criminal conduct.

7.3 Injunctions

All Persons are permanently and forever barred, estopped, stayed and enjoined, on and after the Effective Time, with respect to any and all Released Claims, from (i) commencing, conducting or continuing in any manner, directly or indirectly, any action, suits, demands or other proceedings of any nature or kind whatsoever (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against the Released Parties; (ii) enforcing, levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, decree or order against the Released Parties or their property; (iii) commencing, conducting or continuing in any manner, directly or indirectly, any action, suits or demands, including without limitation, by way of contribution or indemnity or other relief, in common law, or in equity, breach of trust or breach of fiduciary duty or under the provisions of any statute or regulation, or other proceedings of any nature or kind whatsoever (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against any Person who makes such a claim or might reasonably be expected to make such a claim, in any manner or forum, against one or more of the Released Parties; (iv) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any lien or encumbrance of any kind against the Released Parties or their property; or (v) taking any actions to interfere with the implementation or consummation of this Plan; provided, however, that the foregoing shall not apply to the enforcement of any obligations under the Plan.

7.4 Timing of Releases and Injunctions

All releases and injunctions set forth in this Article 7 shall become effective on the Plan Implementation Date at the time or times and in the manner set forth in section 6.4 hereof.

7.5 Equity Class Action Claims Against the Third Party Defendants

Subject only to Article 11 hereof, and notwithstanding anything else to the contrary in this Plan, any Class Action Claim against the Third Party Defendants that relates to the purchase, sale or ownership of Existing Shares or Equity Interests; (a) is unaffected by this Plan; (b) is not

discharged, released, cancelled or barred pursuant to this Plan; (c) shall be permitted to continue as against the Third Party Defendants; (d) shall not be limited or restricted by this Plan in any manner as to quantum or otherwise (including any collection or recovery for any such Class Action Claim that relates to any liability of the Third Party Defendants for any alleged liability of SFC); and (e) does not constitute an Equity Claim or an Affected Claim under this Plan.

ARTICLE 8 COURT SANCTION

8.1 Application for Sanction Order

If the Plan is approved by the Required Majority, SFC shall apply for the Sanction Order on or before the date set for the hearing of the Sanction Order or such later date as the Court may set.

8.2 Sanction Order

The Sanction Order shall, among other things:

- (a) declare that: (i) the Plan has been approved by the Required Majority in conformity with the CCAA; (ii) the activities of SFC have been in reasonable compliance with the provisions of the CCAA and the Orders of the Court made in this CCAA Proceeding in all respects; (iii) the Court is satisfied that SFC has not done or purported to do anything that is not authorized by the CCAA; and (iv) the Plan and the transactions contemplated thereby are fair and reasonable;
- (b) declare that the Plan and all associated steps, compromises, releases, discharges, cancellations, transactions, arrangements and reorganizations effected thereby are approved, binding and effective as herein set out as of the Plan Implementation Date;
- (c) confirm the amount of each of the Unaffected Claims Reserve, the Administration Charge Reserve and the Monitor's Post-Implementation Reserve;
- (d) declare that, on the Plan Implementation Date, all Affected Claims shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred, subject only to the right of the applicable Persons to receive the distributions to which they are entitled pursuant to the Plan;
- (e) declare that, on the Plan Implementation Date, the ability of any Person to proceed against SFC or the Subsidiaries in respect of any Released Claims shall be forever discharged and restrained, and all proceedings with respect to, in connection with or relating to any such matter shall be permanently stayed;
- (f) declare that the steps to be taken, the matters that are deemed to occur and the compromises and releases to be effective on the Plan Implementation Date are deemed to occur and be effected in the sequential order contemplated by section 6.4, beginning at the Effective Time;

- (g) declare that, on the Plan Implementation Date, the SFC Assets vest absolutely in Newco and that, in accordance with section 6.4(x) hereof, the SFC Assets transferred by Newco to Newco II vest absolutely in Newco II, in each case in accordance with the terms of section 6.6(a) hereof;
- (h) confirm that the Court was satisfied that: (i) the hearing of the Sanction Order was open to all of the Affected Creditors and all other Persons with an interest in SFC and that such Affected Creditors and other Persons were permitted to be heard at the hearing in respect of the Sanction Order; (ii) prior to the hearing, all of the Affected Creditors and all other Persons on the service list in respect of the CCAA Proceeding were given adequate notice thereof;
- (i) provide that the Court was advised prior to the hearing in respect of the Sanction Order that the Sanction Order will be relied upon by SFC and Newco as an approval of the Plan for the purpose of relying on the exemption from the registration requirements of the United States Securities Act of 1933, as amended, pursuant to Section 3(a)(10) thereof for the issuance of the Newco Shares, Newco Notes and, to the extent they may be deemed to be securities, the Litigation Trust Interests, and any other securities to be issued pursuant to the Plan;
- (j) declare that all obligations, agreements or leases to which (i) SFC remains a party on the Plan Implementation Date, or (ii) Newco and/or Newco II becomes a party as a result of the conveyance of the SFC Assets to Newco and the further conveyance of the SFC Assets to Newco II on the Plan Implementation Date, shall be and remain in full force and effect, unamended, as at the Plan Implementation Date and no party to any such obligation or agreement shall on or following the Plan Implementation Date, accelerate, terminate, refuse to renew, rescind, refuse to perform or otherwise disclaim or resiliate its obligations thereunder, or enforce or exercise (or purport to enforce or exercise) any right or remedy under or in respect of any such obligation or agreement, by reason:
 - (i) of any event which occurred prior to, and not continuing after, the Plan Implementation Date, or which is or continues to be suspended or waived under the Plan, which would have entitled any other party thereto to enforce those rights or remedies;
 - (ii) that SFC sought or obtained relief or has taken steps as part of the Plan or under the CCAA;
 - (iii) of any default or event of default arising as a result of the financial condition or insolvency of SFC;
 - (iv) of the completion of any of the transactions contemplated under the Plan, including the transfer, conveyance and assignment of the SFC Assets to Newco and the further transfer, conveyance and assignment of the SFC Assets by Newco to Newco II; or

- (v) of any compromises, settlements, restructurings, recapitalizations or reorganizations effected pursuant to the Plan;
- (k) stay the commencing, taking, applying for or issuing or continuing any and all steps or proceedings, including without limitation, administrative hearings and orders, declarations or assessments, commenced, taken or proceeded with or that may be commenced, taken or proceed with to advance any Released Claims;
- (l) stay as against Ernst & Young the commencing, taking, applying for or issuing or continuing any and all steps or proceedings (other than all steps or proceedings to implement the Ernst & Young Settlement) pursuant to the terms of the Order of the Honourable Justice Morawetz dated May 8, 2012 between (i) the Plan Implementation Date and (ii) the earlier of the Ernst & Young Settlement Date or such other date as may be ordered by the Court on a motion to the Court on reasonable notice to Ernst & Young;
- (m) declare that in no circumstances will the Monitor have any liability for any of SFC's tax liability regardless of how or when such liability may have arisen;
- (n) authorize the Monitor to perform its functions and fulfil its obligations under the Plan to facilitate the implementation of the Plan;
- (o) direct and deem the Trustees to release, discharge and cancel any guarantees, indemnities, Encumbrances or other obligations owing by or in respect of any Subsidiary relating to the Notes or the Note Indentures;
- (p) declare that upon completion by the Monitor of its duties in respect of SFC pursuant to the CCAA and the Orders, the Monitor may file with the Court a certificate of Plan Implementation stating that all of its duties in respect of SFC pursuant to the CCAA and the Orders have been completed and thereupon, FTI Consulting Canada Inc. shall be deemed to be discharged from its duties as Monitor and released of all claims relating to its activities as Monitor; and
- (q) declare that, on the Plan Implementation Date, each of the Charges shall be discharged, released and cancelled, and that any obligations secured thereby shall satisfied pursuant to section 4.2(b) hereof, and that from and after the Plan Implementation Date the Administration Charge Reserve shall stand in place of the Administration Charge as security for the payment of any amounts secured by the Administration Charge;
- (r) declare that the Monitor may not make any payment from the Monitor's Post-Implementation Plan Reserve to any third party professional services provider (other than its counsel) that exceeds \$250,000 (alone or in a series of related payments) without the prior consent of the Initial Consenting Noteholders or an Order of the Court;
- (s) declare that SFC and the Monitor may apply to the Court for advice and direction in respect of any matters arising from or under the Plan;

- (t) declare that, subject to the due performance of its obligations as set forth in the Plan and subject to its compliance with any written directions or instructions of the Monitor and/or directions of the Court in the manner set forth in the Plan, SFC Escrow Co. shall have no liabilities whatsoever arising from the performance of its obligations under the Plan;
- (u) order and declare that all Persons with Unresolved Claims shall have standing in any proceeding in respect of the determination or status of any Unresolved Claim, and that Goodmans LLP (in its capacity as counsel to the Initial Consenting Noteholders) shall have standing in any such proceeding on behalf of the Initial Consenting Noteholders (in their capacity as Affected Creditors with Proven Claims);
- (v) order and declare that, from and after the Plan Implementation Date, Newco will be permitted, in its sole discretion and on terms acceptable to Newco, to advance additional cash amounts to the Litigation Trustee from time to time for the purpose of providing additional financing to the Litigation Trust, including the provision of such additional amounts as a non-interest bearing loan to the Litigation Trust that is repayable to Newco on similar terms and conditions as the Litigation Funding Receivable;
- (w) order and declare that: (i) subject to the prior consent of the Initial Consenting Noteholders, each of the Monitor and the Litigation Trustee shall have the right to seek and obtain an order from any court of competent jurisdiction, including an Order of the Court in the CCAA or otherwise, that gives effect to any releases of any Litigation Trust Claims agreed to by the Litigation Trustee in accordance with the Litigation Trust Agreement, and (ii) in accordance with this section 8.2(w), all Affected Creditors shall be deemed to consent to any such releases in any such proceedings;
- (x) order and declare that, prior to the Effective Time, SFC shall: (i) preserve or cause to be preserved copies of any documents (as such term is defined in the *Rules of Civil Procedure* (Ontario)) that are relevant to the issues raised in the Class Actions; and (ii) make arrangements acceptable to SFC, the Monitor, the Initial Consenting Noteholders, counsel to Ontario Class Action Plaintiffs, counsel to Ernst & Young, counsel to the Underwriters and counsel to the Named Third Party Defendants to provide the parties to the Class Actions with access thereto, subject to customary commercial confidentiality, privilege or other applicable restrictions, including lawyer-client privilege, work product privilege and other privileges or immunities, and to restrictions on disclosure arising from s. 16 of the *Securities Act* (Ontario) and comparable restrictions on disclosure in other relevant jurisdictions, for purposes of prosecuting and/or defending the Class Actions, as the case may be, provided that nothing in the foregoing reduces or otherwise limits the parties' rights to production and discovery in accordance with the *Rules of Civil Procedure* (Ontario) and the *Class Proceedings Act, 1992* (Ontario);

- (y) order that releases and injunctions set forth in Article 7 of this Plan are effective on the Plan Implementation Date at the time or times and in the manner set forth in section 6.4 hereof;
- (z) order that the Ernst & Young Release shall become effective on the Ernst & Young Settlement Date in the manner set forth in section 11.1 hereof;
- (aa) order that any Named Third Party Defendant Releases shall become effective if and when the terms and conditions of sections 11.2(a), 11.2(b), 11.2(c) have been fulfilled;
- (bb) order and declare that the matters described in Article 11 hereof shall occur subject to and in accordance with the terms and conditions of Article 11; and
- (cc) declare that section 95 to 101 of the BIA shall not apply to any of the transactions implemented pursuant to the Plan.

If agreed by SFC, the Monitor and the Initial Consenting Noteholders, any of the relief to be included in the Sanction Order pursuant to this section 8.2 in respect of matters relating to the Litigation Trust may instead be included in a separate Order of the Court satisfactory to SFC, the Monitor and the Initial Consenting Noteholders granted prior to the Plan Implementation Date.

ARTICLE 9 CONDITIONS PRECEDENT AND IMPLEMENTATION

9.1 Conditions Precedent to Implementation of the Plan

The implementation of the Plan shall be conditional upon satisfaction or waiver of the following conditions prior to or at the Effective Time, each of which is for the benefit of SFC and the Initial Consenting Noteholders and may be waived only by SFC and the Initial Consenting Noteholders collectively; provided, however, that the conditions in sub-paragraphs (g), (h), (n), (o), (q), (r), (u), (z), (ff), (gg), (mm), (ll) and (nn) shall only be for the benefit of the Initial Consenting Noteholders and, if not satisfied on or prior to the Effective Time, may be waived only by the Initial Consenting Noteholders; and provided further that such conditions shall not be enforceable by SFC if any failure to satisfy such conditions results from an action, error, omission by or within the control of SFC and such conditions shall not be enforceable by the Initial Consenting Noteholders if any failure to satisfy such conditions results from an action, error, omission by or within the control of the Initial Consenting Noteholders:

Plan Approval Matters

- (a) the Plan shall have been approved by the Required Majority and the Court, and in each case the Plan shall have been approved in a form consistent with the RSA or otherwise acceptable to SFC and the Initial Consenting Noteholders, each acting reasonably;
- (b) the Sanction Order shall have been made and shall be in full force and effect prior to December 17, 2012 (or such later date as may be consented to by SFC and the

Initial Consenting Noteholders), and all applicable appeal periods in respect thereof shall have expired and any appeals therefrom shall have been disposed of by the applicable appellate court;

- (c) the Sanction Order shall be in a form consistent with the Plan or otherwise acceptable to SFC and the Initial Consenting Noteholders, each acting reasonably;
- (d) all filings under Applicable Laws that are required in connection with the Restructuring Transaction shall have been made and any regulatory consents or approvals that are required in connection with the Restructuring Transaction shall have been obtained and, in the case of waiting or suspensory periods, such waiting or suspensory periods shall have expired or been terminated; without limiting the generality of the foregoing, such filings and regulatory consents or approvals include:
 - (i) any required filings, consents and approvals of securities regulatory authorities in Canada;
 - (ii) a consultation with the Executive of the Hong Kong Securities and Futures Commission that is satisfactory to SFC, the Monitor and the Initial Consenting Noteholders confirming that implementation of the Restructuring Transaction will not result in an obligation arising for Newco, its shareholders, Newco II or any Subsidiary to make a mandatory offer to acquire shares of Greenheart;
 - (iii) the submission by SFC and each applicable Subsidiary of a Circular 698 tax filing with all appropriate tax authorities in the PRC within the requisite time prior to the Plan Implementation Date, such filings to be in form and substance satisfactory to the Initial Consenting Noteholders; and
 - (iv) if notification is necessary or desirable under the *Antimonopoly Law of People's Republic of China* and its implementation rules, the submission of all antitrust filings considered necessary or prudent by the Initial Consenting Noteholders and the acceptance and (to the extent required) approval thereof by the competent Chinese authority, each such filing to be in form and substance satisfactory to the Initial Consenting Noteholders;
- (e) there shall not be in effect any preliminary or final decision, order or decree by a Governmental Entity, no application shall have been made to any Governmental Entity, and no action or investigation shall have been announced, threatened or commenced by any Governmental Entity, in consequence of or in connection with the Restructuring Transaction that restrains, impedes or prohibits (or if granted could reasonably be expected to restrain, impede or prohibit) the Restructuring Transaction or any material part thereof or requires or purports to require a variation of the Restructuring Transaction, and SFC shall have provided the Initial Consenting Noteholders with a certificate signed by an officer of SFC, without

personal liability on the part of such officer, certifying compliance with this Section 9.1(e) as of the Plan Implementation Date;

Newco and Newco II Matters

- (f) the organization, incorporating documents, articles, by-laws and other constating documents of Newco and Newco II (including any shareholders agreement, shareholder rights plan and classes of shares (voting and non-voting)) and any affiliated or related entities formed in connection with the Restructuring Transaction or the Plan, and all definitive legal documentation in connection with all of the foregoing, shall be acceptable to the Initial Consenting Noteholders and in form and in substance reasonably satisfactory to SFC;
- (g) the composition of the board of directors of Newco and Newco II and the senior management and officers of Newco and Newco II that will assume office, or that will continue in office, as applicable, on the Plan Implementation Date shall be acceptable to the Initial Consenting Noteholders;
- (h) the terms of employment of the senior management and officers of Newco and Newco II shall be acceptable to the Initial Consenting Noteholders;
- (i) except as expressly set out in this Plan, neither Newco nor Newco II shall have:
 - (i) issued or authorized the issuance of any shares, notes, options, warrants or other securities of any kind, (ii) become subject to any Encumbrance with respect to its assets or property; (iii) become liable to pay any indebtedness or liability of any kind (other than as expressly set out in section 6.4 hereof); or (iv) entered into any Material agreement;
- (j) any securities that are formed in connection with the Plan, including the Newco Shares and the Newco Notes, when issued and delivered pursuant to the Plan, shall be duly authorized, validly issued and fully paid and non-assessable and the issuance and distribution thereof shall be exempt from all prospectus and registration requirements of any applicable securities, corporate or other law, statute, order, decree, consent decree, judgment, rule, regulation, ordinance, notice, policy or other pronouncement having the effect of law applicable in the provinces of Canada;
- (k) Newco shall not be a reporting issuer (or equivalent) in any province of Canada or any other jurisdiction;
- (l) all of the steps, terms, transactions and documents relating to the conveyance of the SFC Assets to Newco and the further conveyance of the SFC Assets by Newco to Newco II in accordance with the Plan shall be in form and in substance acceptable to SFC and the Initial Consenting Noteholders;
- (m) all of the following shall be in form and in substance acceptable to the Initial Consenting Noteholders and reasonably satisfactory to SFC: (i) the Newco Shares; (ii) the Newco Notes (including the aggregate principal amount of the

Newco Notes); (iii) any trust indenture or other document governing the terms of the Newco Notes; and (iv) the number of Newco Shares and Newco Notes to be issued in accordance with this Plan;

Plan Matters

- (n) the Indemnified Noteholder Class Action Limit shall be acceptable to the Initial Consenting Noteholders;
- (o) the aggregate amount of the Frozen Claims held by Ordinary Affected Creditors shall be acceptable to the Initial Consenting Noteholders;
- (p) the amount of each of the Unaffected Claims Reserve and the Administration Charge Reserve shall, in each case, be acceptable to SFC, the Monitor and the Initial Consenting Noteholders;
- (q) the amount of the Monitor's Post-Implementation Reserve and the amount of any Permitted Continuing Retainers shall be acceptable to the Initial Consenting Noteholders, and the Initial Consenting Noteholders shall be satisfied that all outstanding monetary retainers held by any SFC Advisors (net of any Permitted Continuing Retainers) have been repaid to SFC on the Plan Implementation Date;
- (r) **[Intentionally deleted];**
- (s) the amount of each of the following shall be acceptable to SFC, the Monitor and the Initial Consenting Noteholders: (i) the aggregate amount of Lien Claims to be satisfied by the return to the applicable Lien Claimants of the applicable secured property in accordance with section 4.2(c)(i) hereof; and (ii) the aggregate amount of Lien Claims to be repaid in cash on the Plan Implementation Date in accordance with section 4.2(c)(ii) hereof;
- (t) the aggregate amount of Unaffected Claims, and the aggregate amount of the Claims listed in each subparagraph of the definition of "Unaffected Claims" shall, in each case, be acceptable to SFC, the Monitor and the Initial Consenting Noteholders;
- (u) the aggregate amount of Unresolved Claims and the amount of the Unresolved Claims Reserve shall, in each case, be acceptable to the Initial Consenting Noteholders and shall be confirmed in the Sanction Order;
- (v) Litigation Trust and the Litigation Trust Agreement shall be in form and in substance acceptable to SFC and the Initial Consenting Noteholders, each acting reasonably, and the Litigation Trust shall be established in a jurisdiction that is acceptable to the Initial Consenting Noteholders and SFC, each acting reasonably;
- (w) SFC, the Monitor and the Initial Consenting Noteholders, each acting reasonably, shall be satisfied with the proposed use of proceeds and payments relating to all aspects of the Restructuring Transaction and the Plan, including, without

limitation, any change of control payments, consent fees, transaction fees, third party fees or termination or severance payments, in the aggregate of \$500,000 or more, payable by SFC or any Subsidiary to any Person (other than a Governmental Entity) in respect of or in connection with the Restructuring Transaction or the Plan, including without limitation, pursuant to any employment agreement or incentive plan of SFC or any Subsidiary;

- (x) SFC, the Monitor and the Initial Consenting Noteholders, each acting reasonably, shall be satisfied with the status and composition of all liabilities, indebtedness and obligations of the Subsidiaries and all releases of the Subsidiaries provided for in the Plan and the Sanction Order shall be binding and effective as of the Plan Implementation Date;

Plan Implementation Date Matters

- (y) the steps required to complete and implement the Plan shall be in form and in substance satisfactory to SFC and the Initial Consenting Noteholders;
- (z) the Noteholders and the Early Consent Noteholders shall receive, on the Plan Implementation Date, all of the consideration to be distributed to them pursuant to the Plan;
- (aa) all of the following shall be in form and in substance satisfactory to SFC and the Initial Consenting Noteholders: (i) all materials filed by SFC with the Court or any court of competent jurisdiction in the United States, Canada, Hong Kong, the PRC or any other jurisdiction that relates to the Restructuring Transaction; (ii) the terms of any court-imposed charges on any of the assets, property or undertaking of any of SFC, including without limitation any of the Charges; (iii) the Initial Order; (iv) the Claims Procedure Order; (v) the Meeting Order; (vi) the Sanction Order; (vii) any other Order granted in connection with the CCAA Proceeding or the Restructuring Transaction by the Court or any other court of competent jurisdiction in Canada, the United States, Hong Kong, the PRC or any other jurisdiction; and (viii) the Plan (as it is approved by the Required Majority and the Sanction Order);
- (bb) any and all court-imposed charges on any assets, property or undertaking of SFC, including the Charges, shall be discharged on the Plan Implementation Date on terms acceptable to the Initial Consenting Noteholders and SFC, each acting reasonably;
- (cc) SFC shall have paid, in full, the Expense Reimbursement and all fees and costs owing to the SFC Advisors on the Plan Implementation Date, and neither Newco nor Newco II shall have any liability for any fees or expenses due to the SFC Advisors or the Noteholder Advisors either as at or following the Plan Implementation Date;
- (dd) SFC or the Subsidiaries shall have paid, in full all fees owing to each of Chandler Fraser Keating Limited and Spencer Stuart on the Plan Implementation Date, and

neither Newco nor Newco II shall have any liability for any fees or expenses due to either Chandler Fraser Keating Limited and Spencer Stuart as at or following the Plan Implementation Date;

- (ee) SFC shall have paid all Trustee Claims that are outstanding as of the Plan Implementation Date, and the Initial Consenting Noteholders shall be satisfied that SFC has made adequate provision in the Unaffected Claims Reserve for the payment of all Trustee Claims to be incurred by the Trustees after the Plan Implementation Date in connection with the performance of their respective duties under the Note Indentures or this Plan;
- (ff) there shall not exist or have occurred any Material Adverse Effect, and SFC shall have provided the Initial Consenting Noteholders with a certificate signed by an officer of the Company, without any personal liability on the part of such officer, certifying compliance with this section 9.1(ff) as of the Plan Implementation Date;
- (gg) there shall have been no breach of the Noteholder Confidentiality Agreements (as defined in the RSA) by SFC or any of the Sino-Forest Representatives (as defined therein) in respect of the applicable Initial Consenting Noteholder;
- (hh) the Plan Implementation Date shall have occurred no later than January 15, 2013 (or such later date as may be consented to by SFC and the Initial Consenting Noteholders);

RSA Matters

- (ii) all conditions set out in sections 6 and 7 of the RSA shall have been satisfied or waived in accordance with the terms of the RSA;
- (jj) the RSA shall not have been terminated;

Other Matters

- (kk) the organization, incorporating documents, articles, by-laws and other constituting documents of SFC Escrow Co. and all definitive legal documentation in connection with SFC Escrow Co., shall be acceptable to the Initial Consenting Noteholders and the Monitor and in form and in substance reasonably satisfactory to SFC;
- (ll) except as expressly set out in this Plan, SFC Escrow Co. shall not have: (i) issued or authorized the issuance of any shares, notes, options, warrants or other securities of any kind, (ii) become subject to any Encumbrance with respect to its assets or property; (iii) acquired any assets or become liable to pay any indebtedness or liability of any kind (other than as expressly set out in this Plan); or (iv) entered into any agreement;

- (mm) the Initial Consenting Noteholders shall have completed due diligence in respect of SFC and the Subsidiaries and the results of such due diligence shall be acceptable to the Initial Consenting Noteholders prior to the date for the hearing of the Sanction Order, except in respect of any new material information or events arising or discovered on or after the date of the hearing for the Sanction Order of which the Initial Consenting Noteholders were previously unaware, in respect of which the date for the Initial Consenting Noteholders to complete such due diligence shall be the Plan Implementation Date, provided that "new material information or events" for purposes of this Section 9.1(mm) shall not include any information or events disclosed prior to the date of the hearing for the Sanction Order in a press release issued by SFC, an affidavit filed with the Court by SFC or a Monitor's Report filed with the Court;
- (nn) if so requested by the Initial Consenting Noteholders, the Sanction Order shall have been recognized and confirmed as binding and effective pursuant to an order of a court of competent jurisdiction in Canada and any other jurisdiction requested by the Initial Consenting Noteholders, and all applicable appeal periods in respect of any such recognition order shall have expired and any appeals therefrom shall have been disposed of by the applicable appellate court;
- (oo) all press releases, disclosure documents and definitive agreements in respect of the Restructuring Transaction or the Plan shall be in form and substance satisfactory to SFC and the Initial Consenting Noteholders, each acting reasonably; and
- (pp) Newco and SFC shall have entered into arrangements reasonably satisfactory to SFC and the Initial Consenting Noteholders for ongoing preservation and access to the books and records of SFC and the Subsidiaries in existence as at the Plan Implementation Date, as such access may be reasonably requested by SFC or any Director or Officer in the future in connection with any administrative or legal proceeding, in each such case at the expense of the Person making such request.

For greater certainty, nothing in Article 11 hereof is a condition precedent to the implementation of the Plan.

9.2 Monitor's Certificate of Plan Implementation

Upon delivery of written notice from SFC and Goodmans LLP (on behalf of the Initial Consenting Noteholders) of the satisfaction of the conditions set out in section 9.1, the Monitor shall deliver to Goodmans LLP and SFC a certificate stating that the Plan Implementation Date has occurred and that the Plan and the Sanction Order are effective in accordance with their respective terms. Following the Plan Implementation Date, the Monitor shall file such certificate with the Court.

ARTICLE 10
ALTERNATIVE SALE TRANSACTION

10.1 Alternative Sale Transaction

At any time prior to the Plan Implementation Date (whether prior to or after the granting of the Sanction Order), and subject to the prior written consent of the Initial Consenting Noteholders, SFC may complete a sale of all or substantially all of the SFC Assets on terms that are acceptable to the Initial Consenting Noteholders (an "Alternative Sale Transaction"), provided that such Alternative Sale Transaction has been approved by the Court pursuant to section 36 of the CCAA on notice to the service list. In the event that such an Alternative Sale Transaction is completed, the terms and conditions of this Plan shall continue to apply in all respects, subject to the following:

- (a) The Newco Shares and Newco Notes shall not be distributed in the manner contemplated herein. Instead, the consideration paid or payable to SFC pursuant to the Alternative Sale Transaction (the "Alternative Sale Transaction Consideration") shall be distributed to the Persons entitled to receive Newco Shares hereunder, and such Persons shall receive the Alternative Sale Transaction Consideration in the same proportions and subject to the same terms and conditions as are applicable to the distribution of Newco Shares hereunder.
- (b) All provisions in this Plan that address Newco or Newco II shall be deemed to be ineffective to the extent that they address Newco or Newco II, given that Newco and Newco II will not be required in connection with an Alternative Sale Transaction.
- (c) All provisions addressing the Newco Notes shall be deemed to be ineffective to the extent such provisions address the Newco Notes, given that the Newco Notes will not be required in connection with an Alternative Sale Transaction.
- (d) All provisions relating to the Newco Shares shall be deemed to address the Alternative Sale Transaction Consideration to the limited extent such provisions address the Newco Shares.
- (e) SFC, with the written consent of the Monitor and the Initial Consenting Noteholders, shall be permitted to make such amendments, modifications and supplements to the terms and conditions of this Plan as are necessary to: (i) facilitate the Alternative Sale Transaction; (ii) cause the Alternative Sale Transaction Consideration to be distributed in the same proportions and subject to the same terms and conditions as are subject to the distribution of Newco Shares hereunder; and (iii) complete the Alternative Sale Transaction and distribute the Alternative Sale Transaction Proceeds in a manner that is tax efficient for SFC and the Affected Creditors with Proven Claims, provided in each case that (y) a copy of such amendments, modifications or supplements is filed with the Court and served upon the service list; and (z) the Monitor is satisfied that such amendments, modifications or supplements do not materially alter the

proportionate entitlements of the Affected Creditors, as amongst themselves, to the consideration distributed pursuant to the Plan.

Except for the requirement of obtaining the prior written consent of the Initial Consenting Noteholders with respect to the matters set forth in this section 10.1 and subject to the approval of the Alternative Sale Transaction by the Court pursuant to section 36 of the CCAA (on notice to the service list), once this Plan has been approved by the Required Majority of Affected Creditors, no further meeting, vote or approval of the Affected Creditors shall be required to enable SFC to complete an Alternative Sale Transaction or to amend the Plan in the manner described in this 10.1.

ARTICLE 11 SETTLEMENT OF CLAIMS AGAINST THIRD PARTY DEFENDANTS

11.1 Ernst & Young

- (a) Notwithstanding anything to the contrary herein, subject to: (i) the granting of the Sanction Order; (ii) the issuance of the Settlement Trust Order (as may be modified in a manner satisfactory to the parties to the Ernst & Young Settlement and SFC (if occurring on or prior to the Plan Implementation Date), the Monitor and the Initial Consenting Noteholders, as applicable, to the extent, if any, that such modifications affect SFC, the Monitor or the Initial Consenting Noteholders, each acting reasonably); (iii) the granting of an Order under Chapter 15 of the United States Bankruptcy Code recognizing and enforcing the Sanction Order and the Settlement Trust Order in the United States; (iv) any other order necessary to give effect to the Ernst & Young Settlement (the orders referenced in (iii) and (iv) being collectively the "Ernst & Young Orders"); (v) the fulfillment of all conditions precedent in the Ernst & Young Settlement and the fulfillment by the Ontario Class Action Plaintiffs of all of their obligations thereunder; and (vi) the Sanction Order, the Settlement Trust Order and all Ernst & Young Orders being final orders and not subject to further appeal or challenge, Ernst & Young shall pay the settlement amount as provided in the Ernst & Young Settlement to the trust established pursuant to the Settlement Trust Order (the "Settlement Trust"). Upon receipt of a certificate from Ernst & Young confirming it has paid the settlement amount to the Settlement Trust in accordance with the Ernst & Young Settlement and the trustee of the Settlement Trust confirming receipt of such settlement amount, the Monitor shall deliver to Ernst & Young a certificate (the "Monitor's Ernst & Young Settlement Certificate") stating that (i) Ernst & Young has confirmed that the settlement amount has been paid to the Settlement Trust in accordance with the Ernst & Young Settlement; (ii) the trustee of the Settlement Trust has confirmed that such settlement amount has been received by the Settlement Trust; and (iii) the Ernst & Young Release is in full force and effect in accordance with the Plan. The Monitor shall thereafter file the Monitor's Ernst & Young Settlement Certificate with the Court.
- (b) Notwithstanding anything to the contrary herein, upon receipt by the Settlement Trust of the settlement amount in accordance with the Ernst & Young Settlement;

(i) all Ernst & Young Claims shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled, barred and deemed satisfied and extinguished as against Ernst & Young; (ii) section 7.9 hereof shall apply to Ernst & Young and the Ernst & Young Claims *mutatis mutandis* on the Ernst & Young Settlement Date; and (iii) none of the plaintiffs in the Class Actions shall be permitted to claim from any of the other Third Party Defendants that portion of any damages that corresponds to the liability of Ernst & Young, proven at trial or otherwise, that is the subject of the Ernst & Young Settlement.

- (c) In the event that the Ernst & Young Settlement is not completed in accordance with its terms, the Ernst & Young Release and the injunctions described in section 11.1(b) shall not become effective.

11.2 Named Third Party Defendants

- (a) Notwithstanding anything to the contrary in section 12.5(a) or 12.5(b) hereof, at any time prior to 10:00 a.m. (Toronto time) on December 6, 2012 or such later date as agreed in writing by the Monitor, SFC (if on or prior to the Plan Implementation Date) and the Initial Consenting Noteholders, Schedule "A" to this Plan may be amended, restated, modified or supplemented at any time and from time to time to add any Eligible Third Party Defendant as a "Named Third Party Defendant", subject in each case to the prior written consent of such Third Party Defendant, the Initial Consenting Noteholders, counsel to the Ontario Class Action Plaintiffs, the Monitor and, if occurring on or prior to the Plan Implementation Date, SFC. Any such amendment, restatement, modification and/or supplement of Schedule "A" shall be deemed to be effective automatically upon all such required consents being received. The Monitor shall: (A) provide notice to the service list of any such amendment, restatement, modification and/or supplement of Schedule "A"; (B) file a copy thereof with the Court; and (C) post an electronic copy thereof on the Website. All Affected Creditors shall be deemed to consent thereto and no Court Approval thereof will be required.
- (b) Notwithstanding anything to the contrary herein, subject to: (i) the granting of the Sanction Order; (ii) the granting of the applicable Named Third Party Defendant Settlement Order; and (iii) the satisfaction or waiver of all conditions precedent contained in the applicable Named Third Party Defendant Settlement, the applicable Named Third Party Defendant Settlement shall be given effect in accordance with its terms. Upon receipt of a certificate (in form and in substance satisfactory to the Monitor) from each of the parties to the applicable Named Third Party Defendant Settlement confirming that all conditions precedent thereto have been satisfied or waived, and that any settlement funds have been paid and received, the Monitor shall deliver to the applicable Named Third Party Defendant a certificate (the "**Monitor's Named Third Party Settlement Certificate**") stating that (i) each of the parties to such Named Third Party Defendant Settlement has confirmed that all conditions precedent thereto have been satisfied or waived; (ii) any settlement funds have been paid and received; and (iii) immediately upon the delivery of the Monitor's Named Third Party

Settlement Certificate, the applicable Named Third Party Defendant Release will be in full force and effect in accordance with the Plan. The Monitor shall thereafter file the Monitor's Named Third Party Settlement Certificate with the Court.

- (o) Notwithstanding anything to the contrary herein, upon delivery of the Monitor's Named Third Party Settlement Certificate, any claims and Causes of Action shall be dealt with in accordance with the terms of the applicable Named Third Party Defendant Settlement, the Named Third Party Defendant Settlement Order and the Named Third Party Defendant Release. To the extent provided for by the terms of the applicable Named Third Party Defendant Release: (i) the applicable Causes of Action against the applicable Named Third Party Defendant shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled, barred and deemed satisfied and extinguished as against the applicable Named Third Party Defendant; and (ii) section 7.3 hereof shall apply to the applicable Named Third Party Defendant and the applicable Causes of Action against the applicable Named Third Party Defendant *mutatis mutandis* on the effective date of the Named Third Party Defendant Settlement.

ARTICLE 12 GENERAL

12.1 Binding Effect

On the Plan Implementation Date:

- (a) the Plan will become effective at the Effective Time;
- (b) the Plan shall be final and binding in accordance with its terms for all purposes on all Persons named or referred to in, or subject to, the Plan and their respective heirs, executors, administrators and other legal representatives, successors and assigns;
- (c) each Person named or referred to in, or subject to, the Plan will be deemed to have consented and agreed to all of the provisions of the Plan, in its entirety and shall be deemed to have executed and delivered all consents, releases, assignments and waivers, statutory or otherwise, required to implement and carry out the Plan in its entirety.

12.2 Waiver of Defaults

- (a) From and after the Plan Implementation Date, all Persons shall be deemed to have waived any and all defaults of SFC then existing or previously committed by SFC, or caused by SFC, the commencement of the CCAA Proceedings by SFC, any matter pertaining to the CCAA Proceedings, any of the provisions in the Plan or steps contemplated in the Plan; or non-compliance with any covenant, warranty, representation, term, provision, condition or obligation, expressed or implied, in any contract, instrument, credit document, indenture, note, lease,

guarantee, agreement for sale or other agreement, written or oral, and any and all amendments or supplements thereto, existing between such Person and SFC, and any and all notices of default and demands for payment or any step or proceeding taken or commenced in connection therewith under any such agreement shall be deemed to have been rescinded and of no further force or effect, provided that nothing shall be deemed to excuse SFC from performing its obligations under the Plan or be a waiver of defaults by SFC under the Plan and the related documents.

- (b) Effective on the Plan Implementation Date, any and all agreements that are assigned to Newco and/or to Newco II as part of the SFC Assets shall be and remain in full force and effect, unamended, as at the Plan Implementation Date, and no Person shall, following the Plan Implementation Date, accelerate, terminate, rescind, refuse to perform or otherwise repudiate its obligations under, or enforce or exercise any right (including any right of set-off, dilution or other remedy) or make any demand against Newco, Newco II or any Subsidiary under or in respect of any such agreement with Newco, Newco II or any Subsidiary, by reason of:
- (i) any event that occurred on or prior to the Plan Implementation Date that would have entitled any Person thereto to enforce those rights or remedies (including defaults or events of default arising as a result of the insolvency of SFC);
 - (ii) the fact that SFC commenced or completed the CCAA Proceedings;
 - (iii) the implementation of the Plan, or the completion of any of the steps, transactions or things contemplated by the Plan; or
 - (iv) any compromises, arrangements, transactions, releases, discharges or injunctions effected pursuant to the Plan or this Order.

12.3 Deeming Provisions

In the Plan, the deeming provisions are not rebuttable and are conclusive and irrevocable.

12.4 Non-Consummation

SFC reserves the right to revoke or withdraw the Plan at any time prior to the Sanction Date, with the consent of the Monitor and the Initial Consenting Noteholders. If SFC so revokes or withdraws the Plan, or if the Sanction Order is not issued or if the Plan Implementation Date does not occur, (a) the Plan shall be null and void in all respects, (b) any settlement or compromise embodied in the Plan, including the fixing or limiting to an amount certain any Claim, and any document or agreement executed pursuant to the Plan shall be deemed null and void, and (c) nothing contained in the Plan, and no acts taken in preparation for consummation of the Plan, shall (i) constitute or be deemed to constitute a waiver or release of any Claims by or against SFC or any other Person; (ii) prejudice in any manner the rights of SFC or any other Person in any further proceedings involving SFC; or (iii) constitute an admission of any sort by SFC or any other Person.

12.5 Modification of the Plan

- (a) SFC may, at any time and from time to time, amend, restate, modify and/or supplement the Plan with the consent of the Monitor and the Initial Consenting Noteholders, provided that: any such amendment, restatement, modification or supplement must be contained in a written document that is filed with the Court and:
- (i) if made prior to or at the Meeting: (A) the Monitor, SFC or the Chair (as defined in the Meeting Order) shall communicate the details of any such amendment, restatement, modification and/or supplement to Affected Creditors and other Persons present at the Meeting prior to any vote being taken at the Meeting; (B) SFC shall provide notice to the service list of any such amendment, restatement, modification and/or supplement and shall file a copy thereof with the Court forthwith and in any event prior to the Court hearing in respect of the Sanction Order; and (C) the Monitor shall post an electronic copy of such amendment, restatement, modification and/or supplement on the Website forthwith and in any event prior to the Court hearing in respect of the Sanction Order; and
 - (ii) if made following the Meeting: (A) SFC shall provide notice to the service list of any such amendment, restatement, modification and/or supplement and shall file a copy thereof with the Court; (B) the Monitor shall post an electronic copy of such amendment, restatement, modification and/or supplement on the Website; and (C) such amendment, restatement, modification and/or supplement shall require the approval of the Court following notice to the Affected Creditors and the Trustees.
- (b) Notwithstanding section 12.5(a), any amendment, restatement, modification or supplement may be made by SFC: (i) if prior to the Sanction Date, with the consent of the Monitor and the Initial Consenting Noteholders; and (ii) if after the Sanction Date, with the consent of the Monitor and the Initial Consenting Noteholders and upon approval by the Court, provided in each case that it concerns a matter that, in the opinion of SFC, acting reasonably, is of an administrative nature required to better give effect to the implementation of the Plan and the Sanction Order or to cure any errors, omissions or ambiguities and is not materially adverse to the financial or economic interests of the Affected Creditors or the Trustees.
- (c) Any amended, restated, modified or supplementary plan or plans of compromise filed with the Court and, if required by this section, approved by the Court, shall, for all purposes, be and be deemed to be a part of and incorporated in the Plan.

12.6 Actions and Approvals of SFC after Plan Implementation

- (a) From and after the Plan Implementation Date, and for the purpose of this Plan only:

- (i) if SFC does not have the ability or the capacity pursuant to Applicable Law to provide its agreement, waiver, consent or approval to any matter requiring SFC's agreement, waiver, consent or approval under this Plan, such agreement, waiver consent or approval may be provided by the Monitor; and
- (ii) if SFC does not have the ability or the capacity pursuant to Applicable Law to provide its agreement, waiver, consent or approval to any matter requiring SFC's agreement, waiver, consent or approval under this Plan, and the Monitor has been discharged pursuant to an Order, such agreement, waiver consent or approval shall be deemed not to be necessary.

12.7 Consent of the Initial Consenting Noteholders

For the purposes of this Plan, any matter requiring the agreement, waiver, consent or approval of the Initial Consenting Noteholders shall be deemed to have been agreed to, waived, consented to or approved by such Initial Consenting Noteholders if such matter is agreed to, waived, consented to or approved in writing by Goodmans LLP, provided that Goodmans LLP expressly confirms in writing (including by way of e-mail) to the applicable Person that it is providing such agreement, consent or waiver on behalf of Initial Consenting Noteholders. In addition, following the Plan Implementation Date, any matter requiring the agreement, waiver, consent or approval of the Initial Consenting Noteholders shall: (i) be deemed to have been given if agreed to, waived, consented to or approved by Initial Consenting Noteholders in their capacities as holders of Newco Shares, Newco Notes or Litigation Trust Interests (provided that they continue to hold such consideration); and (ii) with respect to any matter concerning the Litigation Trust or the Litigation Trust Claims, be deemed to be given if agreed to, waived, consented to or approved by the Litigation Trustee.

12.8 Claims Not Subject to Compromise

Nothing in this Plan, including section 2.4 hereof, shall prejudice, compromise, release, discharge, cancel, bar or otherwise affect any: (i) Non-Released D&O Claims (except to the extent that such Non-Released D&O Claim is asserted against a Named Director or Officer, in which case section 4.9(g) applies); (ii) Section 5.1(2) D&O Claims or Conspiracy Claims (except that, in accordance with section 4.9(e) hereof, any Section 5.1(2) D&O Claims against Named Directors and Officers and any Conspiracy Claims against Named Directors and Officers shall be limited to recovery from any insurance proceeds payable in respect of such Section 5.1(2) D&O Claims or Conspiracy Claims, as applicable, pursuant to the Insurance Policies, and Persons with any such Section 5.1(2) D&O Claims against Named Directors and Officers or Conspiracy Claims against Named Directors and Officers shall have no right to, and shall not, make any claim or seek any recoveries from any Person, other than enforcing such Persons' rights to be paid from the proceeds of an Insurance Policy by the applicable insurer(s)); or (iii) any Claims that are not permitted to be compromised under section 19(2) of the CCAA.

12.9 Paramountcy

From and after the Effective Time on the Plan Implementation Date, any conflict between:

- (a) the Plan; and
- (b) the covenants, warranties, representations, terms, conditions, provisions or obligations, expressed or implied, of any contract, mortgage, security agreement, indenture, trust indenture, note, loan agreement, commitment letter, agreement for sale, lease or other agreement, written or oral and any and all amendments or supplements thereto existing between any Person and SFC and/or the Subsidiaries as at the Plan Implementation Date,

will be deemed to be governed by the terms, conditions and provisions of the Plan and the Sanction Order, which shall take precedence and priority,

12.10 Foreign Recognition

- (a) From and after the Plan Implementation Date, if requested by the Initial Consenting Noteholders or Newco, the Monitor (at the Monitor's election) or Newco (if the Monitor does not so elect) shall and is hereby authorized to seek an order of any court of competent jurisdiction recognizing the Plan and the Sanction Order and confirming the Plan and the Sanction Order as binding and effective in Canada, the United States, and any other jurisdiction so requested by the Initial Consenting Noteholders or Newco, as applicable.
- (b) Without limiting the generality of section 12.10(a), as promptly as practicable, but in no event later than the third Business Day following the Plan Implementation Date, a foreign representative of SFC (as agreed by SFC, the Monitor and the Initial Consenting Noteholders) (the "Foreign Representative") shall commence a proceeding in a court of competent jurisdiction in the United States seeking recognition of the Plan and the Sanction Order and confirming that the Plan and the Sanction Order are binding and effective in the United States, and the Foreign Representative shall use its best efforts to obtain such recognition order.

12.11 Severability of Plan Provisions

If, prior to the Sanction Date, any term or provision of the Plan is held by the Court to be invalid, void or unenforceable, the Court, at the request of SFC and with the consent of the Monitor and the Initial Consenting Noteholders, shall have the power to either (a) sever such term or provision from the balance of the Plan and provide SFC with the option to proceed with the implementation of the balance of the Plan as of and with effect from the Plan Implementation Date, or (b) alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, and provided that SFC proceeds with the implementation of the Plan, the remainder of the terms and provisions of

the Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation.

12.12 Responsibilities of the Monitor

The Monitor is acting in its capacity as Monitor in the CCAA Proceeding and the Plan with respect to SFC and will not be responsible or liable for any obligations of SFC.

12.13 Different Capacities

Persons who are affected by this Plan may be affected in more than one capacity. Unless expressly provided herein to the contrary, a Person will be entitled to participate hereunder, and will be affected hereunder, in each such capacity. Any action taken by or treatment of a Person in one capacity will not affect such Person in any other capacity, unless expressly agreed by the Person, SFC, the Monitor and the Initial Consenting Noteholders in writing, or unless the Person's Claims overlap or are otherwise duplicative.

12.14 Notices

Any notice or other communication to be delivered hereunder must be in writing and reference the Plan and may, subject as hereinafter provided, be made or given by personal delivery, ordinary mail or by facsimile or email addressed to the respective parties as follows:

- (a) if to SFC or any Subsidiary:

Sino-Forest Corporation
Room 3815-29 38/F, Sun Hung Kai Centre
30 Harbour Road, Wanchai, Hong Kong

Attention: Mr. Judson Martin, Executive Vice-Chairman and Chief
Executive Officer
Fax: +852-2877-0062

with a copy by email or fax (which shall not be deemed notice) to:

Bennett Jones LLP
One First Canadian Place, Suite 3400
Toronto, ON M5X 1A4

Attention: Kevin J. Zych and Raj S. Sahni
Email: zychk@bennettjones.com and sahnir@bennettjones.com
Fax: 416-863-1716

(b) if to the Initial Consenting Noteholders:

o/o Goodmans LLP
Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto, Ontario M5H 2S7

Attention: Robert Chadwick and Brendan O'Neill
Email: rohadwick@goodmans.ca and boneill@goodmans.ca
Fax: 416-979-1234

and with a copy by email or fax (which shall not be deemed notice) to:

Hogan Lovells International LLP
11th Floor, One Pacific Place, 88 Queensway
Hong Kong China

Attention: Neil McDonald
Email: nell.mcdonald@hoganlovells.com
Fax: 852-2219-0222

(c) if to the Monitor:

FTI Consulting Canada Inc.
TD Waterhouse Tower
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, ON M5K 1G8

Attention: Greg Watson
Email: greg.watson@fticonsulting.com
Fax: (416) 649-8101

and with a copy by email or fax (which shall not be deemed notice) to:

Gowling Lafleur Henderson LLP
1 First Canadian Place
100 King Street West, Suite 1600
Toronto, Ontario M5X 1G5

Attention: Derrick Tay
Email: derrick.tay@gowlings.com
Fax: (416) 862-7661

(d) if to Ernst & Young:

Ernst & Young LLP
Ernst & Young Tower
222 Bay Street
P.O. Box 251

Toronto, ON M5K 1J7

Attention: Doris Stamm
Email: doris.stamm@ca.ey.com
Fax: (416) 943-[TBD]

and with a copy by email or fax (which shall not be deemed notice) to:

Lenozner Slaght Royce Smith Griffin
130 Adelaide Street West, Suite 2600
Toronto, Ontario M5H 3P5.

Attention: Peter Griffin
Email: pgriffin@litigate.com
Fax: (416) 865-2921

or to such other address as any party may from time to time notify the others in accordance with this section. Any such communication so given or made shall be deemed to have been given or made and to have been received on the day of delivery if delivered, or on the day of faxing or sending by other means of recorded electronic communication, provided that such day in either event is a Business Day and the communication is so delivered, faxed or sent before 5:00 p.m. (Toronto time) on such day. Otherwise, such communication shall be deemed to have been given and made and to have been received on the next following Business Day.

12.15 Further Assurances

SFC, the Subsidiaries and any other Person named or referred to in the Plan will execute and deliver all such documents and instruments and do all such acts and things as may be necessary or desirable to carry out the full intent and meaning of the Plan and to give effect to the transactions contemplated herein.

DATED as of the 3rd day of December, 2012.

SCHEDULE A

NAMED THIRD PARTY DEFENDANTS

1. The Underwriters, together with their respective present and former affiliates, partners, associates, employees, servants, agents, contractors, directors, officers, insurers and successors, administrators, heirs and assigns, excluding any Director or Officer and successors, administrators, heirs and assigns of any Director or Officer in their capacity as such.
2. Ernst & Young LLP (Canada), Ernst & Young Global Limited and all other member firms thereof, together with their respective present and former affiliates, partners, associates, employees, servants, agents, contractors, directors, officers, insurers and successors, administrators, heirs and assigns, excluding any Director or Officer and successors, administrators, heirs and assigns of any Director or Officer in their capacity as such, in the event that the Ernst & Young Settlement is not completed.
3. BDO Limited, together with its respective present and former affiliates, partners, associates, employees, servants, agents, contractors, directors, officers, insurers and successors, administrators, heirs and assigns, excluding any Director or Officer and successors, administrators, heirs and assigns of any Director or Officer in their capacity as such.

Schedule "B"

FORM OF MONITOR'S CERTIFICATE OF PLAN IMPLEMENTATION

Court File No. CV-12-9667-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF SINO-FOREST CORPORATION

MONITOR'S CERTIFICATE
(Plan Implementation)

All capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Plan of Compromise and Reorganization of Sino-Forest Corporation ("SFC") dated December 3, 2012 (the "Plan"), which is attached as Schedule "A" to the Order of the Honourable Mr. Justice Morawetz made in these proceedings on the [7th]-day of December, 2012 (the "Order"), as such Plan may be further amended, varied or supplemented from time to time in accordance with the terms thereof.

Pursuant to paragraph 12 of the Order, FTI Consulting Canada Inc. (the "Monitor") in its capacity as Court-appointed Monitor of SFC delivers to SFC and Goodmans LLP this certificate and hereby certifies that:

1. The Monitor has received written notice from SFC and Goodmans LLP (on behalf of the Initial Consenting Noteholders) that the conditions precedent set out in section 9.1 of the Plan have been satisfied or waived in accordance with the terms of the Plan; and
2. The Plan Implementation Date has occurred and the Plan and the Plan Sanction Order are effective in accordance with their terms.

DATED at the City of Toronto, in the Province of Ontario, this ■ day of ■, 201■.


FTI CONSULTING CANADA INC., in its
capacity as Court-appointed Monitor of the Sino-
Forest Corporation and not in its personal capacity

By: _____

Name:

Title:

Schedule "C"

 Industry Canada / Industrie Canada
 Canada Business Corporations Act / Loi canadienne sur les sociétés par actions

FORM 14 / FORMULAIRE 14
 ARTICLES OF REORGANIZATION / CLAUSES DE RÉORGANISATION
 (SECTION 191) / (ARTICLE 191)

1 -- Name of Corporation - Dénomination sociale de la société Sino-Forest Corporation	2 -- Corporation No. - N° de la société 409023-3
--	---

3 -- In accordance with the order for reorganization, the articles of incorporation are amended as follows: / Conformément à l'ordonnance de réorganisation, les statuts constitutifs sont modifiés comme suit :

Please see Schedule A attached hereto.

Signature	Printed Name - Nom en lettres imprimées	4 -- Capacity of - En qualité de	5 -- Tel, N°, - N° de tél.
-----------	---	----------------------------------	----------------------------

FOR DEPARTMENTAL USE ONLY / À USAGE EXCLUSIF DU MINISTÈRE DES REVENUS

Schedule A

3. In accordance with the order for reorganization, the articles of continuance of the Corporation dated June 25, 2002, as amended by articles of amendment dated June 22, 2004, are amended as follows:

(a) to decrease the minimum number of directors of the Corporation from three (3) directors to one (1) director;

(b) to create a new class of shares consisting of an unlimited number of "Class A Common Shares" having the following rights, privileges, restrictions and conditions:

The holders of Class A Common Shares are entitled:

(i) to two (2) votes per Class A Common Share at any meeting of shareholders of the Corporation, except meetings at which only holders of a specified class of shares are entitled to vote;

(ii) subject to the rights, privileges, restrictions and conditions attaching to shares of any other class or series of shares of the Corporation, to receive the remaining property of the Corporation upon dissolution pro rata with the holders of the Common Shares; and

(iii) subject to the rights, privileges, restrictions and conditions attaching to shares of any other class or series of shares of the Corporation, to receive any dividend declared by the directors of the Corporation and payable on the Class A Common Shares.

(c) to delete the rights, privileges, restrictions and conditions attaching to the Common Shares and to substitute therefor the following:

(1) The holders of Common Shares are entitled:

(i) to one (1) vote per Common Share at any meeting of shareholders of the Corporation, except meetings at which only holders of a specified class of shares are entitled to vote;

(ii) subject to the rights, privileges, restrictions and conditions attaching to shares of any other class or series of shares of the Corporation, to receive the remaining property of the Corporation upon dissolution pro rata with the holders of the Class A Common Shares; and

(iii) subject to the rights, privileges, restrictions and conditions attaching to shares of any other class or series of shares of the Corporation, to receive any dividend declared by the directors of the Corporation and payable on the Common Shares.

(2) At a time to be determined by the board of directors of the Corporation, the Common Shares shall be cancelled and eliminated for no consideration whatsoever, and shall be of no further force and effect, whether surrendered for cancellation or otherwise, and the obligation of the Corporation thereunder or in any way related thereto shall be deemed to

be satisfied and discharged and the holders of the Common Shares shall have no further rights or interest in the Corporation on account thereof and the rights, privileges, restrictions and conditions attached to the Common Shares shall be deleted.

(d) to confirm that the authorized capital of the Corporation consists of an unlimited number of Class A Common Shares, an unlimited number of Common Shares and an unlimited number of Preference Shares, issuable in series.

Schedule "D"

1. Unaffected Claims Reserve;	\$1,500,000
2. Unresolved Claims Reserve for Defence Costs;	\$8,000,000

IN THE MATTER OF THE COMPANIES CREDITORS' ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED AND IN THE
 MATTER OF A PLAN OR COMPROMISE OR ARRANGEMENT OF SINO-FOREST CORPORATION
 Court File No. CV-12-9667-00CL

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

Proceedings commenced in Toronto

PLAN SANCTION ORDER

BENNETT JONES LLP
 One First Canadian Place
 Suite 3400, P.O. Box 130
 Toronto, Ontario
 M5X 1A4
 Rob Staley (LSUC #27115J)
 Kevin Zych (LSUC #33129F)
 Derek Bell (LSUC #43420J)
 Jonathan Bell (LSUC #55457P)
 Tel: 416-863-1200
 Fax: 416-863-1716

Lawyers for Sino-Forest Corporation

IN THE MATTER OF THE COMPANIES CREDITORS' ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED AND IN THE MATTER OF A PLAN OR COMPROMISE OR ARRANGEMENT OF SINO-FOREST CORPORATION

Court of Appeal File Number: M42404
Court File No. CV-12-9667-00CL

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

**AFFIDAVIT OF LORRAINE
KLEMENS**

BENNETT JONES LLP
One First Canadian Place
Suite 3400, P.O. Box 130
Toronto, Ontario
M5X 1A4

Robert W. Staley (LSUC #27115J)
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Lawyers for Sino-Forest Corporation and
the SFC Litigation Trustee

Court of Appeal File Number: M42404
Court File No. CV-12-9667-00CL

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

**RESPONDING MOTION RECORD OF
SINO-FOREST CORPORATION AND
THE SINO-FOREST CORPORATION
LITIGATION TRUSTEE**

BENNETT JONES LLP
One First Canadian Place
Suite 3400, P.O. Box 130
Toronto, Ontario
M5X 1A4

Robert W. Staley (LSUC #27115J)
Derek J. Bell (LSUC #43420J)
Jonathan Bell (LSUC #55457P)

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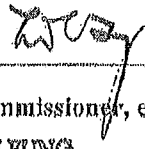
Lawyers for Sino-Forest Corporation and
the SFC Litigation Trustee

TAB N

This is Exhibit "N" to the

Affidavit of Cosimo Borelli

Sworn before me on 26 April 2015



A Commissioner, etc.

LI SIU FUNG
NOTARY PUBLIC
HONG KONG SAR
Unit 1303, 13/F.,
Tower 1, Admiralty Centre,
18 Harcourt Road,
Hong Kong.

**PALIARE
ROLAND**

B A R R I S T E R S

April 1, 2015

Ken Rosenberg

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www.paliareroland.com

File 80089

VIA EMAIL

Chris G. Pallare
Ian J. Roland
Ken Rosenberg
Linda R. Rothstein
Richard P. Stephenson
Nick Coleman
Margaret L. Waddell
Donald K. Eady ...
Gordon D. Capern
Lily I. Harmer
Andrew Lokan
John Monger
Odette Soriano
Andrew C. Lewis
Megan E. Shortreed
Massimo Stamino
Karen Jones
Robert A. Centa
Nini Jones
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Tha.H. Lie
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Jodi Marlin
Michael Fenrick
Jessica Lallimer
Debra McKenna
Lindsay Scott
Alysha Shore
Gregory Ko
Denise Cooney

Derek Bell and Robert W. Staley
Bennett Jones iLLP
3400 One First Canadian Place
P.O. Box 130
Toronto, Ontario
M5X 1A4

Dear Sirs:

Re: Sino-Forest Corporation

We write in respect of the motion to approve the settlement between the Class Action Plaintiffs and the Dealers scheduled to be heard on May 11, 2015.

The settlement agreement stipulates that the Dealers Settlement is a "Named Third Party Settlement" under the CCAA plan of compromise and arrangement (the "Plan") and that the Dealers are to receive a "Named Third Party Settlement Release".

At the recent attendance before Morawetz J., we understood that your firm was to consider this matter further and advise what position it would take. There was also discussion at that attendance that if there is opposition by the Litigation Trustee, that a schedule for the exchange of material should be considered.

If the Litigation Trustee does wish to oppose, we propose the following timetable for the exchange of material:

Class Action Plaintiffs' (and any Dealer) Record:	April 10, 2015
Litigation Trustee's Motion Record (if any):	April 17, 2015
Plaintiffs' and Dealers' Facts:	April 23, 2015
Litigation Trustee's Facts:	April 30, 2015
Plaintiffs' and Dealers' Reply Facts (if any):	May 7, 2015

We look forward to hearing from you on or before April 3rd regarding your position on the motion and if/as needed, about the proposed schedule.

COUNSEL

Stephen Goudge, Q.C.
Robin D. Walker, Q.C.

HONORARY COUNSEL

Ian G. Scott, Q.C., O.C.
(1934 - 2006)

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP
155 WELLINGTON STREET WEST 35TH FLOOR TORONTO ONTARIO M5V 3H1 T 416.646.4300

Yours very truly,
PALIARE ROLAND ROSENBERG ROTHSTEIN LLP



Ken Rosenberg

KR:ss

c. Charles Wright
Dimitri Lascaris
Kirk M. Baert
Garth Myers
Syllva Tse
Jonathan Ptak
Andrew Gray
John Fabello
David Bish

Doc 1403759 v1

TAB 0

This is Exhibit "O" to the
Affidavit of Cosimo Borrelli
Sworn before me on 26 April 2015



A Commissioner, etc.

LI SIU FUNG
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Hong Kong.



Bennett Jones LLP
3400 One First Canadian Place, PO Box 130
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Robert W. Staley
Direct Line: 416.777.4857
e-mail: staley@bennettjones.com

By Email: ken.rosenberg@paliareroland.com

April 7, 2015

Mr. Ken Rosenberg
Paliare Roland Rosenberg Rothstein LLP
155 Wellington Street West
35th Floor
Toronto, ON M5V 3H1

Dear Mr. Rosenberg:

Re: Sino-Forest Corporation

We acknowledge receipt of your letter dated April 1, 2015.

As you are fully aware, the Litigation Trust's position concerning the underwriters' settlement remains unchanged from that articulated in our January 16, 2015 letter (copy attached), that was filed before Justice Morawetz on January 29, 2015.


Contrary to the position articulated in your letter, the Litigation Trust did not indicate that it would "consider this matter further and advise what position it would take". Instead, the Litigation Trust indicated that it was prepared to engage in without prejudice discussions concerning terms under which the Litigation Trust would be prepared to consent to the underwriters' settlement, a consent that is required before the settlement can be approved. At that attendance, Justice Morawetz appeared to encourage the parties to engage in such discussions. Notwithstanding that advice, no such discussions have taken place.

With respect to your proposed timetable, until we see your motion materials we cannot confirm that the Litigation Trust will not cross-examine on affidavits filed in support of the motion. We are not prepared to agree to a timetable that forecloses the possibility of cross-examinations.

April 7, 2015
Page Two

We also do not agree that a reply factum is necessary or permitted under the Rules. The Litigation Trust's position is fully articulated in its January 16, 2015 letter. There is no need for a reply factum when the Litigation Trust's arguments can be addressed in the moving parties' facta.

Yours truly,



Robert W. Staley

RWS/ll

TAB P

This is Exhibit "P" to the
Affidavit of Cosimo Borelli
Sworn before me on 26 April 2015



A Commissioner, etc.
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Robert W. Staley
Direct Line: 416.777.4857
e-mail: staley@bennettjones.com

By Email: agray@torys.com

April 7, 2015

Mr. Andrew Gray
Torys LLP
79 Wellington Street West
30th Floor
Toronto, ON M5K 1N2

Dear Mr. Gray:

Re: Sino-Forest Corporation

We acknowledge receipt of your letter dated April 2, 2015.

As you know, at least from the time that Sino-Forest Corporation filed for creditor protection on March 30, 2012, Bennett Jones LLP has been in a position of adversity to the underwriters who are defendants in the class actions. Through your firm, the underwriters appeared in the Sino-Forest CCAA proceeding in which approval of the underwriters' settlement is being sought. Through the equity claims motion in the CCAA proceeding, and the appeal from that motion to the Ontario Court of Appeal, the underwriters were actively adverse to Sino-Forest and to Bennett Jones. While the underwriters ultimately agreed to support Sino-Forest's CCAA plan on certain terms, our firm's adversity to the underwriters continued after Plan implementation, including in connection with requests that the underwriters agree to tolling arrangements while appeals from the plan sanction order remained outstanding. All of this occurred without the underwriters alleging a conflict of interest.

In January 2015, and for the first time, the underwriters raised the spectre of an alleged conflict of interest. Any such contention was so untimely, and clearly tactical, that we were surprised to see it raised, let alone repeated in your April 2, 2015 letter.

After the conflict issue was first raised in January, in February 2015 the underwriters and the Litigation Trust were invited to make representations to the Monitor about whether the Monitor's consent is required to the underwriters' settlement and, if so, whether the Monitor should agree to provide its consent. After these representations were made, Mr. Tay, for the Monitor, set out the Monitor's position in a February 19, 2015 email (copy attached) that was addressed to both Torys and Bennett Jones. The underwriters were clearly aware from this process, and from Mr. Tay's

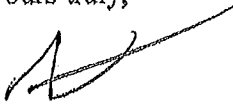
response, that Bennett Jones was continuing to represent the Litigation Trust in relation to the underwriters' settlement. The underwriters nevertheless chose to take no steps to formally advance a conflict allegation.

As you know, the motion date to approve the underwriters' settlement is imminent, and the parties are addressing scheduling issues. For you to raise the conflict issue again, at this time, is so transparently tactical and disingenuous that it hardly merits a response.

The Litigation Trust does, however, wish to make one further point clear. The Litigation Trust welcomes a settlement between the underwriters and the class action parties. If the underwriters and class action parties were seeking settlement approval in the class action courts, without a CCAA Plan release, and if the settlement approval order contained customary terms, the Litigation Trust would not oppose the settlement. As set out more fully in our January 16, 2015 letter, issues arise only because the underwriters seek a CCAA Plan release that can be obtained only with the consent of the Litigation Trust, where the consent of the Trust has not been obtained.

We are separately corresponding with Mr. Rosenberg about scheduling issues in relation to the settlement approval motion.

Yours truly,



Robert W. Staley

RWS/tl

TAB Q

This is Exhibit "Q" to the
Affidavit of Costino Borelli
Sworn before me on 26 April 2015



A Commissioner, etc.

LI SIU FUNG
NOTARY PUBLIC
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Unit 1303, 13/F.,
Tower 1, Admiralty Centre,
18 Harcourt Road,
Hong Kong.

Rob Staley

From: Tay, Derrick [Derrick.Tay@gowlings.com]
Sent: 19 February 2015 2:19 PM
To: David Bish; Rob Staley
Cc: Greg Watson
Subject: underwriters settlement

Gentlemen,

Thank you for your respective submissions with respect to the Underwriters' Settlement.

The Monitor's only interest in this matter is to ensure that the terms of the Plan are complied with.

It appears to be common ground for all parties that the provisions of the Plan require that the consent of the Litigation Trust be given for the Underwriters' Settlement to enjoy the benefits of the third party release provided under the CCAA Plan.

David, you seem to be taking the position that the Monitor's consent is not strictly required for the Settlement and that you thought the Monitor's consent was not sought or given in previous third party settlements. Just as a factual matter, the Monitor's consent was sought and given in the Horseley settlement. Without getting into the debate of whether a formal consent is or is not required, let me clarify the Monitor's position in a way that will hopefully provide practical guidance to both sides.

If the Litigation Trust consents to the Underwriters' Settlement, there would be no basis for the Monitor to not also provide its consent.

If the Litigation Trust's consent is not obtained and the underwriters propose to seek relief, from the CCAA court, from the provisions of the Plan requiring such consent, it will be up to the parties to convince the court one way or the other and the Monitor will not be taking any position on such a motion other than to say that if the court were to grant such relief, it should also, in that case, direct the Monitor to issue the certificate that is required under the Plan to make the third party release effective.

To be absolutely clear on the issue, the Monitor has no view and takes no position on how the proceeds of the settlement should be shared as amongst the various parties and would encourage parties to come to a mutually satisfactory arrangement.

I hope you find this clarification helpful in your dealings with each other.

Derrick C. Tay
Gowlings
416-369-7330

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THE TRUSTEES OF THE LABOURERS' PENSION FUND OF CENTRAL AND EASTERN CANADA et al v. SINO-FOREST CORPORATION et al.

CV-11-431153-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

AFFIDAVIT OF COSIMO BORRELLI

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Lawyers for the SFC Defendants

**THE TRUSTEES OF THE LABOURERS' PENSION FUND OF CENTRAL AND EASTERN CANADA et al v.
SINO-FOREST CORPORATION et al.**

Court File No. CV-11-431153-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

**RETURNING MOTION RECORD OF
SFC LITIGATION TRUST
(Motion returnable May 11, 2015)**

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Lawyers for the SFC Defendants

TAB G

This is Exhibit "G" to the

Affidavit of Cosimo Borelli

Sworn before me on 26 April 2015



A Commissioner, etc.

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Hong Kong.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.)
JUSTICE MORAWETZ)
MONDAY, THE 10th DAY
OF DECEMBER, 2012



IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF SINO-FOREST CORPORATION

PLAN SANCTION ORDER

THIS MOTION, made by Sino-Forest Corporation ("SFC"), for an order (i) pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"), sanctioning the plan of compromise and reorganization dated December 3, 2012 (including all schedules thereto), which Plan is attached as Schedule "A" hereto, as supplemented by the plan supplement dated November 21, 2012 previously filed with the Court, as the Plan may be further amended, varied or supplemented from time to time in accordance with the terms thereof (the "Plan"), and (ii) pursuant to the section 191 of the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44, as amended (the "CBCA"), approving the Plan and amending the articles of SFC and giving effect to the changes and transactions arising therefrom, was heard on December 7, 2012 at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion, the Affidavit of W. Judson Martin sworn November 29, 2012 (the "Martin Affidavit"), the Thirteenth Report of FTI Consulting Canada Inc. in its capacity as monitor of SFC (the "Monitor") dated November 22, 2012 (the "Monitor's Thirteenth Report"), the supplemental report to the Monitor's Thirteenth Report (the "Supplemental Report"), and the second supplemental report to the Monitor's Thirteenth Report (the "Second Supplemental Report") and on hearing the submissions of counsel for

SFC, the Monitor, the *ad hoc* committee of Noteholders (the "Ad Hoc Noteholders"), and such other counsel as were present, no one else appearing for any other party, although duly served with the Motion Record as appears from the Affidavit of Service, filed.

DEFINED TERMS

1. **THIS COURT ORDERS** that any capitalized terms not otherwise defined in this Plan Sanction Order shall have the meanings ascribed to such terms in the Plan and/or the Plan Filing and Meeting Order granted by the Court on August 31, 2012 (the "**Plan Filing and Meeting Order**"), as the case may be.

SERVICE, NOTICE AND MEETING

2. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record in support of this motion, the Monitor's Thirteenth Report, the Supplemental Report and the Second Supplemental Report be and are hereby abridged and validated so that the motion is properly returnable today and service upon any interested party other than those parties served is hereby dispensed with.

3. **THIS COURT ORDERS AND DECLARES** that there has been good and sufficient notice, service and delivery of the Plan Filing and Meeting Order and the Meeting Materials (including, without limitation, the Plan) to all Persons upon which notice, service and delivery was required.

4. **THIS COURT ORDERS AND DECLARES** that the Meeting was duly convened and held, all in conformity with the CCAA and the Orders of this Court made in the CCAA Proceeding, including, without limitation, the Plan Filing and Meeting Order.

5. **THIS COURT ORDERS AND DECLARES** that: (i) the hearing of the Plan Sanction Order was open to all of the Affected Creditors and all other Persons with an interest in SFC and that such Affected Creditors and other Persons were permitted to be heard at the hearing in respect of the Plan Sanction Order; and (ii) prior to the hearing, all of the Affected Creditors and all other Persons on the Service List in respect of the CCAA Proceeding were given adequate notice thereof.

SANCTION OF THE PLAN

6. **THIS COURT ORDERS** that the relevant class of Affected Creditors of SFC for the purposes of voting to approve the Plan is the Affected Creditors Class.

7. **THIS COURT ORDERS AND DECLARES** that the Plan, and all the terms and conditions thereof, and matters and transactions contemplated thereby, are fair and reasonable.

8. **THIS COURT ORDERS** that the Plan is hereby sanctioned and approved pursuant to section 6 of the CCAA.

PLAN IMPLEMENTATION

9. **THIS COURT ORDERS AND DECLARES** that the Plan and all associated steps, compromises, releases, discharges, cancellations, transactions, arrangements and reorganizations effected thereby are approved and shall be deemed to be implemented, binding and effective in accordance with the provisions of the Plan as of the Plan Implementation Date at the Effective Time, or at such other time, times or manner as may be set forth in the Plan, and shall enure to the benefit of and be binding upon SFC, the other Released Parties, the Affected Creditors and all other Persons and parties named or referred to in, affected by, or subject to the Plan, including, without limitation, their respective heirs, administrators, executors, legal representatives, successors, and assigns.

10. **THIS COURT ORDERS** that each of SFC and the Monitor are authorized and directed to take all steps and actions, and to do all things, necessary or appropriate to implement the Plan in accordance with its terms and to enter into, execute, deliver, complete, implement and consummate all of the steps, transactions, distributions, deliveries, allocations, instruments and agreements contemplated pursuant to the Plan, and such steps and actions are hereby authorized, ratified and approved. Furthermore, neither SFC nor the Monitor shall incur any liability as a result of acting in accordance with terms of the Plan and the Plan Sanction Order.

11. **THIS COURT ORDERS** that SFC, the Monitor, Newco, the Litigation Trustee, the Trustees, DTC, the Unresolved Claims Escrow Agent, all Transfer Agents and any other Person required to make any distributions, deliveries or allocations or take any steps or actions related

thereto pursuant to the Plan are hereby directed to complete such distributions, deliveries or allocations and to take any such related steps and/or actions in accordance with the terms of the Plan, and such distributions, deliveries and allocations, and steps and actions related thereto, are hereby approved.

12. **THIS COURT ORDERS** that upon the satisfaction or waiver, as applicable, of the conditions precedent set out in section 9.1 of the Plan in accordance with the terms of the Plan, as confirmed by SFC and Goodmans LLP to the Monitor in writing, the Monitor is authorized and directed to deliver to SFC and Goodmans LLP a certificate substantially in the form attached hereto as Schedule "B" (the "Monitor's Certificate") signed by the Monitor, certifying that the Plan Implementation Date has occurred and that the Plan and this Plan Sanction Order are effective in accordance with their terms. Following the Plan Implementation Date, the Monitor shall file the Monitor's Certificate with this Court.

13. **THIS COURT ORDERS AND DECLARES** that the steps, compromises, releases, discharges, cancellations, transactions, arrangements and reorganizations to be effected on the Plan Implementation Date are deemed to occur and be effected in the sequential order contemplated in the Plan, without any further act or formality, beginning at the Effective Time.

14. **THIS COURT ORDERS** that SFC, the Monitor and the Initial Consenting Noteholders are hereby authorized and empowered to exercise all such consent and approval rights in the manner set forth in the Plan, whether prior to or after implementation of the Plan.

15. **THIS COURT ORDERS** that from and after the Plan Implementation Date, and for the purposes of the Plan only, (i) if SFC does not have the ability or the capacity pursuant to Applicable Law to provide its agreement, waiver, consent or approval to any matter requiring SFC's agreement, waiver, consent or approval under this Plan, such agreement, waiver consent or approval may be provided by the Monitor; and (ii) if SFC does not have the ability or the capacity pursuant to Applicable Law to provide its agreement, waiver, consent or approval to any matter requiring SFC's agreement, waiver, consent or approval under this Plan, and the Monitor has been discharged pursuant to an Order, such agreement, waiver consent or approval shall be deemed not to be necessary.

COMPROMISE OF CLAIMS AND EFFECT OF PLAN

16. **THIS COURT ORDERS AND DECLARES** that, pursuant to and in accordance with the terms of the Plan, on the Plan Implementation Date, any and all Affected Claims shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred, subject only to the right of the applicable Persons to receive the distributions and interests to which they are entitled pursuant to the Plan.

17. **THIS COURT ORDERS AND DECLARES** that, pursuant to and in accordance with the terms of the Plan, on the Plan Implementation Date and at the time specified in Section 6.4 of the Plan, all accrued and unpaid interest owing on, or in respect of, or as part of, Affected Creditor Claims (including any Accrued Interest on the Notes and any interest accruing on the Notes or any Ordinary Affected Creditor Claim after the Filing Date) shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred for no consideration and no Person shall have any entitlement to any such accrued and unpaid interest.

18. **THIS COURT ORDERS AND DECLARES** that, on the Plan Implementation Date, the ability of any Person to proceed against SFC or the Subsidiaries in respect of any Released Claims shall be forever discharged, barred and restrained, and all proceedings with respect to, in connection with, or relating to any such matter shall be permanently stayed.

19. **THIS COURT ORDERS** that each Affected Creditor is hereby deemed to have consented to all of the provisions of the Plan, in its entirety, and each Affected Creditor is hereby deemed to have executed and delivered to SFC all consents, releases, assignments and waivers, statutory or otherwise, required to implement and carry out the Plan in its entirety.

20. **THIS COURT ORDERS** that, on the Plan Implementation Date and at the time specified in Section 6.4 of the Plan, the SFC Assets (including for greater certainty the Direct Subsidiary Shares, the SFC Intercompany Claims and all other SFC Assets assigned, transferred and conveyed to Newco and/or Newco II pursuant to section 6.4 of the Plan) shall vest in the Person to whom such assets are being assigned, transferred and conveyed, in accordance with the terms of the Plan, free and clear of and from any and all Charges, Claims (including, notwithstanding anything to the contrary herein, any Unaffected Claims), D&O Claims, D&O Indemnity Claims, Section 5.1(2) D&O Claims, Conspiracy Claims, Continuing Other D&O

Claims, Non-Released D&O Claims, Affected Claims, Class Action Claims, Class Action Indemnity Claims, claims or rights of any kind in respect of the Notes or the Note Indentures, and any right or claim that is based in whole or in part on facts, underlying transactions, Causes of Action or events relating to the Restructuring Transaction, the CCAA Proceedings or any of the foregoing, and any guarantees or indemnities with respect to any of the foregoing. Any Encumbrances or claims affecting, attaching to or relating to the SFC Assets in respect of the foregoing are and shall be deemed to be irrevocably expunged and discharged as against the SFC Assets, and no such Encumbrances or claims shall be pursued or enforceable as against Newco, Newco II or any other Person.

21. **THIS COURT ORDERS** that any securities, interests, rights or claims pursuant to the Plan, including the Newco Shares, the Newco Notes and the Litigation Trust Interests, issued, assigned, transferred or conveyed pursuant to the Plan will be free and clear of and from any and all Charges, Claims (including, notwithstanding anything to the contrary herein, any Unaffected Claims), D&O Claims, D&O Indemnity Claims, Affected Claims, Section 5.1(2) D&O Claims, Conspiracy Claims, Continuing Other D&O Claims, Non-Released D&O Claims, Class Action Claims, Class Action Indemnity Claims, claims or rights of any kind in respect of the Notes or the Note Indentures, and any right or claim that is based in whole or in part on facts, underlying transactions, causes of action or events relating to the Restructuring Transaction, the CCAA Proceedings or any of the foregoing, and any guarantees or indemnities with respect to any of the foregoing.

22. **THIS COURT ORDERS** that the Litigation Trust Agreement is hereby approved and deemed effective as of the Plan Implementation Date, including with respect to the transfer, assignment and delivery of the Litigation Trust Claims to the Litigation Trustee which shall, and are hereby deemed to, occur on and as of the Plan Implementation Date. For greater certainty, the Litigation Trust Claims transferred, assigned and delivered to the Litigation Trustee shall not include any Excluded Litigation Trust Claims and all Affected Creditors shall be deemed to have consented to the release of any such Excluded Litigation Trust Claims pursuant to the Plan.

23. **THIS COURT ORDERS** that section 36.1 of the CCAA, sections 95 to 101 of the BIA and any other federal or provincial Law relating to preferences, fraudulent conveyances or transfers at undervalue, shall not apply to the Plan or to any payments, distributions, transfers,

allocations or transactions made or completed in connection with the restructuring and recapitalization of SFC, whether before or after the Filing Date, including, without limitation, to any and all of the payments, distributions, transfers, allocations or transactions contemplated by and to be implemented pursuant to the Plan.

24. **THIS COURT ORDERS** that the articles of reorganization to be filed by SFC pursuant to section 191 of the CBCA, substantially in the form attached as Schedule "C" hereto, are hereby approved, and SFC is hereby authorized to file the articles of reorganization with the Director (as defined in the CBCA).

25. **THIS COURT ORDERS** that on the Equity Cancellation Date, or such other date as agreed to by the Monitor, SFC and the Initial Consenting Noteholders, all Existing Shares and other Equity Interests shall be fully, finally and irrevocably cancelled.

26. **THIS COURT ORDERS AND DECLARES** that the Newco Shares shall be and are hereby deemed to have been validly authorized, created, issued and outstanding as fully-paid and non-assessable shares in the capital of Newco as of the Effective Time.

27. **THIS COURT ORDERS AND DECLARES** that upon the Plan Implementation Date the initial Newco Share in the capital of Newco held by the Initial Newco Shareholder shall be deemed to have been redeemed and cancelled for no consideration.

28. **THIS COURT ORDERS AND DECLARES** that it was advised prior to the hearing in respect of the Plan Sanction Order that the Plan Sanction Order will be relied upon by SFC and Newco as an approval of the Plan for the purpose of relying on the exemption from the registration requirements of the *United States Securities Act of 1933*, as amended, pursuant to section 3(a)(10) thereof for the issuance of the Newco Shares, Newco Notes and, to the extent they may be deemed to be securities, the Litigation Trust Interests, and any other securities to be issued pursuant to the Plan.

STAY OF PROCEEDINGS

29. **THIS COURT ORDERS** that all obligations, agreements or leases to which (i) SFC remains a party on the Plan Implementation Date, or (ii) Newco and/or Newco II becomes a party as a result of the conveyance of the SFC Assets to Newco and the further conveyance of

the SFC Assets to Newco II on the Plan Implementation Date, shall be and remain in full force and effect, unamended, as at the Plan Implementation Date and no party to any such obligation, agreement or lease shall on or following the Plan Implementation Date, accelerate, terminate, refuse to renew, rescind, refuse to perform or otherwise disclaim or resiliate its obligations thereunder, or enforce or exercise (or purport to enforce or exercise) any right or remedy under or in respect of any such obligation, agreement or lease, (including any right of set-off, dilution or other remedy), or make any demand against SFC, Newco, Newco II, any Subsidiary or any other Person under or in respect of any such agreement with Newco, Newco II or any Subsidiary, by reason:

- (a) of any event which occurred prior to, and not continuing after, the Plan Implementation Date, or which is or continues to be suspended or waived under the Plan, which would have entitled any other party thereto to enforce those rights or remedies;
- (b) that SFC sought or obtained relief under the CCAA or by reason of any steps or actions taken as part of the CCAA Proceeding or this Plan Sanction Order or prior orders of this Court;
- (c) of any default or event of default arising as a result of the financial condition or insolvency of SFC;
- (d) of the completion of any of the steps, actions or transactions contemplated under the Plan, including, without limitation, the transfer, conveyance and assignment of the SFC Assets to Newco and the further transfer, conveyance and assignment of the SFC Assets by Newco to Newco II; or
- (e) of any steps, compromises, releases, discharges, cancellations, transactions, arrangements or reorganizations effected pursuant to the Plan.

30. **THIS COURT ORDERS** that from and after the Plan Implementation Date, any and all Persons shall be and are hereby stayed from commencing, taking, applying for or issuing or continuing any and all steps or proceedings, including without limitation, administrative hearings and orders, declarations or assessments, commenced, taken or proceeded with or that may be commenced, taken or proceed with to advance any Released Claims.

31. **THIS COURT ORDERS** that between (i) the Plan Implementation Date and (ii) the earlier of the Ernst & Young Settlement Date or such other date as may be ordered by the Court on a motion to the Court on reasonable notice to Ernst & Young, any and all Persons shall be and are hereby stayed from commencing, taking, applying for or issuing or continuing any and all steps or proceedings against Ernst & Young (other than all steps or proceedings to implement the Ernst & Young Settlement) pursuant to the terms of the Order of the Honourable Justice Morawetz dated May 8, 2012, provided that no steps or proceedings against Ernst & Young by the Ontario Securities Commission or by staff of the Ontario Securities Commission under the *Securities Act* (Ontario) shall be stayed by this Order.

RELEASES

32. **THIS COURT ORDERS** that, subject to section 7.2 of the Plan, all of the following shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred on the Plan Implementation Date at the time or times and in the manner set forth in section 6.4 of the Plan:

- (a) all Affected Claims, including, without limitation, all Affected Creditor Claims, Equity Claims, D&O Claims (other than Section 5.1(2) D&O Claims, Conspiracy Claims, Continuing Other D&O Claims and Non-Released D&O Claims), D&O Indemnity Claims (except as set forth in section 7.1(d) of the Plan) and Noteholder Class Action Claims (other than the Continuing Noteholder Class Action Claims);
- (b) all Claims of the Ontario Securities Commission or any other Governmental Entity that have or could give rise to a monetary liability, including, without limitation, fines, awards, penalties, costs, claims for reimbursement or other claims having a monetary value;
- (c) all Class Action Claims (including, without limitation, the Noteholder Class Action Claims) against SFC, the Subsidiaries or the Named Directors or Officers of SFC or the Subsidiaries (other than Class Action Claims that are Section 5.1(2) D&O Claims, Conspiracy Claims or Non-Released D&O Claims);
- (d) all Class Action Indemnity Claims (including, without limitation, related D&O Indemnity Claims), other than any Class Action Indemnity Claim by the Third Party

Defendants against SFC in respect of the Indemnified Noteholder Class Action Claims (including, without limitation, any D&O Indemnity Claim in that respect), which shall be limited to the Indemnified Noteholder Class Action Limit pursuant to the releases set out in section 7.1(f) of the Plan and the injunctions set out in section 7.3 of the Plan;

- (e) any portion or amount of liability of the Third Party Defendants for the Indemnified Noteholder Class Action Claims (on a collective, aggregate basis in reference to all Indemnified Noteholder Class Action Claims together) that exceeds the Indemnified Noteholder Class Action Limit;
- (f) any portion or amount of liability of the Underwriters for the Noteholder Class Action Claims (other than any Noteholder Class Action Claims against the Underwriters for fraud or criminal conduct) (on a collective, aggregate basis in reference to all such Noteholder Class Action Claims together) that exceeds the Indemnified Noteholder Class Action Limit;
- (g) any portion or amount of, or liability of SFC for, any Class Action Indemnity Claims by the Third Party Defendants against SFC in respect of the Indemnified Noteholder Class Action Claims (on a collective, aggregate basis in reference to all such Noteholder Class Action Claims together) to the extent that such Class Action Indemnity Claims exceed the Indemnified Noteholder Class Action Limit;
- (h) any and all Excluded Litigation Trust Claims;
- (i) any and all Causes of Action against Newco, Newco II, the directors and officers of Newco, the directors and officers of Newco II, the Noteholders, members of the *ad hoc* committee of Noteholders, the Trustees, the Transfer Agent, the Monitor, FTI Consulting Canada Inc., FTI HK, counsel for the current Directors of SFC, counsel for the Monitor, counsel for the Trustees, the SFC Advisors, the Noteholder Advisors, and each and every member (including, without limitation, members of any committee or governance council), partner or employee of any of the foregoing, for or in connection with or in any way relating to: any Claims (including, without limitation, notwithstanding anything to the contrary herein, any Unaffected Claims);

Affected Claims; Section 5.1(2) D&O Claims; Conspiracy Claims; Continuing Other D&O Claims; Non-Released D&O Claims; Class Action Claims; Class Action Indemnity Claims; any right or claim in connection with or liability for the Notes or the Note Indentures; any guarantees, indemnities, claims for contribution, share pledges or Encumbrances related to the Notes or the Note Indentures; any right or claim in connection with or liability for the Existing Shares, Equity Interests or any other securities of SFC; any rights or claims of the Third Party Defendants relating to SFC or the Subsidiaries;

- (j) any and all Causes of Action against Newco, Newco II, the directors and officers of Newco, the directors and officers of Newco II, the Noteholders, members of the *ad hoc* committee of Noteholders, the Trustees, the Transfer Agent, the Monitor, FTI Consulting Canada Inc., FTI HK, the Named Directors and Officers, counsel for the current Directors of SFC, counsel for the Monitor, counsel for the Trustees, the SFC Advisors, the Noteholder Advisors, and each and every member (including, without limitation, members of any committee or governance council), partner or employee of any of the foregoing, based in whole or in part on any act, omission, transaction, duty, responsibility, indebtedness, liability, obligation, dealing or other occurrence existing or taking place on or prior to the Plan Implementation Date (or, with respect to actions taken pursuant to the Plan after the Plan Implementation Date, the date of such actions) in any way relating to, arising out of, leading up to, for, or in connection with the CCAA Proceeding, RSA, the Restructuring Transaction, the Plan, any proceedings commenced with respect to or in connection with the Plan, or the transactions contemplated by the RSA and the Plan, including, without limitation, the creation of Newco and/or Newco II and the creation, issuance or distribution of the Newco Shares, the Newco Notes, the Litigation Trust or the Litigation Trust Interests, provided that nothing in this paragraph shall release or discharge any of the Persons listed in this paragraph from or in respect of any obligations any of them may have under or in respect of the RSA, the Plan or under or in respect of any of Newco, Newco II, the Newco Shares, the Newco Notes, the Litigation Trust or the Litigation Trust Interests, as the case may be;

- (k) any and all Causes of Action against the Subsidiaries for or in connection with any Claim (including, without limitation, notwithstanding anything to the contrary herein, any Unaffected Claim); any Affected Claim (including, without limitation, any Affected Creditor Claim, Equity Claim, D&O Claim, D&O Indemnity Claim and Noteholder Class Action Claim); any Section 5.1(2) D&O Claim; any Conspiracy Claim; any Continuing Other D&O Claim; any Non-Released D&O Claim; any Class Action Claim; any Class Action Indemnity Claim; any right or claim in connection with or liability for the Notes or the Note Indentures; any guarantees, indemnities, share pledges or Encumbrances relating to the Notes or the Note Indentures; any right or claim in connection with or liability for the Existing Shares, Equity Interests or any other securities of SFC; any rights or claims of the Third Party Defendants relating to SFC or the Subsidiaries; any right or claim in connection with or liability for the RSA, the Plan, the CCAA Proceedings, the Restructuring Transaction, the Litigation Trust, the business and affairs of SFC and the Subsidiaries (whenever or however conducted), the administration and/or management of SFC and the Subsidiaries, or any public filings, statements, disclosures or press releases relating to SFC; any right or claim in connection with or liability for any indemnification obligation to Directors or Officers of SFC or the Subsidiaries pertaining to SFC, the Notes, the Note Indentures, the Existing Shares, the Equity Interests, any other securities of SFC or any other right, claim or liability for or in connection with the RSA, the Plan, the CCAA Proceedings, the Restructuring Transaction, the Litigation Trust, the business and affairs of SFC (whenever or however conducted), the administration and/or management of SFC, or any public filings, statements, disclosures or press releases relating to SFC; any right or claim in connection with or liability for any guaranty, indemnity or claim for contribution in respect of any of the foregoing; and any Encumbrance in respect of the foregoing;
- (l) all Subsidiary Intercompany Claims as against SFC (which are assumed by Newco and then Newco II pursuant to the Plan);
- (m) any entitlements of Ernst & Young to receive distributions of any kind (including, without limitation, Newco Shares, Newco Notes and Litigation Trust Interests) under this Plan;

- (n) any entitlements of the Underwriters to receive distributions of any kind (including, without limitation, Newco Shares, Newco Notes and Litigation Trust Interests) under this Plan; and
- (o) any entitlements of the Named Third Party Defendants to receive distributions of any kind (including, without limitation, Newco Shares, Newco Notes and Litigation Trust Interests) under this Plan.

33. **THIS COURT ORDERS** that nothing in the Plan nor in this Plan Sanction Order shall waive, compromise, release, discharge, cancel or bar any of the claims listed in section 7.2 of the Plan.

34. **THIS COURT ORDERS** that, for greater certainty, nothing in the Plan nor in this Plan Sanction Order shall release any obligations of the Subsidiaries owed to (i) any employees, directors or officers of those Subsidiaries in respect of any wages or other compensation related arrangements, or (ii) to suppliers and trade creditors of the Subsidiaries in respect of goods or services supplied to the Subsidiaries.

35. **THIS COURT ORDERS** that any guarantees, indemnities, Encumbrances or other obligations owing by or in respect of SFC relating to the Notes or the Note Indentures shall be and are hereby deemed to be released, discharged and cancelled.

36. **THIS COURT ORDERS** that the Trustees are hereby authorized and directed to release, discharge and cancel any guarantees, indemnities, Encumbrances or other obligations owing by or in respect of any Subsidiary relating to the Notes or the Note Indentures.

37. **THIS COURT ORDERS** that any claims against the Named Directors and Officers in respect of Section 5.1(2) D&O Claims or Conspiracy Claims shall be limited to recovery from any insurance proceeds payable in respect of such Section 5.1(2) D&O Claims or Conspiracy Claims, as applicable, pursuant to the Insurance Policies, and Persons with any such Section 5.1(2) D&O Claims against Named Directors and Officers or Conspiracy Claims against Named Directors and Officers shall have no right to, and shall not, make any claim or seek any recoveries from any Person, (including SFC, any of the Subsidiaries, Newco or Newco II), other than enforcing such Persons' rights to be paid from the proceeds of an Insurance Policy by the applicable insurer(s).

38. **THIS COURT ORDERS** that all Persons are permanently and forever barred, estopped, stayed and enjoined, on and after the Effective Time, with respect to any and all Released Claims, from (i) commencing, conducting or continuing in any manner, directly or indirectly, any action, suits, demands or other proceedings of any nature or kind whatsoever (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against the Released Parties; (ii) enforcing, levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, decree or order against the Released Parties or their property; (iii) commencing, conducting or continuing in any manner, directly or indirectly, any action, suits or demands, including without limitation, by way of contribution or indemnity or other relief, in common law, or in equity, breach of trust or breach of fiduciary duty or under the provisions of any statute or regulation, or other proceedings of any nature or kind whatsoever (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against any Person who makes such a claim or might reasonably be expected to make such a claim, in any manner or forum, against one or more of the Released Parties; (iv) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any lien or encumbrance of any kind against the Released Parties or their property; or (v) taking any actions to interfere with the implementation or consummation of this Plan; provided, however, that the foregoing shall not apply to the enforcement of any obligations under the Plan.

39. **THIS COURT ORDERS AND DECLARES** that from and after the Plan Implementation Date, (i) subject to the prior consent of the Initial Consenting Noteholders and the terms of the Litigation Trust Agreement, each of the Litigation Trustee and the Monitor shall have the right to seek and obtain an order from any court of competent jurisdiction, including an Order of the Court in the CCAA or otherwise, that gives effect to any releases of any Litigation Trust Claims agreed to by the Litigation Trustee in accordance with the Litigation Trust Agreement, and (ii) all Affected Creditors shall be deemed to consent to any such treatment of any Litigation Trust Claims.

40. **THIS COURT ORDERS** that the Ernst & Young Settlement and the release of the Ernst & Young Claims pursuant to section 11.1 of the Plan shall become effective upon the satisfaction of the following conditions precedent:

- (a) approval by this Honourable Court of the terms of the Ernst & Young Settlement, including the terms and scope of the Ernst & Young Release and the Settlement Trust Order;
- (b) issuance by this Honourable Court of the Settlement Trust Order;
- (c) the granting of orders under Chapter 15 of the United States *Bankruptcy Code* recognizing and enforcing the Sanction Order and the Settlement Trust Order and any court orders necessary in the United States to approve the Ernst & Young Settlement and any other necessary ancillary order;
- (d) any other order necessary to give effect to the Ernst & Young Settlement (the orders referenced in (c) and (d) being collectively the “Ernst & Young Orders”);
- (e) the fulfillment of all conditions precedent in the Ernst & Young Settlement and the fulfillment by the Ontario Class Action Plaintiffs of all of their obligations thereunder;
- (f) the Sanction Order, the Settlement Trust Order and all Ernst & Young Orders being final orders and not subject to further appeal or challenge; and
- (g) the payment by Ernst & Young of the settlement amount as provided in the Ernst & Young Settlement to the trust established pursuant to the Settlement Trust Order,

Upon the foregoing conditions precedent having been satisfied and upon receipt of a certificate from Ernst & Young confirming it has paid the settlement amount to the Settlement Trust in accordance with the Ernst & Young Settlement and the trustee of the Settlement Trust confirming receipt of such settlement amount, the Monitor shall be authorized and directed to deliver to Ernst & Young the Monitor’s Ernst & Young Settlement Certificate and the Monitor shall file the Monitor’s Ernst & Young Settlement Certificate with this Honourable Court after delivery of such certificate to Ernst & Young, all as provided for in section 11.1 of the Plan.

41. **THIS COURT ORDERS** that any Named Third Party Defendant Settlement, Named Third Party Defendant Settlement Order and Named Third Party Defendant Release, the terms

and scope of which remain in each case subject to future court approval in accordance with the Plan, shall only become effective after the Plan Implementation Date and upon the satisfaction of the conditions precedent to the applicable Named Third Party Defendant Settlement and the delivery of the applicable Monitor's Named Third Party Settlement Certificate to the applicable Named Third Party Defendant, all as set forth in section 11.2 of the Plan.

THE MONITOR

42. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA and the powers provided to the Monitor herein and in the Plan, shall be and is hereby authorized, directed and empowered to perform its functions and fulfill its obligations under the Plan to facilitate the implementation of the Plan.

43. **THIS COURT ORDERS** that the Monitor shall not make any payment from the Monitor's Post-Implementation Reserve to any third party professional services provider (other than its counsel) that exceeds \$250,000 (alone or in a series of related payments) without the prior consent of the Initial Consenting Noteholders or an Order of this Court.

44. **THIS COURT ORDERS** that: (i) in carrying out the terms of this Plan Sanction Order and the Plan, the Monitor shall have all the protections given to it by the CCAA, the Initial Order, the Order of this Court dated April 20, 2012 expanding the powers of the Monitor, and as an officer of the Court, including the stay of proceedings in its favour; (ii) the Monitor shall incur no liability or obligation as a result of carrying out the provisions of this Plan Sanction Order and/or the Plan, save and except for any gross negligence or wilful misconduct on its part; (iii) the Monitor shall be entitled to rely on the books and records of SFC and any information provided by SFC without independent investigation; and (iv) the Monitor shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information.

45. **THIS COURT ORDERS** that upon completion by the Monitor of its duties in respect of SFC pursuant to the CCAA, the Plan and the Orders, the Monitor may file with the Court a certificate stating that all of its duties in respect of SFC pursuant to the CCAA, the Plan and the Orders have been completed and thereupon, FTI Consulting Canada Inc. shall be deemed to be

discharged from its duties as Monitor and released of all claims relating to its activities as Monitor.

46. **THIS COURT ORDERS** that in no circumstances will the Monitor have any liability for any of SFC's tax liabilities, if any, regardless of how or when such liabilities may have arisen.

47. **THIS COURT ORDERS** that, subject to the due performance of its obligations as set forth in the Plan and subject to its compliance with any written directions or instructions of the Monitor and/or directions of the Court in the manner set forth in the Plan, SFC Escrow Co. shall have no liabilities whatsoever arising from the performance of its obligations under the Plan.

RESERVES AND OTHER AMOUNTS

48. **THIS COURT ORDERS AND DECLARES** that the amount of each of the Indemnified Noteholder Class Action Limit, the Litigation Funding Amount, the Unaffected Claims Reserve, the Administration Charge Reserve, the Monitor's Post-Implementation Reserve and the Unresolved Claims Reserve, is as provided for in the Plan, the Plan Supplement or in Schedule "D" hereto, or such other amount as may be agreed by SFC, the Monitor and the Initial Consenting Noteholders, as applicable, in accordance with the terms of the Plan.

49. **THIS COURT ORDERS** that Goodmans LLP, in its capacity as counsel to the Initial Consenting Noteholders, shall be permitted to apply for an Order of the Court at any time directing the Monitor to make distributions from the Monitor's Post-Implementation Reserve.

50. **THIS COURT ORDERS AND DECLARES** that, on the Plan Implementation Date, at the time or times and in the manner set forth in section 6.4 of the Plan, each of the Charges shall be discharged, released and cancelled, and any obligations secured thereby shall be satisfied pursuant to section 4.2(b) of the Plan, and from and after the Plan Implementation Date the Administration Charge Reserve shall stand in place of the Administration Charge as security for the payment of any amounts secured by the Administration Charge.

51. **THIS COURT ORDERS AND DECLARES** that any Unresolved Claims that exceed \$1 million shall not be accepted or resolved without further Order of the Court. All parties with Unresolved Claims shall have standing in any proceeding with respect to the determination or status of any other Unresolved Claim. Counsel to the Initial Consenting Noteholders, Goodmans

LLP, shall continue to have standing in any such proceeding on behalf of the Initial Consenting Noteholders, in their capacity as Affected Creditors with Proven Claims.

DOCUMENT PRESERVATION

52. **THIS COURT ORDERS AND DECLARES** that, prior to the Effective Time, SFC shall: (i) preserve or cause to be preserved copies of any documents (as such term is defined in the *Rules of Civil Procedure* (Ontario)) that are relevant to the issues raised in the Class Actions; and (ii) make arrangements acceptable to SFC, the Monitor, the Initial Consenting Noteholders, counsel to Ontario Class Action Plaintiffs, counsel to Ernst & Young, counsel to the Underwriters and counsel to the Named Third Party Defendants to provide the parties to the Class Actions with access thereto, subject to customary commercial confidentiality, privilege or other applicable restrictions, including lawyer-client privilege, work product privilege and other privileges or immunities, and to restrictions on disclosure arising from s. 16 of the *Securities Act* (Ontario) and comparable restrictions on disclosure in other relevant jurisdictions, for purposes of prosecuting and/or defending the Class Actions, as the case may be, provided that nothing in the foregoing reduces or otherwise limits the parties' rights to production and discovery in accordance with the *Rules of Civil Procedure* (Ontario) and the *Class Proceedings Act, 1992* (Ontario).

EFFECT, RECOGNITION AND ASSISTANCE

53. **THIS COURT ORDERS** that nothing in this Plan Sanction Order or as a result of the implementation of the Plan shall affect the standing any Person has at the date of this Plan Sanction Order in respect of the CCAA Proceeding or the Litigation Trust.

54. **THIS COURT ORDERS** that the transfer, assignment and delivery to the Litigation Trustee pursuant to the Litigation Trust of (i) rights, title and interests in and to the Litigation Trust Claims and (ii) all respective rights, title and interests in and to any lawyer-client privilege, work product privilege or other privilege or immunity attaching to any documents or communications (whether written or oral) associated with the Litigation Trust Claims, regardless of whether such documents or copies thereof have been requested by the Litigation Trustee pursuant to the Litigation Trust Agreement (collectively, the "Privileges") shall not constitute a waiver of any such Privileges, and that such Privileges are expressly maintained.

55. **THIS COURT ORDERS** that the current directors of SFC shall be deemed to have resigned on the Plan Implementation Date. The current directors of SFC shall have no liability in such capacity for any and all demands, claims, actions, causes of action, counterclaims, suits, debts, sums of money, accounts, covenants, damages, judgments, orders, including, without limitation, for injunctive relief or specific performance and compliance orders, expenses, executions, Encumbrances and other recoveries on account of any liability, obligation, demand or cause of action of whatever nature which any Person may be entitled to assert, whether known or unknown, matured or unmatured, direct, indirect or derivative, foreseen or unforeseen, arising on or after the Plan Implementation Date.

56. **THIS COURT ORDERS** that SFC and the Monitor may apply to this Court for advice and direction with respect to any matter arising from or under the Plan or this Plan Sanction Order.

57. **THIS COURT ORDERS** that this Plan Sanction Order shall have full force and effect in all provinces and territories of Canada and abroad as against all persons and parties against whom it may otherwise be enforced.

58. **THIS COURT ORDERS** that, from and after the Plan Implementation Date, the Monitor is hereby authorized and appointed to act as the foreign representative in respect of the within proceedings for the purposes of having these proceedings recognized in the United States pursuant to chapter 15 of title 11 of the United States Code.

59. **THIS COURT ORDERS** that, as promptly as practicable following the Plan Implementation Date, but in no event later than the third Business Day following the Plan Implementation Date, the Monitor, as the foreign representative of SFC and of the within proceedings, is hereby authorized and directed to commence a proceeding in a court of competent jurisdiction in the United States seeking recognition of the Plan and this Plan Sanction Order and confirming that the Plan and this Plan Sanction Order are binding and effective in the United States.

60. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court or any judicial, regulatory or administrative body having jurisdiction in Canada, the United States, Barbados, the British Virgin Islands, Cayman Islands, Hong Kong, the People's Republic of

China or in any other foreign jurisdiction, to give effect to this Plan Sanction Order and to assist SFC, the Monitor and their respective agents in carrying out the terms of this Plan Sanction Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to SFC and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Plan Sanction Order, to grant representative status to the Monitor in any foreign proceeding, or to assist SFC and the Monitor and their respective agents in carrying out the terms of this Plan Sanction Order.

61. **THIS COURT ORDERS** that each of SFC and the Monitor shall, following consultation with Goodmans LLP, be at liberty, and is hereby authorized and empowered, to make such further applications, motions or proceedings to or before such other courts and judicial, regulatory and administrative bodies, and take such steps in Canada, the United States of America, the British Virgin Islands, Cayman Islands, Hong Kong, the People's Republic of China or in any other foreign jurisdiction, as may be necessary or advisable to give effect to this Plan Sanction Order and any other Order granted by this Court, including for recognition of this Plan Sanction Order and for assistance in carrying out its terms.

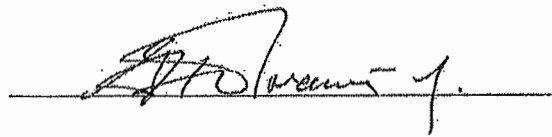
62. **THIS COURT ORDERS** that this Plan Sanction Order shall be posted on the Monitor's Website at <http://cfcanada.fticonsulting.com/sfc> and only be required to be served upon the parties on the Service List and those parties who appeared at the hearing of the motion for this Plan Sanction Order.

63. **THIS COURT ORDERS AND DECLARES** that any conflict or inconsistency between the Plan and this Plan Sanction Order shall be governed by the terms, conditions and provisions of the Plan, which shall take precedence and priority.

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



DEC 12 2012



Schedule "A"

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

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

AND IN THE MATTER OF A PLAN OF COMPROMISE AND
ARRANGEMENT OF SINO-FOREST
CORPORATION

APPLICANT

PLAN OF COMPROMISE AND REORGANIZATION

pursuant to the *Companies' Creditors Arrangement Act*
and the *Canada Business Corporations Act*
concerning, affecting and involving

SINO-FOREST CORPORATION

December 3, 2012

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PLAN OF COMPROMISE AND REORGANIZATION

WHEREAS Sino-Forest Corporation (“SFC”) is insolvent;

AND WHEREAS, on March 30, 2012 (the “Filing Date”), the Honourable Justice Morawetz of the Ontario Superior Court of Justice (Commercial List) (the “Court”) granted an initial Order in respect of SFC (as such Order may be amended, restated or varied from time to time, the “Initial Order”) pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “CCAA”) and the *Canada Business Corporation Act*, R.S.C. 1985, c. C-44, as amended (the “CBCA”);

AND WHEREAS, on August 31, 2012, the Court granted a Plan Filing and Meeting Order (as such Order may be amended, restated or varied from time to time, the “Meeting Order”) pursuant to which, among other things, SFC was authorized to file this plan of compromise and reorganization and to convene a meeting of affected creditors to consider and vote on this plan of compromise and reorganization.

NOW THEREFORE, SFC hereby proposes this plan of compromise and reorganization pursuant to the CCAA and CBCA.

**ARTICLE 1
INTERPRETATION**

1.1 Definitions

In the Plan, unless otherwise stated or unless the subject matter or context otherwise requires:

“**2013 Note Indenture**” means the indenture dated as of July 23, 2008, by and between SFC, the entities listed as subsidiary guarantors therein, and The Bank of New York Mellon, as trustee, as amended, modified or supplemented.

“**2014 Note Indenture**” means the indenture dated as of July 27, 2009, by and between SFC, the entities listed as subsidiary guarantors therein, and Law Debenture Trust Company of New York, as trustee, as amended, modified or supplemented.

“**2016 Note Indenture**” means the indenture dated as of December 17, 2009, by and between SFC, the entities listed as subsidiary guarantors therein, and The Bank of New York Mellon, as trustee, as amended, modified or supplemented.

“**2017 Note Indenture**” means the indenture dated as of October 21, 2010, by and between SFC, the entities listed as subsidiary guarantors therein, and Law Debenture Trust Company of New York, as trustee, as amended, modified or supplemented.

“**2013 Notes**” means the aggregate principal amount of US\$345,000,000 of 5.00% Convertible Senior Notes Due 2013 issued pursuant to the 2013 Note Indenture.

"2014 Notes" means the aggregate principal amount of US\$399,517,000 of 10.25% Guaranteed Senior Notes Due 2014 issued pursuant to the 2014 Note Indenture.

"2016 Notes" means the aggregate principal amount of US\$460,000,000 of 4.25% Convertible Senior Notes Due 2016 issued pursuant to the 2016 Note Indenture.

"2017 Notes" means the aggregate principal amount of US\$600,000,000 of 6.25% Guaranteed Senior Notes Due 2017 issued pursuant to the 2017 Note Indenture.

"Accrued Interest" means, in respect of any series of Notes, all accrued and unpaid interest on such Notes, at the regular rates provided in the applicable Note Indentures, up to and including the Filing Date.

"Administration Charge" has the meaning ascribed thereto in the Initial Order.

"Administration Charge Reserve" means the cash reserve to be established by SFC on the Plan Implementation Date in the amount of \$500,000 or such other amount as agreed to by the Monitor and the Initial Consenting Noteholders, which cash reserve: (i) shall be maintained and administered by the Monitor, in trust, for the purpose of paying any amounts secured by the Administration Charge; and (ii) upon the termination of the Administration Charge pursuant to the Plan, shall stand in place of the Administration Charge as security for the payment of any amounts secured by the Administration Charge.

"Affected Claim" means any Claim, D&O Claim or D&O Indemnity Claim that is not: an Unaffected Claim; a Section 5.1(2) D&O Claim; a Conspiracy Claim; a Continuing Other D&O Claim; a Non-Released D&O Claim; or a Subsidiary Intercompany Claim, and "Affected Claim" includes any Class Action Indemnity Claim. For greater certainty, all of the following are Affected Claims: Affected Creditor Claims; Equity Claims; Noteholder Class Action Claims (other than the Continuing Noteholder Class Action Claims); and Class Action Indemnity Claims.

"Affected Creditor" means a Person with an Affected Creditor Claim, but only with respect to and to the extent of such Affected Creditor Claim.

"Affected Creditor Claim" means any Ordinary Affected Creditor Claim or Noteholder Claim.

"Affected Creditors Class" has the meaning ascribed thereto in section 3.2(a) hereof.

"Affected Creditors Equity Sub-Pool" means an amount of Newco Shares representing 92.5% of the Newco Equity Pool.

"Alternative Sale Transaction" has the meaning ascribed thereto in section 10.1 hereof.

"Alternative Sale Transaction Consideration" has the meaning ascribed thereto in section 10.1 hereof.

"Applicable Law" means any applicable law, statute, order, decree, consent decree, judgment, rule, regulation, ordinance or other pronouncement having the effect of law whether in Canada,

the United States, Hong Kong, the PRC or any other country, or any domestic or foreign state, county, province, city or other political subdivision or of any Governmental Entity.

"Auditors" means the former auditors of SFC that are named as defendants to the Class Actions Claims, including for greater certainty Ernst & Young LLP and BDO Limited.

"Barbados Loans" means the aggregate amount outstanding at the date hereof pursuant to three loans made by SFC Barbados to SFC in the amounts of US\$65,997,468.10 on February 1, 2011, US\$59,000,000 on June 7, 2011 and US\$176,000,000 on June 7, 2011.

"Barbados Property" has the meaning ascribed thereto in section 6.4(j) hereof.

"BIA" means the *Bankruptcy and Insolvency Act*, R. S. C. 1985, c. B-3.

"Business Day" means a day, other than Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Toronto, Ontario.

"Canadian Tax Act" means the *Income Tax Act* (Canada) and the *Income Tax Regulations*, in each case as amended from time to time.

"Causes of Action" means any and all claims, actions, causes of action, demands, counterclaims, suits, rights, entitlements, litigation, arbitration, proceeding, hearing, complaint, debt, obligation, sums of money, accounts, covenants, damages, judgments, orders, including for injunctive relief or specific performance and compliance orders, expenses, executions, Encumbrances and other recoveries of whatever nature that any Person may be entitled to assert in law, equity or otherwise, whether known or unknown, foreseen or unforeseen, reduced to judgment or not reduced to judgment, liquidated or unliquidated, contingent or non-contingent, matured or unmatured, disputed or undisputed, secured or unsecured, assertable directly, indirectly or derivatively, existing or hereafter arising and whether pertaining to events occurring before, on or after the Filing Date.

"CBCA" has the meaning ascribed thereto in the recitals.

"CCAA" has the meaning ascribed thereto in the recitals.

"CCAA Proceeding" means the proceeding commenced by SFC under the CCAA on the Filing Date in the Ontario Superior Court of Justice (Commercial List) under court file number CV-12-9667-00CL.

"Charges" means the Administration Charge and the Directors' Charge.

"Claim" means any right or claim of any Person that may be asserted or made against SFC, in whole or in part, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, and any interest accrued thereon or costs payable in respect thereof, including by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express,

implied, resulting, constructive or otherwise), and whether or not any indebtedness, liability or obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present or future, known or unknown, by guarantee, surety or otherwise, and whether or not any right or claim is executory or anticipatory in nature, including any right or ability of any Person (including any Directors or Officers of SFC or any of the Subsidiaries) to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation, and any interest accrued thereon or costs payable in respect thereof (A) is based in whole or in part on facts prior to the Filing Date, (B) relates to a time period prior to the Filing Date, or (C) is a right or claim of any kind that would be a claim provable against SFC in bankruptcy within the meaning of the BIA had SFC become bankrupt on the Filing Date, or is an Equity Claim, a Noteholder Class Action Claim against SFC, a Class Action Indemnity Claim against SFC, a Restructuring Claim or a Lien Claim, provided, however, that "Claim" shall not include a D&O Claim or a D&O Indemnity Claim.

"Claims Bar Date" has the meaning ascribed thereto in the Claims Procedure Order.

"Claims Procedure" means the procedure established for determining the amount and status of Claims, D&O Claims and D&O Indemnity Claims, including in each case any such claims that are Unresolved Claims, pursuant to the Claims Procedure Order.

"Claims Procedure Order" means the Order under the CCAA of the Honourable Justice Morawetz dated May 14, 2012, establishing, among other things, a claims procedure in respect of SFC and calling for claims in respect of the Subsidiaries, as such Order may be amended, restated or varied from time to time.

"Class Action Claims" means, collectively, any rights or claims of any kind advanced or which may subsequently be advanced in the Class Actions or in any other similar proceeding, whether a class action proceeding or otherwise, and for greater certainty includes any Noteholder Class Action Claims.

"Class Actions" means, collectively, the following proceedings: (i) *Trustees of the Labourers' Pension Fund of Central and Eastern Canada et al v. Sino-Forest Corporation et al.* (Ontario Superior Court of Justice, Court File No. CV-11-431153-00CP); (ii) *Guining Liu v. Sino-Forest Corporation et al.* (Quebec Superior Court, Court File No. 200-06-000132-111); (iii) *Allan Haigh v. Sino-Forest Corporation et al.* (Saskatchewan Court of Queen's Bench, Court File No. 2288 of 2011); and (iv) *David Leopard et al. v. Allen T.Y. Chan et al.* (District Court of the Southern District of New York, Court File No. 650258/2012).

"Class Action Court" means, with respect to the Class Action Claims, the court of competent jurisdiction that is responsible for administering the applicable Class Action Claim.

"Class Action Indemnity Claim" means any right or claim of any Person that may be asserted or made in whole or in part against SFC and/or any Subsidiary for indemnity, contribution, reimbursement or otherwise from or in connection with any Class Action Claim asserted against

such Person. For greater certainty, Class Action Indemnity Claims are distinct from and do not include Class Action Claims.

“Consent Date” means May 15, 2012.

“Conspiracy Claim” means any D&O Claim alleging that the applicable Director or Officer committed the tort of civil conspiracy, as defined under Canadian common law.

“Continuing Noteholder Class Action Claim” means any Noteholder Class Action Claim that is: (i) a Section 5.1(2) D&O Claim; (ii) a Conspiracy Claim; (iii) a Non-Released D&O Claim; (iv) a Continuing Other D&O Claim; (v) a Noteholder Class Action Claim against one or more Third Party Defendants that is not an Indemnified Noteholder Class Action Claim; (vi) the portion of an Indemnified Noteholder Class Action Claim that is permitted to continue against the Third Party Defendants, subject to the Indemnified Noteholder Class Action Limit, pursuant to section 4.4(b)(i) hereof.

“Continuing Other D&O Claims” has the meaning ascribed thereto in section 4.9(b) hereof.

“Court” has the meaning ascribed thereto in the recitals.

“D&O Claim” means (i) any right or claim of any Person that may be asserted or made in whole or in part against one or more Directors or Officers of SFC that relates to a Claim for which such Directors or Officers are by law liable to pay in their capacity as Directors or Officers of SFC, or (ii) any right or claim of any Person that may be asserted or made in whole or in part against one or more Directors or Officers of SFC, in that capacity, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, and any interest accrued thereon or costs payable in respect thereof, including by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including any legal, statutory, equitable or fiduciary duty and including, for greater certainty, any monetary administrative or other monetary penalty or claim for costs asserted against any Officer or Director of SFC by any Government Entity) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise), and whether or not any indebtedness, liability or obligation, and any interest accrued thereon or costs payable in respect thereof, is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present or future, known or unknown, by guarantee, surety or otherwise, and whether or not any right or claim is executory or anticipatory in nature, including any right or ability of any Person to advance a claim for contribution or indemnity from any such Directors or Officers of SFC or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation, and any interest accrued thereon or costs payable in respect thereof (A) is based in whole or in part on facts prior to the Filing Date, or (B) relates to a time period prior to the Filing Date.

“D&O Indemnity Claim” means any existing or future right of any Director or Officer of SFC against SFC that arose or arises as a result of any Person filing a D&O Proof of Claim (as

defined in the Claims Procedure Order) in respect of such Director or Officer of SFC for which such Director or Officer of SFC is entitled to be indemnified by SFC.

"Defence Costs" has the meaning ascribed thereto in section 4.8 hereof.

"Director" means, with respect to SFC or any Subsidiary, anyone who is or was, or may be deemed to be or have been, whether by statute, operation of law or otherwise, a director or *de facto* director of such SFC Company.

"Directors' Charge" has the meaning ascribed thereto in the Initial Order.

"Direct Registration Account" means, if applicable, a direct registration account administered by the Transfer Agent in which those Persons entitled to receive Newco Shares and/or Newco Notes pursuant to the Plan will hold such Newco Shares and/or Newco Notes in registered form.

"Direct Registration Transaction Advice" means, if applicable, a statement delivered by the Monitor, the Trustees, the Transfer Agent or any such Person's agent to any Person entitled to receive Newco Shares or Newco Notes pursuant to the Plan on the Initial Distribution Date and each subsequent Distribution Date, as applicable, indicating the number of Newco Shares and/or Newco Notes registered in the name of or as directed by the applicable Person in a Direct Registration Account.

"Direct Subsidiaries" means, collectively, Sino-Panel Holdings Limited, Sino-Global Holdings Inc., Sino-Panel Corporation, Sino-Capital Global Inc., SFC Barbados, Sino-Forest Resources Inc. Sino-Wood Partners, Limited.

"Distribution Date" means the date or dates from time to time set in accordance with the provisions of the Plan to effect distributions in respect of the Proven Claims, excluding the Initial Distribution Date.

"Distribution Escrow Position" has the meaning ascribed thereto in section 5.2(d) hereof.

"Distribution Record Date" means the Plan Implementation Date, or such other date as SFC, the Monitor and the Initial Consenting Noteholders may agree.

"DTC" means The Depository Trust Company, or any successor thereof.

"Early Consent Equity Sub-Pool" means an amount of Newco Shares representing 7.5% of the Newco Equity Pool.

"Early Consent Noteholder" means any Noteholder that:

- (a) (i) as confirmed by the Monitor on June 12, 2012, executed the (A) RSA, (B) a support agreement with SFC and the Direct Subsidiaries in the form of the RSA or (C) a joinder agreement in the form attached as Schedule C to the RSA; (ii) provided evidence satisfactory to the Monitor in accordance with section 2(a) of the RSA of the Notes held by such Noteholder as at the Consent Date (the **"Early Consent Notes"**), as such list of Noteholders and Notes held has been verified

and is maintained by the Monitor on a confidential basis; and (iii) continues to hold such Early Consent Notes as at the Distribution Record Date; or

- (b) (i) has acquired Early Consent Notes; (ii) has signed the necessary transfer and joinder documentation as required by the RSA and has otherwise acquired such Early Consent Notes in compliance with the RSA; and (iii) continues to hold such Early Consent Notes as at the Distribution Record Date.

“Effective Time” means 8:00 a.m. (Toronto time) on the Plan Implementation Date or such other time on such date as SFC, the Monitor and the Initial Consenting Noteholders may agree.

“Eligible Third Party Defendant” means any of the Underwriters, BDO Limited and Ernst & Young (in the event that the Ernst & Young Settlement is not completed), together with any of their respective present and former affiliates, partners, associates, employees, servants, agents, contractors, directors, officers, insurers and successors, administrators, heirs and assigns (but excluding any Director or Officer and successors, administrators, heirs and assigns of any Director or Officer in their capacity as such), and any Director or Officer together with their respective successors, administrators, heirs and assigns.

“Employee Priority Claims” means the following Claims of employees and former employees of SFC:

- (a) Claims equal to the amounts that such employees and former employees would have been qualified to receive under paragraph 136(1)(d) of the BIA if SFC had become bankrupt on the Filing Date; and
- (b) Claims for wages, salaries, commissions or compensation for services rendered by them after the Filing Date and on or before the Plan Implementation Date.

“Encumbrance” means any security interest (whether contractual, statutory, or otherwise), hypothec, mortgage, trust or deemed trust (whether contractual, statutory, or otherwise), lien, execution, levy, charge, demand, action, liability or other claim, action, demand or liability of any kind whatsoever, whether proprietary, financial or monetary, and whether or not it has attached or been perfected, registered or filed and whether secured, unsecured or otherwise, including: (i) any of the Charges; and (ii) any charge, security interest or claim evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system.

“Equity Cancellation Date” means the date that is the first Business Day at least 31 days after the Plan Implementation Date, or such other date as may be agreed to by SFC, the Monitor and the Initial Consenting Noteholders.

“Equity Claim” means a Claim that meets the definition of “equity claim” in section 2(1) of the CCAA and, for greater certainty, includes any of the following:

- (a) any claim against SFC resulting from the ownership, purchase or sale of an equity interest in SFC, including the claims by or on behalf of current or former shareholders asserted in the Class Actions;

- (b) any indemnification claim against SFC related to or arising from the claims described in sub-paragraph (a), including any such indemnification claims against SFC by or on behalf of any and all of the Third Party Defendants (other than for Defence Costs, unless any such claims for Defence Costs have been determined to be Equity Claims subsequent to the date of the Equity Claims Order); and
- (c) any other claim that has been determined to be an Equity Claim pursuant to an Order of the Court.

“Equity Claimant” means any Person having an Equity Claim, but only with respect to and to the extent of such Equity Claim.

“Equity Claimant Class” has the meaning ascribed thereto in section 3.2(b).

“Equity Claims Order” means the Order under the CCAA of the Honourable Justice Morawetz dated July 27, 2012, in respect of Shareholder Claims and Related Indemnity Claims against SFC, as such terms are defined therein.

“Equity Interest” has the meaning set forth in section 2(1) of the CCAA.

“Ernst & Young” means Ernst & Young LLP (Canada), Ernst & Young Global Limited and all other member firms thereof, and all present and former affiliates, partners, associates, employees, servants, agents, contractors, directors, officers, insurers and successors, administrators, heirs and assigns of each, but excludes any Director or Officer (in their capacity as such) and successors, administrators, heirs and assigns of any Director or Officer (in their capacity as such).

“Ernst & Young Claim” means any and all demands, claims, actions, Causes of Action, counterclaims, suits, debts, sums of money, accounts, covenants, damages, judgments, orders, including injunctive relief or specific performance and compliance orders, expenses, executions, Encumbrances and other recoveries on account of any claim, indebtedness, liability, obligation, demand or cause of action of whatever nature that any Person, including any Person who may claim contribution or indemnification against or from them and also including for greater certainty the SFC Companies, the Directors (in their capacity as such), the Officers (in their capacity as such), the Third Party Defendants, Newco, Newco II, the directors and officers of Newco and Newco II, the Noteholders or any Noteholder, any past, present or future holder of a direct or indirect equity interest in the SFC Companies, any past, present or future direct or indirect investor or security holder of the SFC Companies, any direct or indirect security holder of Newco or Newco II, the Trustees, the Transfer Agent, the Monitor, and each and every member (including members of any committee or governance council), present and former affiliate, partner, associate, employee, servant, agent, contractor, director, officer, insurer and each and every successor, administrator, heir and assign of each of any of the foregoing may or could (at any time past present or future) be entitled to assert against Ernst & Young, including any and all claims in respect of statutory liabilities of Directors (in their capacity as such), Officers (in their capacity as such) and any alleged fiduciary (in any capacity) whether known or unknown, matured or unmatured, direct or derivative, foreseen or unforeseen, suspected or unsuspected, contingent or not contingent, existing or hereafter arising, based in whole or in part

on any act or omission, transaction, dealing or other occurrence existing or taking place on, prior to or after the Ernst & Young Settlement Date relating to, arising out of or in connection with the SFC Companies, the SFC Business, any Director or Officer (in their capacity as such) and/or professional services performed by Ernst & Young or any other acts or omissions of Ernst & Young in relation to the SFC Companies, the SFC Business, any Director or Officer (in their capacity as such), including for greater certainty but not limited to any claim arising out of:

- (a) all audit, tax, advisory and other professional services provided to the SFC Companies or related to the SFC Business up to the Ernst & Young Settlement Date, including for greater certainty all audit work performed, all auditors' opinions and all consents in respect of all offering of SFC securities and all regulatory compliance delivered in respect of all fiscal periods and all work related thereto up to and including the Ernst & Young Settlement Date;
- (b) all claims advanced or which could have been advanced in any or all of the Class Actions;
- (c) all claims advanced or which could have been advanced in any or all actions commenced in all jurisdictions prior the Ernst & Young Settlement Date; or
- (d) all Noteholder Claims, Litigation Trust Claims or any claim of the SFC Companies,

provided that "Ernst & Young Claim" does not include any proceedings or remedies that may be taken against Ernst & Young by the Ontario Securities Commission or by staff of the Ontario Securities Commission, and the jurisdiction of the Ontario Securities Commission and staff of the Ontario Securities Commission in relation to Ernst & Young under the Securities Act, R.S.O. 1990, c. S-5 is expressly preserved.

"Ernst & Young Orders" has the meaning ascribed thereto in section 11.1(a) hereof.

"Ernst & Young Release" means the release described in 11.1(b) hereof.

"Ernst & Young Settlement" means the settlement as reflected in the Minutes of Settlement executed on November 29, 2012 between Ernst & Young LLP, on behalf of itself and Ernst & Young Global Limited and all member firms thereof and the plaintiffs in Ontario Superior Court Action No. CV-11-4351153-00CP and in Quebec Superior Court No. 200-06-00132-111, and such other documents contemplated thereby.

"Ernst & Young Settlement Date" means the date that the Monitor's Ernst & Young Settlement Certificate is delivered to Ernst & Young.

"Excluded Litigation Trust Claims" has the meaning ascribed thereto in section 4.12(a) hereof.

"Excluded SFC Assets" means (i) the rights of SFC to be transferred to the Litigation Trust in accordance with section 6.4(o) hereof; (ii) any entitlement to insurance proceeds in respect of Insured Claims, Section 5.1(2) D&O Claims and/or Conspiracy Claims; (iii) any secured property of SFC that is to be returned in satisfaction of a Lien Claim pursuant to section 4.2(c)(i)

hereof; (iv) any input tax credits or other refunds received by SFC after the Effective Time; and (v) cash in the aggregate amount of (and for the purpose of): (A) the Litigation Funding Amount; (B) the Unaffected Claims Reserve; (C) the Administration Charge Reserve; (D) the Expense Reimbursement and the other payments to be made pursuant to section 6.4(d) hereof (having regard to the application of any outstanding retainers, as applicable); (E) any amounts in respect of Lien Claims to be paid in accordance with section 4.2(c)(ii) hereof; and (F) the Monitor's Post-Implementation Reserve; (vi) any office space, office furniture or other office equipment owned or leased by SFC in Canada; (vii) the SFC Escrow Co. Share; (viii) Newco Promissory Note 1; and (ix) Newco Promissory Note 2.

"Existing Shares" means all existing shares in the equity of SFC issued and outstanding immediately prior to the Effective Time and all warrants, options or other rights to acquire such shares, whether or not exercised as at the Effective Time.

"Expense Reimbursement" means the aggregate amount of (i) the reasonable and documented fees and expenses of the Noteholder Advisors, pursuant to their respective engagement letters with SFC, and other advisors as may be agreed to by SFC and the Initial Consenting Noteholders and (ii) the reasonable fees and expenses of the Initial Consenting Noteholders incurred in connection with the negotiation and development of the RSA and this Plan, including in each case an estimated amount for any such fees and expenses expected to be incurred in connection with the implementation of the Plan, including in the case of (i) above, an aggregate work fee of up to \$5 million (which work fee may, at the request of the Monitor, be paid by any of the Subsidiaries instead of SFC).

"Filing Date" has the meaning ascribed thereto in the recitals.

"Fractional Interests" has the meaning given in section 5.12 hereof.

"FTI HK" means FTI Consulting (Hong Kong) Limited.

"Governmental Entity" means any government, regulatory authority, governmental department, agency, commission, bureau, official, minister, Crown corporation, court, board, tribunal or dispute settlement panel or other law, rule or regulation-making organization or entity: (a) having or purporting to have jurisdiction on behalf of any nation, province, territory or state or any other geographic or political subdivision of any of them; or (b) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power.

"Government Priority Claims" means all Claims of Governmental Entities in respect of amounts that were outstanding as of the Plan Implementation Date and that are of a kind that could be subject to a demand under:

- (a) subsections 224(1.2) of the Canadian Tax Act;
- (b) any provision of the *Canada Pension Plan* or the *Employment Insurance Act* (Canada) that refers to subsection 224(1.2) of the Canadian Tax Act and provides for the collection of a contribution, as defined in the *Canada Pension Plan*, or employee's premium or employer's premium as defined in the *Employment*

Insurance Act (Canada), or a premium under Part VII.1 of that Act, and of any related interest, penalties or other amounts; or

- (c) any provision of provincial legislation that has a similar purpose to subsection 224(1.2) of the Canadian Tax Act, 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 Canadian Tax Act; 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.

"Greenheart" means Greenheart Group Limited, a company established under the laws of Bermuda.

"Indemnified Noteholder Class Action Claims" has the meaning ascribed thereto in section 4.4(b)(i) hereof.

"Indemnified Noteholder Class Action Limit" means \$150 million or such lesser amount agreed to by SFC, the Monitor, the Initial Consenting Noteholders and counsel to the Ontario Class Action Plaintiffs prior to the Plan Implementation Date or agreed to by the Initial Consenting Noteholders and counsel to the Class Action Plaintiffs after the Plan Implementation Date.

"Initial Consenting Noteholders" means, subject to section 12.7 hereof, the Noteholders that executed the RSA on March 30, 2012.

"Initial Distribution Date" means a date no more than ten (10) Business Days after the Plan Implementation Date or such other date as SFC, the Monitor and the Initial Consenting Noteholders may agree.

"Initial Newco Shareholder" means a Person to be determined by the Initial Consenting Noteholders prior to the Effective Time, with the consent of SFC and the Monitor, to serve as the initial sole shareholder of Newco pursuant to section 6.2(a) hereof.

"Initial Order" has the meaning ascribed thereto in the recitals.

"Insurance Policies" means, collectively, the following insurance policies, as well as any other insurance policy pursuant to which SFC or any Director or Officer is insured: ACE INA Insurance Policy Number DO024464; Chubb Insurance Company of Canada Policy Number 8209-4449; Lloyds of London, England Policy Number XTFF0420; Lloyds of London, England

Policy Number XTFF0373; and Travelers Guarantee Company of Canada Policy Number 10181108, and **"Insurance Policy"** means any one of the Insurance Policies.

"Insured Claim" means all or that portion of any Claim for which SFC is insured and all or that portion of any D&O Claim for which the applicable Director or Officer is insured, in each case pursuant to any of the Insurance Policies.

"Intellectual Property" means: (i) patents, and applications for patents, including divisional and continuation patents; (ii) registered and unregistered trade-marks, logos and other indicia of origin, pending trade-mark registration applications, and proposed use application or similar reservations of marks, and all goodwill associated therewith; (iii) registered and unregistered copyrights, including all copyright in and to computer software programs, and applications for and registration of such copyright (including all copyright in and to the SFC Companies' websites); (iv) world wide web addresses and internet domain names, applications and reservations for world wide web addresses and internet domain names, uniform resource locators and the corresponding internet sites; (v) industrial designs; and (vi) trade secrets and proprietary information not otherwise listed in (i) through (v) above, including all inventions (whether or not patentable), invention disclosures, moral and economic rights of authors and inventors (however denominated), confidential information, technical data, customer lists, corporate and business names, trade names, trade dress, brand names, know-how, formulae, methods (whether or not patentable), designs, processes, procedures, technology, business methods, source codes, object codes, computer software programs (in either source code or object code form), databases, data collections and other proprietary information or material of any type, and all derivatives, improvements and refinements thereof, howsoever recorded, or unrecorded.

"Letter of Instruction" means a form, to be completed by each Ordinary Affected Creditor and each Early Consent Noteholder, and that is to be delivered to the Monitor in accordance with section 5.1 hereof, which form shall set out:

- (a) the registration details for the Newco Shares and, if applicable, Newco Notes to be distributed to such Ordinary Affected Creditor or Early Consent Noteholder in accordance with the Plan; and
- (b) the address to which such Ordinary Affected Creditor's or Early Consent Noteholder's Direct Registration Transaction Advice or its Newco Share Certificates and Newco Note Certificates, as applicable, are to be delivered.

"Lien Claim" means any Proven Claim of a Person indicated as a secured creditor in Schedule "B" to the Initial Order (other than the Trustees) that is secured by a lien or encumbrance on any property of SFC, which lien is valid, perfected and enforceable pursuant to Applicable Law, provided that the Charges and any Claims in respect of Notes shall not constitute "Lien Claims".

"Lien Claimant" means a Person having a Lien Claim, other than any Noteholder or Trustee in respect of any Noteholder Claim.

"Litigation Funding Amount" means the cash amount of \$1,000,000 to be advanced by SFC to the Litigation Trustee for purposes of funding the Litigation Trust on the Plan Implementation Date in accordance with section 6.4(o) hereof.

"Litigation Funding Receivable" has the meaning ascribed thereto in section 6.4(o) hereof.

"Litigation Trust" means the trust to be established on the Plan Implementation Date at the time specified in section 6.4(p) in accordance with the Litigation Trust Agreement pursuant to the laws of a jurisdiction that is acceptable to SFC and the Initial Consenting Noteholders, which trust will acquire the Litigation Trust Claims and will be funded with the Litigation Funding Amount in accordance with the Plan and the Litigation Trust Agreement.

"Litigation Trust Agreement" means the trust agreement dated as of the Plan Implementation Date, between SFC and the Litigation Trustee, establishing the Litigation Trust.

"Litigation Trust Claims" means any Causes of Action that have been or may be asserted by or on behalf of: (a) SFC against any and all third parties; or (b) the Trustees (on behalf of the Noteholders) against any and all Persons in connection with the Notes issued by SFC; provided, however, that in no event shall the Litigation Trust Claims include any (i) claim, right or cause of action against any Person that is released pursuant to Article 7 hereof or (ii) any Excluded Litigation Trust Claim. For greater certainty: (x) the claims being advanced or that are subsequently advanced in the Class Actions are not being transferred to the Litigation Trust; and (y) the claims transferred to the Litigation Trust shall not be advanced in the Class Actions.

"Litigation Trust Interests" means the beneficial interests in the Litigation Trust to be created on the Plan Implementation Date.

"Litigation Trustee" means a Person to be determined by SFC and the Initial Consenting Noteholders prior to the Effective Time, with the consent of the Monitor, to serve as trustee of the Litigation Trust pursuant to and in accordance with the terms thereof.

"Material" means a fact, circumstance, change, effect, matter, action, condition, event, occurrence or development that, individually or in the aggregate, is, or would reasonably be expected to be, material to the business, affairs, results of operations or financial condition of the SFC Companies (taken as a whole).

"Material Adverse Effect" means a fact, event, change, occurrence, circumstance or condition that, individually or together with any other event, change or occurrence, has or would reasonably be expected to have a material adverse impact on the assets, condition (financial or otherwise), business, liabilities, obligations (whether absolute, accrued, conditional or otherwise) or operations of the SFC Companies (taken as a whole); provided, however, that a Material Adverse Effect shall not include and shall be deemed to exclude the impact of any fact, event, change, occurrence, circumstance or condition resulting from or relating to: (A) changes in Applicable Laws of general applicability or interpretations thereof by courts or Governmental Entities or regulatory authorities, which changes do not have a Material disproportionate effect on the SFC Companies (taken as a whole), (B) any change in the forestry industry generally, which does not have a Material disproportionate effect on the SFC Companies (taken as a whole) (relative to other industry participants operating primarily in the PRC), (C) actions and omissions

of any of the SFC Companies required pursuant to the RSA or this Plan or taken with the prior written consent of the Initial Consenting Noteholders, (D) the effects of compliance with the RSA or this Plan, including on the operating performance of the SFC Companies, (E) the negotiation, execution, delivery, performance, consummation, potential consummation or public announcement of the RSA or this Plan or the transactions contemplated thereby or hereby, (F) any change in U.S. or Canadian interest rates or currency exchange rates unless such change has a Material disproportionate effect on the SFC Companies (taken as a whole), and (G) general political, economic or financial conditions in Canada, the United States, Hong Kong or the PRC, which changes do not have a Material disproportionate effect on the SFC Companies (taken as a whole).

"Meeting" means the meeting of Affected Creditors, and any adjournment or extension thereof, that is called and conducted in accordance with the Meeting Order for the purpose of considering and voting on the Plan.

"Meeting Order" has the meaning ascribed thereto in the recitals.

"Monitor" means FTI Consulting Canada Inc., in its capacity as Court-appointed Monitor of SFC in the CCAA Proceeding.

"Monitor's Post-Implementation Reserve" means the cash reserve to be established by SFC on the Plan Implementation Date in the amount of \$5,000,000 or such other amount as may be agreed by SFC, the Monitor and the Initial Consenting Noteholders, which cash reserve shall be maintained and administered by the Monitor for the purpose of administering SFC and the Claims Procedure, as necessary, from and after the Plan Implementation Date.

"Monitor's Ernst & Young Settlement Certificate" has the meaning ascribed thereto in section 11.1(a) hereof.

"Monitor's Named Third Party Settlement Certificate" has the meaning ascribed thereto in section 11.2(b) hereof.

"Named Directors and Officers" means Andrew Agnew, William E. Ardell, James Bowland, Leslie Chan, Michael Cheng, Lawrence Hon, James M.E. Hyde, Richard M. Kimel, R. John (Jack) Lawrence, Jay A. Lefton, Edmund Mak, Tom Maradin, Judson Martin, Simon Murray, James F. O'Donnell, William P. Rosenfeld, Peter Donghong Wang, Garry West and Kee Y. Wong, in their respective capacities as Directors or Officers, and **"Named Director or Officer"** means any one of them.

"Named Third Party Defendant Settlement" means a binding settlement between any applicable Named Third Party Defendant and one or more of: (i) the plaintiffs in any of the Class Actions; and (ii) the Litigation Trustee (on behalf of the Litigation Trust) (if after the Plan Implementation Date), provided that, in each case, such settlement must be acceptable to SFC (if on or prior to the Plan Implementation Date), the Monitor, the Initial Consenting Noteholders (if on or prior to the Plan Implementation Date) and the Litigation Trustee (if after the Plan Implementation Date), and provided further that such settlement shall not affect the plaintiffs in the Class Actions without the consent of counsel to the Ontario Class Action Plaintiffs.

“Named Third Party Defendant Settlement Order” means a court order approving a Named Third Party Defendant Settlement in form and in substance satisfactory to the applicable Named Third Party Defendant, SFC (if occurring on or prior to the Plan Implementation Date), the Monitor, the Initial Consenting Noteholders (if on or prior to the Plan Implementation Date), the Litigation Trustee (if after the Plan Implementation Date) and counsel to the Ontario Class Action Plaintiffs (if the plaintiffs in any of the Class Actions are affected by the applicable Named Third Party Defendant Settlement).

“Named Third Party Defendant Release” means a release of any applicable Named Third Party Defendant agreed to pursuant to a Named Third Party Defendant Settlement and approved pursuant to a Named Third Party Defendant Settlement Order, provided that such release must be acceptable to SFC (if on or prior to the Plan Implementation Date), the Monitor, the Initial Consenting Noteholders (if on or prior to the Plan Implementation Date) and the Litigation Trustee (if after the Plan Implementation Date), and provided further that such release shall not affect the plaintiffs in the Class Actions without the consent of counsel to the Ontario Class Action Plaintiffs.

“Named Third Party Defendants” means the Third Party Defendants listed on Schedule “A” to the Plan in accordance with section 11.2(a) hereof, provided that only Eligible Third Party Defendants may become Named Third Party Defendants.

“Newco” means the new corporation to be incorporated pursuant to section 6.2(a) hereof under the laws of the Cayman Islands or such other jurisdiction as agreed to by SFC, the Monitor and the Initial Consenting Noteholders.

“Newco II” means the new corporation to be incorporated pursuant to section 6.2(b) hereof under the laws of the Cayman Islands or such other jurisdiction as agreed to by SFC, the Monitor and the Initial Consenting Noteholders.

“Newco II Consideration” has the meaning ascribed thereto in section 6.4(x) hereof.

“Newco Equity Pool” means all of the Newco Shares to be issued by Newco on the Plan Implementation Date. The number of Newco Shares to be issued on the Plan Implementation Date shall be agreed by SFC, the Monitor and the Initial Consenting Noteholders prior to the Plan Implementation Date.

“Newco Note Certificate” means a certificate evidencing Newco Notes.

“Newco Notes” means the new notes to be issued by Newco on the Plan Implementation Date in the aggregate principal amount of \$300,000,000, on such terms and conditions as are satisfactory to the Initial Consenting Noteholders and SFC, acting reasonably.

“Newco Promissory Note 1”, “Newco Promissory Note 2”, “Newco Promissory Note 3” and **“Newco Promissory Notes”** have the meanings ascribed thereto in sections 6.4(k), 6.4(m), 6.4(n) and 6.4(q) hereof, respectively.

“Newco Share Certificate” means a certificate evidencing Newco Shares.

"Newco Shares" means common shares in the capital of Newco.

"Non-Released D&O Claims" has the meaning ascribed thereto in section 4.9(f) hereof.

"Noteholder Advisors" means Goodmans LLP, Hogan Lovells and Conyers, Dill & Pearman LLP in their capacity as legal advisors to the Initial Consenting Noteholders, and Moelis & Company LLC and Moelis and Company Asia Limited, in their capacity as the financial advisors to the Initial Consenting Noteholders.

"Noteholder Claim" means any Claim by a Noteholder (or a Trustee or other representative on the Noteholder's behalf) in respect of or in relation to the Notes owned or held by such Noteholder, including all principal and Accrued Interest payable to such Noteholder pursuant to such Notes or the Note Indentures, but for greater certainty does not include any Noteholder Class Action Claim.

"Noteholder Class Action Claim" means any Class Action Claim, or any part thereof, against SFC, any of the Subsidiaries, any of the Directors and Officers of SFC or the Subsidiaries, any of the Auditors, any of the Underwriters and/or any other defendant to the Class Action Claims that relates to the purchase, sale or ownership of Notes, but for greater certainty does not include a Noteholder Claim.

"Noteholder Class Action Claimant" means any Person having or asserting a Noteholder Class Action Claim.

"Noteholder Class Action Representative" means an individual to be appointed by counsel to the Ontario Class Action Plaintiffs.

"Noteholders" means, collectively, the beneficial owners of Notes as of the Distribution Record Date and, as the context requires, the registered holders of Notes as of the Distribution Record Date, and **"Noteholder"** means any one of the Noteholders.

"Note Indentures" means, collectively, the 2013 Note Indenture, the 2014 Note Indenture, the 2016 Note Indenture and the 2017 Note Indenture.

"Notes" means, collectively, the 2013 Notes, the 2014 Notes, the 2016 Notes and the 2017 Notes.

"Officer" means, with respect to SFC or any Subsidiary, anyone who is or was, or may be deemed to be or have been, whether by statute, operation of law or otherwise, an officer or *de facto* officer of such SFC Company.

"Ontario Class Action Plaintiffs" means the plaintiffs in the Ontario class action case styled as *Trustees of the Labourers' Pension Fund of Central and Eastern Canada et al v. Sino-Forest Corporation et al.* (Ontario Superior Court of Justice, Court File No. CV-11-431153-00CP).

"Order" means any order of the Court made in connection with the CCAA Proceeding or this Plan.

“Ordinary Affected Creditor” means a Person with an Ordinary Affected Creditor Claim.

“Ordinary Affected Creditor Claim” means a Claim that is not: an Unaffected Claim; a Noteholder Claim; an Equity Claim; a Subsidiary Intercompany Claim; a Noteholder Class Action Claim; or a Class Action Indemnity Claim (other than a Class Action Indemnity Claim by any of the Third Party Defendants in respect of the Indemnified Noteholder Class Action Claims).

“Other Directors and/or Officers” means any Directors and/or Officers other than the Named Directors and Officers.

“Permitted Continuing Retainer” has the meaning ascribed thereto in section 6.4(d) hereof.

“Person” means any individual, sole proprietorship, limited or unlimited liability corporation, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, body corporate, joint venture, trust, pension fund, union, Governmental Entity, and a natural person including in such person’s capacity as trustee, heir, beneficiary, executor, administrator or other legal representative.

“Plan” means this Plan of Compromise and Reorganization (including all schedules hereto) filed by SFC pursuant to the CCAA and the CBCA, as it may be further amended, supplemented or restated from time to time in accordance with the terms hereof or an Order.

“Plan Implementation Date” means the Business Day on which this Plan becomes effective, which shall be the Business Day on which the Monitor has filed with the Court the certificate contemplated in section 9.2 hereof, or such other date as SFC, the Monitor and the Initial Consenting Noteholders may agree.

“PRC” means the People’s Republic of China.

“Proof of Claim” means the “Proof of Claim” referred to in the Claims Procedure Order, substantially in the form attached to the Claims Procedure Order.

“Pro-Rata” means:

- (a) with respect to any Noteholder in relation to all Noteholders, the proportion of (i) the principal amount of Notes beneficially owned by such Noteholder as of the Distribution Record Date plus the Accrued Interest owing on such Notes as of the Filing Date, in relation to (ii) the aggregate principal amount of all Notes outstanding as of the Distribution Record Date plus the aggregate of all Accrued Interest owing on all Notes as of the Filing Date;
- (b) with respect to any Early Consent Noteholder in relation to all Early Consent Noteholders, the proportion of the principal amount of Early Consent Notes beneficially owned by such Early Consent Noteholder as of the Distribution Record Date in relation to the aggregate principal amount of Early Consent Notes held by all Early Consent Noteholders as of the Distribution Record Date; and

- (c) with respect to any Affected Creditor in relation to all Affected Creditors, the proportion of such Affected Creditor's Affected Creditor Claim as at any relevant time in relation to the aggregate of all Proven Claims and Unresolved Claims of Affected Creditors as at that time.

"Proven Claim" means an Affected Creditor Claim to the extent that such Affected Creditor Claim is finally determined and valued in accordance with the provisions of the Claims Procedure Order, the Meeting Order or any other Order, as applicable,

"Released Claims" means all of the rights, claims and liabilities of any kind released pursuant to Article 7 hereof.

"Released Parties" means, collectively, those Persons released pursuant to Article 7 hereof, but only to the extent so released, and each such Person is referred to individually as a **"Released Party"**.

"Required Majority" means a majority in number of Affected Creditors with Proven Claims, and two-thirds in value of the Proven Claims held by such Affected Creditors, in each case who vote (in person or by proxy) on the Plan at the Meeting.

"Remaining Post-Implementation Reserve Amount" has the meaning ascribed thereto in section 5.7(b) hereof.

"Restructuring Claim" means any right or claim of any Person that may be asserted or made in whole or in part against SFC, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind arising out of the restructuring, termination, repudiation or disclaimer of any lease, contract, or other agreement or obligation on or after the Filing Date and whether such restructuring, termination, repudiation or disclaimer took place or takes place before or after the date of the Claims Procedure Order.

"Restructuring Transaction" means the transactions contemplated by this Plan (including any Alternative Sale Transaction that occurs pursuant to section 10.1 hereof).

"RSA" means the Restructuring Support Agreement executed as of March 30, 2012 by SFC, the Direct Subsidiaries and the Initial Consenting Noteholders, and subsequently executed or otherwise agreed to by the Early Consent Noteholders, as such Restructuring Support Agreement may be amended, restated and varied from time to time in accordance with its terms.

"Sanction Date" means the date that the Sanction Order is granted by the Court.

"Sanction Order" means the Order of the Court sanctioning and approving this Plan.

"Section 5.1(2) D&O Claim" means any D&O Claim that is not permitted to be compromised pursuant to section 5.1(2) of the CCAA, but only to the extent not so permitted, provided that any D&O Claim that qualifies as a Non-Released D&O Claim or a Continuing Other D&O Claim shall not constitute a Section 5.1(2) D&O Claim.

"Settlement Trust" has the meaning ascribed thereto in section 11.1(a) hereof.

"Settlement Trust Order" means a court order that establishes the Settlement Trust and approves the Ernst & Young Settlement and the Ernst & Young Release, in form and in substance satisfactory to Ernst & Young and counsel to the Ontario Class Action Plaintiffs, provided that such order shall also be acceptable to SFC (if occurring on or prior to the Plan Implementation Date), the Monitor and the Initial Consenting Noteholders, as applicable, to the extent, if any, that such order affects SFC, the Monitor or the Initial Consenting Noteholders, each acting reasonably.

"SFC" has the meaning ascribed thereto in the recitals.

"SFC Advisors" means Bennett Jones LLP, Appleby Global Group, King & Wood Mallesons and Linklaters LLP, in their respective capacities as legal advisors to SFC, and Houlihan Lokey Howard & Zukin Capital, Inc., in its capacity as financial advisor to SFC.

"SFC Assets" means all of SFC's right, title and interest in and to all of SFC's properties, assets and rights of every kind and description (including all restricted and unrestricted cash, contracts, real property, receivables or other debts owed to SFC, Intellectual Property, SFC's corporate name and all related marks, all of SFC's ownership interests in the Subsidiaries (including all of the shares of the Direct Subsidiaries and any other Subsidiaries that are directly owned by SFC immediately prior to the Effective Time), all of SFC's ownership interest in Greenheart and its subsidiaries, all SFC Intercompany Claims, any entitlement of SFC to any insurance proceeds and a right to the Remaining Post-Implementation Reserve Amount), other than the Excluded SFC Assets.

"SFC Barbados" means Sino-Forest International (Barbados) Corporation, a wholly-owned subsidiary of SFC established under the laws of Barbados.

"SFC Business" means the business operated by the SFC Companies.

"SFC Continuing Shareholder" means the Litigation Trustee or such other Person as may be agreed to by the Monitor and the Initial Consenting Noteholders.

"SFC Companies" means, collectively, SFC and all of the Subsidiaries, and **"SFC Company"** means any of them.

"SFC Escrow Co." means the company to be incorporated as a wholly-owned subsidiary of SFC pursuant to section 6.3 hereof under the laws of the Cayman Islands or such other jurisdiction as agreed to by SFC, the Monitor and the Initial Consenting Noteholders.

"SFC Escrow Co. Share" has the meaning ascribed thereto in section 6.3 hereof.

"SFC Intercompany Claim" means any amount owing to SFC by any Subsidiary or Greenheart and any claim by SFC against any Subsidiary or Greenheart.

"Subsidiaries" means all direct and indirect subsidiaries of SFC, other than (i) Greenheart and its direct and indirect subsidiaries and (ii) SFC Escrow Co., and **"Subsidiary"** means any one of the Subsidiaries.

“Subsidiary Intercompany Claim” means any Claim by any Subsidiary or Greenheart against SFC.

“Tax” or **“Taxes”** means any and all federal, provincial, municipal, local and foreign taxes, assessments, reassessments and other governmental charges, duties, impositions and liabilities including for greater certainty taxes based upon or measured by reference to income, gross receipts, profits, capital, transfer, land transfer, sales, goods and services, harmonized sales, use, value-added, excise, withholding, business, franchising, property, development, occupancy, employer health, payroll, employment, health, social services, education and social security taxes, all surtaxes, all customs duties and import and export taxes, all licence, franchise and registration fees and all employment insurance, health insurance and government pension plan premiums or contributions, together with all interest, penalties, fines and additions with respect to such amounts.

“Taxing Authorities” means any one of Her Majesty the Queen, Her Majesty the Queen in right of Canada, Her Majesty the Queen in right of any province or territory of Canada, the Canada Revenue Agency, any similar revenue or taxing authority of Canada and each and every province or territory of Canada and any political subdivision thereof, any similar revenue or taxing authority of the United States, the PRC, Hong Kong or other foreign state and any political subdivision thereof, and any Canadian, United States, Hong Kong, PRC or other government, regulatory authority, government department, agency, commission, bureau, minister, court, tribunal or body or regulation-making entity exercising taxing authority or power, and **“Taxing Authority”** means any one of the Taxing Authorities.

“Third Party Defendants” means any defendants to the Class Action Claims (present or future) other than SFC, the Subsidiaries, the Named Directors and Officers or the Trustees.

“Transfer Agent” means Computershare Limited (or a subsidiary or affiliate thereof) or such other transfer agent as Newco may appoint, with the prior written consent of the Monitor and the Initial Consenting Noteholders.

“Trustee Claims” means any rights or claims of the Trustees against SFC under the Note Indentures for compensation, fees, expenses, disbursements or advances, including reasonable legal fees and expenses, incurred or made by or on behalf of the Trustees before or after the Plan Implementation Date in connection with the performance of their respective duties under the Note Indentures or this Plan.

“Trustees” means, collectively, The Bank of New York Mellon in its capacity as trustee for the 2013 Notes and the 2016 Notes, and Law Debenture Trust Company of New York in its capacity as trustee for the 2014 Notes and the 2017 Notes, and **“Trustee”** means either one of them.

“Unaffected Claim” means any:

- (a) Claim secured by the Administration Charge;
- (b) Government Priority Claim;
- (c) Employee Priority Claim;

- (d) Lien Claim;
- (e) any other Claim of any employee, former employee, Director or Officer of SFC in respect of wages, vacation pay, bonuses, termination pay, severance pay or other remuneration payable to such Person by SFC, other than any termination pay or severance pay payable by SFC to a Person who ceased to be an employee, Director or Officer of SFC prior to the date of this Plan;
- (f) Trustee Claims; and
- (g) any trade payables that were incurred by SFC (i) after the Filing Date but before the Plan Implementation Date; and (ii) in compliance with the Initial Order or other Order issued in the CCAA Proceeding.

"Unaffected Claims Reserve" means the cash reserve to be established by SFC on the Plan Implementation Date and maintained by the Monitor, in escrow, for the purpose of paying certain Unaffected Claims in accordance with section 4.2 hereof.

"Unaffected Creditor" means a Person who has an Unaffected Claim, but only in respect of and to the extent of such Unaffected Claim.

"Undeliverable Distribution" has the meaning ascribed thereto in section 5.4.

"Underwriters" means any underwriters of SFC that are named as defendants in the Class Action Claims, including for greater certainty Credit Suisse Securities (Canada), Inc., TD Securities Inc., Dundee Securities Corporation, RBC Dominion Securities Inc., Scotia Capital Inc., CIBC World Markets Inc., Merrill Lynch Canada Inc., Canaccord Financial Ltd., Maison Placements Canada Inc., Credit Suisse Securities (USA) LLC and Merrill Lynch, Pierce, Fenner & Smith Incorporated (successor by merger to Banc of America Securities LLC).

"Unresolved Claim" means an Affected Creditor Claim in respect of which a Proof of Claim has been filed in a proper and timely manner in accordance with the Claims Procedure Order but that, as at any applicable time, has not been finally (i) determined to be a Proven Claim or (ii) disallowed in accordance with the Claims Procedure Order, the Meeting Order or any other Order.

"Unresolved Claims Escrow Agent" means SFC Escrow Co. or such other Person as may be agreed by SFC, the Monitor and the Initial Consenting Noteholders.

"Unresolved Claims Reserve" means the reserve of Newco Shares, Newco Notes and Litigation Trust Interests, if any, to be established pursuant to sections 6.4(h)(ii) and 6.4(r) hereof in respect of Unresolved Claims as at the Plan Implementation Date, which reserve shall be held and maintained by the Unresolved Claims Escrow Agent, in escrow, for distribution in accordance with the Plan. As at the Plan Implementation Date, the Unresolved Claims Reserve will consist of that amount of Newco Shares, Newco Notes and Litigation Trust Interests as is necessary to make any potential distributions under the Plan in respect of the following Unresolved Claims: (i) Class Action Indemnity Claims in an amount up to the Indemnified Noteholder Class Action Limit; (ii) Claims in respect of Defence Costs in the amount of \$30 million or such other amount

as may be agreed by the Monitor and the Initial Consenting Noteholders; and (iii) other Affected Creditor Claims that have been identified by the Monitor as Unresolved Claims in an amount up to \$500,000 or such other amount as may be agreed by the Monitor and the Initial Consenting Noteholders.

“Website” means the website maintained by the Monitor in respect of the CCAA Proceeding pursuant to the Initial Order at the following web address: <http://cfcanada.fticonsulting.com/sfc>.

1.2 Certain Rules of Interpretation

For the purposes of the Plan:

- (a) any reference in the Plan to an Order, agreement, contract, instrument, indenture, release, exhibit or other document means such Order, agreement, contract, instrument, indenture, release, exhibit or other document as it may have been or may be validly amended, modified or supplemented;
- (b) the division of the Plan into “articles” and “sections” and the insertion of a table of contents are for convenience of reference only and do not affect the construction or interpretation of the Plan, nor are the descriptive headings of “articles” and “sections” intended as complete or accurate descriptions of the content thereof;
- (c) unless the context otherwise requires, words importing the singular shall include the plural and *vice versa*, and words importing any gender shall include all genders;
- (d) the words “includes” and “including” and similar terms of inclusion shall not, unless expressly modified by the words “only” or “solely”, be construed as terms of limitation, but rather shall mean “includes but is not limited to” and “including but not limited to”, so that references to included matters shall be regarded as illustrative without being either characterizing or exhaustive;
- (e) unless otherwise specified, all references to time herein and in any document issued pursuant hereto mean local time in Toronto, Ontario and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. (Toronto time) on such Business Day;
- (f) unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next succeeding Business Day if the last day of the period is not a Business Day;
- (g) unless otherwise provided, any reference to a statute or other enactment of parliament or a legislature includes all regulations made thereunder, all amendments to or re-enactments of such statute or regulations in force from time

to time, and, if applicable, any statute or regulation that supplements or supersedes such statute or regulation; and

- (h) references to a specified "article" or "section" shall, unless something in the subject matter or context is inconsistent therewith, be construed as references to that specified article or section of the Plan, whereas the terms "the Plan", "hereof", "herein", "hereto", "hereunder" and similar expressions shall be deemed to refer generally to the Plan and not to any particular "article", "section" or other portion of the Plan and include any documents supplemental hereto.

1.3 Currency

For the purposes of this Plan, all amounts shall be denominated in Canadian dollars and all payments and distributions to be made in cash shall be made in Canadian dollars. Any Claims or other amounts denominated in a foreign currency shall be converted to Canadian dollars at the Reuters closing rate on the Filing Date.

1.4 Successors and Assigns

The Plan shall be binding upon and shall enure to the benefit of the heirs, administrators, executors, legal personal representatives, successors and assigns of any Person named or referred to in the Plan.

1.5 Governing Law

The Plan shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. All questions as to the interpretation of or application of the Plan and all proceedings taken in connection with the Plan and its provisions shall be subject to the jurisdiction of the Court.

1.6 Schedule "A"

Schedule "A" to the Plan is incorporated by reference into the Plan and forms part of the Plan.

ARTICLE 2 PURPOSE AND EFFECT OF THE PLAN

2.1 Purpose

The purpose of the Plan is:

- (a) to effect a full, final and irrevocable compromise, release, discharge, cancellation and bar of all Affected Claims;
- (b) to effect the distribution of the consideration provided for herein in respect of Proven Claims;

- (c) to transfer ownership of the SFC Business to Newco and then from Newco to Newco II, in each case free and clear of all claims against SFC and certain related claims against the Subsidiaries, so as to enable the SFC Business to continue on a viable, going concern basis; and
- (d) to allow Affected Creditors and Noteholder Class Action Claimants to benefit from contingent value that may be derived from litigation claims to be advanced by the Litigation Trustee.

The Plan is put forward in the expectation that the Persons with an economic interest in SFC, when considered as a whole, will derive a greater benefit from the implementation of the Plan and the continuation of the SFC Business as a going concern than would result from a bankruptcy or liquidation of SFC.

2.2 Claims Affected

The Plan provides for, among other things, the full, final and irrevocable compromise, release, discharge, cancellation and bar of Affected Claims and effectuates the restructuring of SFC. The Plan will become effective at the Effective Time on the Plan Implementation Date, other than such matters occurring on the Equity Cancellation Date (if the Equity Cancellation date does not occur on the Plan Implementation Date) which will occur and be effective on such date, and the Plan shall be binding on and enure to the benefit of SFC, the Subsidiaries, Newco, Newco II, SFC Escrow Co., any Person having an Affected Claim, the Directors and Officers of SFC and all other Persons named or referred to in, or subject to, the Plan, as and to the extent provided for in the Plan.

2.3 Unaffected Claims against SFC Not Affected

Any amounts properly owing by SFC in respect of Unaffected Claims will be satisfied in accordance with section 4.2 hereof. Consistent with the foregoing, all liabilities of the Released Parties in respect of Unaffected Claims (other than the obligation of SFC to satisfy such Unaffected Claims in accordance with section 4.2 hereof) will be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred pursuant to Article 7 hereof. Nothing in the Plan shall affect SFC's rights and defences, both legal and equitable, with respect to any Unaffected Claims, including all rights with respect to legal and equitable defences or entitlements to set-offs or recoupments against such Unaffected Claims.

2.4 Insurance

- (a) Subject to the terms of this section 2.4, nothing in this Plan shall prejudice, compromise, release, discharge, cancel, bar or otherwise affect any right, entitlement or claim of any Person against SFC or any Director or Officer, or any insurer, in respect of an Insurance Policy or the proceeds thereof.
- (b) Nothing in this Plan shall prejudice, compromise, release or otherwise affect any right or defence of any such insurer in respect of any such Insurance Policy. Furthermore, nothing in this Plan shall prejudice, compromise, release or otherwise affect (i) any right of subrogation any such insurer may have against

any Person, including against any Director or Officer in the event of a determination of fraud against SFC or any Director or Officer in respect of whom such a determination is specifically made, and /or (ii) the ability of such insurer to claim repayment of Defense Costs (as defined in any such policy) from SFC and/or any Director or Officer in the event that the party from whom repayment is sought is not entitled to coverage under the terms and conditions of any such Insurance Policy

- (c) Notwithstanding anything herein (including section 2.4(b) and the releases and injunctions set forth in Article 7 hereof), but subject to section 2.4(d) hereof, all Insured Claims shall be deemed to remain outstanding and are not released following the Plan Implementation Date, but recovery as against SFC and the Named Directors and Officers is limited only to proceeds of Insurance Policies that are available to pay such Insured Claims, either by way of judgment or settlement. SFC and the Directors or Officers shall make all reasonable efforts to meet all obligations under the Insurance Policies. The insurers agree and acknowledge that they shall be obliged to pay any Loss payable pursuant to the terms and conditions of their respective Insurance Policies notwithstanding the releases granted to SFC and the Named Directors and Officers under this Plan, and that they shall not rely on any provisions of the Insurance Policies to argue, or otherwise assert, that such releases excuse them from, or relieve them of, the obligation to pay Loss that otherwise would be payable under the terms of the Insurance Policies. For greater certainty, the insurers agree and consent to a direct right of action against the insurers, or any of them, in favour of any plaintiff who or which has (a) negotiated a settlement of any Claim covered under any of the Insurance Policies, which settlement has been consented to in writing by the insurers or such of them as may be required or (b) obtained a final judgment against one or more of SFC and/or the Directors or Officers which such plaintiff asserts, in whole or in part, represents Loss covered under the Insurance Policies, notwithstanding that such plaintiff is not a named insured under the Insurance Policies and that neither SFC nor the Directors or Officers are parties to such action.
- (d) Notwithstanding anything in this section 2.4, from and after the Plan Implementation Date, any Person having an Insured Claim shall, as against SFC and the Named Directors and Officers, be irrevocably limited to recovery solely from the proceeds of the Insurance Policies paid or payable on behalf of SFC or its Directors or Officers, and Persons with any Insured Claims shall have no right to, and shall not, directly or indirectly, make any claim or seek any recoveries from SFC, any of the Named Directors and Officers, any of the Subsidiaries, Newco or Newco II, other than enforcing such Person's rights to be paid from the proceeds of an Insurance Policy by the applicable insurer(s), and this section 2.4(d) may be relied upon and raised or pled by SFC, Newco, Newco II, any Subsidiary and any Named Director and Officer in defence or estoppel of or to enjoin any claim, action or proceeding brought in contravention of this section

2.5 Claims Procedure Order

For greater certainty, nothing in this Plan revives or restores any right or claim of any kind that is barred or extinguished pursuant to the terms of the Claims Procedure Order, provided that nothing in this Plan, the Claims Procedure Order or any other Order compromises, releases, discharges, cancels or bars any claim against any Person for fraud or criminal conduct, regardless of whether or not any such claim has been asserted to date.

ARTICLE 3 CLASSIFICATION, VOTING AND RELATED MATTERS

3.1 Claims Procedure

The procedure for determining the validity and quantum of the Affected Claims shall be governed by the Claims Procedure Order, the Meeting Order, the CCAA, the Plan and any other Order, as applicable. SFC, the Monitor and any other creditor in respect of its own Claim, shall have the right to seek the assistance of the Court in valuing any Claim, whether for voting or distribution purposes, if required, and to ascertain the result of any vote on the Plan.

3.2 Classification

- (a) The Affected Creditors shall constitute a single class, the “**Affected Creditors Class**”, for the purposes of considering and voting on the Plan.
- (b) The Equity Claimants shall constitute a single class, separate from the Affected Creditors Class, but shall not, and shall have no right to, attend the Meeting or vote on the Plan in such capacity.

3.3 Unaffected Creditors

No Unaffected Creditor, in respect of an Unaffected Claim, shall:

- (a) be entitled to vote on the Plan;
- (b) be entitled to attend the Meeting; or
- (c) receive any entitlements under this Plan in respect of such Unaffected Creditor's Unaffected Claims (other than its right to have its Unaffected Claim addressed in accordance with section 4.2 hereof).

3.4 Creditors' Meeting

The Meeting shall be held in accordance with the Plan, the Meeting Order and any further Order of the Court. The only Persons entitled to attend and vote on the Plan at the Meeting are those specified in the Meeting Order.

3.5 Approval by Creditors

In order to be approved, the Plan must receive the affirmative vote of the Required Majority of the Affected Creditors Class.

ARTICLE 4 DISTRIBUTIONS, PAYMENTS AND TREATMENT OF CLAIMS

4.1 Affected Creditors

All Affected Creditor Claims shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred on the Plan Implementation Date. Each Affected Creditor that has a Proven Claim shall be entitled to receive the following in accordance with the Plan:

- (a) such Affected Creditor's Pro-Rata number of the Newco Shares to be issued by Newco from the Affected Creditors Equity Sub-Pool in accordance with the Plan;
- (b) such Affected Creditor's Pro-Rata amount of the Newco Notes to be issued by Newco in accordance with the Plan; and
- (c) such Affected Creditor's Pro-Rata share of the Litigation Trust Interests to be allocated to the Affected Creditors in accordance with 4.11 hereof and the terms of the Litigation Trust.

From and after the Plan Implementation Date, each Affected Creditor, in such capacity, shall have no rights as against SFC in respect of its Affected Creditor Claim.

4.2 Unaffected Creditors

Each Unaffected Claim that is finally determined as such, as to status and amount, and that is finally determined to be valid and enforceable against SFC, in each case in accordance with the Claims Procedure Order or other Order:

- (a) subject to sections 4.2(b) and 4.2(c) hereof, shall be paid in full from the Unaffected Claims Reserve and limited to recovery against the Unaffected Claims Reserve, and Persons with Unaffected Claims shall have no right to, and shall not, make any claim or seek any recoveries from any Person in respect of Unaffected Claims, other than enforcing such Person's right against SFC to be paid from the Unaffected Claims Reserve;
- (b) in the case of Claims secured by the Administration Charge:
 - (i) if billed or invoiced to SFC prior to the Plan Implementation Date, such Claims shall be paid by SFC in accordance with section 6.4(d) hereof; and
 - (ii) if billed or invoiced to SFC on or after the Plan Implementation Date, such Claims shall be paid from the Administration Charge Reserve, and all such

Claims shall be limited to recovery against the Administration Charge Reserve, and any Person with such Claims shall have no right to, and shall not, make any claim or seek any recoveries from any Person in respect of such Claims, other than enforcing such Person's right against the Administration Charge Reserve; and

- (c) in the case of Lien Claims:
- (i) at the election of the Initial Consenting Noteholders, and with the consent of the Monitor, SFC shall satisfy such Lien Claim by the return of the applicable property of SFC that is secured as collateral for such Lien Claim, and the applicable Lien Claimant shall be limited to its recovery against such secured property in respect of such Lien Claim.
 - (ii) if the Initial Consenting Noteholders do not elect to satisfy such Lien Claim by the return of the applicable secured property: (A) SFC shall repay the Lien Claim in full in cash on the Plan Implementation Date; and (B) the security held by the applicable Lien Claimant over the property of SFC shall be fully, finally, irrevocably and forever released, discharged, cancelled and barred; and
 - (iii) upon the satisfaction of a Lien Claim in accordance with sections 4.2(c)(i) or 4.2(c)(ii) hereof, such Lien Claims shall be fully, finally, irrevocably and forever released, discharged, cancelled and barred.

4.3 Early Consent Noteholders

As additional consideration for the compromise, release, discharge, cancellation and bar of the Affected Creditor Claims in respect of its Notes, each Early Consent Noteholder shall receive (in addition to the consideration it is entitled to receive in accordance with section 4.1 hereof) its Pro-Rata number of the Newco Shares to be issued by Newco from the Early Consent Equity Sub-Pool in accordance with the Plan.

4.4 Noteholder Class Action Claimants

- (a) All Noteholder Class Action Claims against SFC, the Subsidiaries or the Named Directors or Officers (other than any Noteholder Class Action Claims against the Named Directors or Officers that are Section 5.1(2) D&O Claims, Conspiracy Claims or Non-Released D&O Claims) shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred without consideration as against all said Persons on the Plan Implementation Date. Subject to section 4.4(f) hereof, Noteholder Class Action Claimants shall not receive any consideration or distributions under the Plan in respect of their Noteholder Class Action Claims. Noteholder Class Action Claimants shall not be entitled to attend or to vote on the Plan at the Meeting in respect of their Noteholder Class Action Claims.

- (b) Notwithstanding anything to the contrary in section 4.4(a), Noteholder Class Action Claims as against the Third Party Defendants (x) are not compromised, discharged, released, cancelled or barred, (y) shall be permitted to continue as against the Third Party Defendants and (z) shall not be limited or restricted by this Plan in any manner as to quantum or otherwise (including any collection or recovery for such Noteholder Class Action Claims that relates to any liability of the Third Party Defendants for any alleged liability of SFC), provided that:
- (i) in accordance with the releases set forth in Article 7 hereof, the collective aggregate amount of all rights and claims asserted or that may be asserted against the Third Party Defendants in respect of any such Noteholder Class Action Claims for which any such Persons in each case have a valid and enforceable Class Action Indemnity Claim against SFC (the "Indemnified Noteholder Class Action Claims") shall not exceed, in the aggregate, the Indemnified Noteholder Class Action Limit, and in accordance with section 7.3 hereof, all Persons shall be permanently and forever barred, estopped, stayed and enjoined, on and after the Effective Time, from seeking to enforce any liability in respect of the Indemnified Noteholder Class Action Claims that exceeds the Indemnified Noteholder Class Action Limit;
 - (ii) subject to section 4.4(g), any Class Action Indemnity Claims against SFC by the Third Party Defendants in respect of the Indemnified Noteholder Class Action Claims shall be treated as Affected Creditor Claims against SFC, but only to the extent that any such Class Action Indemnity Claims that are determined to be properly indemnified by SFC, enforceable against SFC and are not barred or extinguished by the Claims Procedure Order, and further provided that the aggregate liability of SFC in respect of all such Class Action Indemnity Claims shall be limited to the lesser of: (A) the actual aggregate liability of the Third Party Defendants pursuant to any final judgment, settlement or other binding resolution in respect of the Indemnified Noteholder Class Action Claims; and (B) the Indemnified Noteholder Class Action Limit; and
 - (iii) for greater certainty, in the event that any Third Party Defendant is found to be liable for or agrees to a settlement in respect of a Noteholder Class Action Claim (other than a Noteholder Class Action Claim for fraud or criminal conduct) and such amounts are paid by or on behalf of the applicable Third Party Defendant, then the amount of the Indemnified Noteholder Class Action Limit applicable to the remaining Third Party Defendants shall be reduced by the amount paid in respect of such Noteholder Class Action Claim, as applicable.
- (c) Subject to section 7.1(o), the Claims of the Underwriters for indemnification in respect of any Noteholder Class Action Claims (other than Noteholder Class Action Claims against the Underwriters for fraud or criminal conduct) shall, for purposes of the Plan, be deemed to be valid and enforceable Class Action

Indemnity Claims against SFC (as limited pursuant to section 4.4(b) hereof), provided that: (i) the Underwriters shall not be entitled to receive any distributions of any kind under the Plan in respect of such Claims; (ii) such Claims shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred on the Plan Implementation Date; and (iii) the amount of such Claims shall not affect the calculation of any Pro-Rata entitlements of the Affected Creditors under this Plan. For greater certainty, to the extent of any conflict with respect to the Underwriters between section 4.4(e) hereof and this section 4.4(c), this section 4.4(c) shall prevail.

- (d) Subject to section 7.1(m), any and all indemnification rights and entitlements of Ernst & Young at common law and any and all indemnification agreements between Ernst & Young and SFC shall be deemed to be valid and enforceable in accordance with their terms for the purpose of determining whether the Claims of Ernst & Young for indemnification in respect of Noteholder Class Action Claims are valid and enforceable within the meaning of section 4.4(b) hereof. With respect to Claims of Ernst & Young for indemnification in respect of Noteholder Class Action Claims that are valid and enforceable: (i) Ernst & Young shall not be entitled to receive any distributions of any kind under the Plan in respect of such Claims; (ii) such Claims shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred on the Plan Implementation Date; and (iii) the amount of such Claims shall not affect the calculation of any Pro-Rata entitlements of the Affected Creditors under this Plan.
- (e) Subject to section 7.1(n), any and all indemnification rights and entitlements of the Named Third Party Defendants at common law and any and all indemnification agreements between the Named Third Party Defendants and SFC shall be deemed to be valid and enforceable in accordance with their terms for the purpose of determining whether the Claims of the Named Third Party Defendants for indemnification in respect of Noteholder Class Action Claims are valid and enforceable within the meaning of section 4.4(b) hereof. With respect to Claims of the Named Third Party Defendants for indemnification in respect of Noteholder Class Action Claims that are valid and enforceable: (i) the Named Third Party Defendants shall not be entitled to receive any distributions of any kind under the Plan in respect of such Claims; (ii) such Claims shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred on the Plan Implementation Date; and (iii) the amount of such Claims shall not affect the calculation of any Pro-Rata entitlements of the Affected Creditors under this Plan.
- (f) Each Noteholder Class Action Claimant shall be entitled to receive its share of the Litigation Trust Interests to be allocated to Noteholder Class Action Claimants in accordance with the terms of the Litigation Trust and section 4.11 hereof, as such Noteholder Class Action Claimant's share is determined by the applicable Class Action Court.

- (g) Nothing in this Plan impairs, affects or limits in any way the ability of SFC, the Monitor or the Initial Consenting Noteholders to seek or obtain an Order, whether before or after the Plan Implementation Date, directing that Class Action Indemnity Claims in respect of Noteholder Class Action Claims or any other Claims of the Third Party Defendants should receive the same or similar treatment as is afforded to Class Action Indemnity Claims in respect of Equity Claims under the terms of this Plan.

4.5 Equity Claimants

All Equity Claims shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred on the Plan Implementation Date. Equity Claimants shall not receive any consideration or distributions under the Plan and shall not be entitled to vote on the Plan at the Meeting.

4.6 Claims of the Trustees and Noteholders

For purposes of this Plan, all claims filed by the Trustees in respect of the Noteholder Claims (other than any Trustee Claims) shall be treated as provided in section 4.1 and the Trustees and the Noteholders shall have no other entitlements in respect of the guarantees and share pledges that have been provided by the Subsidiaries, or any of them, all of which shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred on the Plan Implementation Date as against the Subsidiaries pursuant to Article 7 hereof.

4.7 Claims of the Third Party Defendants

For purposes of this Plan, all claims filed by the Third Party Defendants against SFC and/or any of its Subsidiaries shall be treated as follows:

- (a) all such claims against the Subsidiaries shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred on the Plan Implementation Date in accordance with Article 7 hereof;
- (b) all such claims against SFC that are Class Action Indemnity Claims in respect of Indemnified Noteholder Class Action Claims shall be treated as set out in section 4.4(b)(ii) hereof;
- (c) all such claims against SFC for indemnification of Defence Costs shall be treated in accordance with section 4.8 hereof; and
- (d) all other claims shall be treated as Equity Claims.

4.8 Defence Costs

All Claims against SFC for indemnification of defence costs incurred by any Person (other than a Named Director or Officer) in connection with defending against Shareholder Claims (as defined in the Equity Claims Order), Noteholder Class Action Claims or any other

claims of any kind relating to SFC or the Subsidiaries (“Defence Costs”) shall be treated as follows:

- (a) as Equity Claims to the extent they are determined to be Equity Claims under any Order; and
- (b) as Affected Creditor Claims to the extent that they are not determined to be Equity Claims under any Order, provided that:
 - (i) if such Defence Costs were incurred in respect of a claim against the applicable Person that has been successfully defended and the Claim for such Defence Costs is otherwise valid and enforceable against SFC, the Claim for such Defence Costs shall be treated as a Proven Claim, provided that if such Claim for Defence Costs is a Class Action Indemnity Claim of a Third Party Defendant against SFC in respect of any Indemnified Noteholder Class Action Claim, such Claim for Defence Costs shall be treated in the manner set forth in section 4.4(b)(ii) hereof;
 - (ii) if such Defence Costs were incurred in respect of a claim against the applicable Person that has not been successfully defended or such Defence Costs are determined not to be valid and enforceable against SFC, the Claim for such Defence Costs shall be disallowed and no consideration will be payable in respect thereof under the Plan; and
 - (iii) until any such Claim for Defence Costs is determined to be either a Claim within section 4.8(b)(i) or a Claim within section 4.8(b)(ii), such Claim shall be treated as an Unresolved Claim,

provided that nothing in this Plan impairs, affects or limits in any way the ability of SFC, the Monitor or the Initial Consenting Noteholders to seek an Order that Claims against SFC for indemnification of any Defence Costs should receive the same or similar treatment as is afforded to Equity Claims under the terms of this Plan.

4.9 D&O Claims

- (a) All D&O Claims against the Named Directors and Officers (other than Section 5.1(2) D&O Claims, Conspiracy Claims and Non-Released D&O Claims) shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred without consideration on the Plan Implementation Date.
- (b) All D&O Claims against the Other Directors and/or Officers shall not be compromised, released, discharged, cancelled or barred by this Plan and shall be permitted to continue as against the applicable Other Directors and/or Officers (the “Continuing Other D&O Claims”), provided that any Indemnified Noteholder Class Action Claims against the Other Directors and/or Officers shall be limited as described in section 4.4(b)(i) hereof.

- (c) All D&O Indemnity Claims and any other rights or claims for indemnification held by the Named Directors and Officers shall be deemed to have no value and shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred without consideration on the Plan Implementation Date.
- (d) All D&O Indemnity Claims and any other rights or claims for indemnification held by the Other Directors and/or Officers shall be deemed to have no value and shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred without consideration on the Plan Implementation Date, except that: (i) any such D&O Indemnity Claims for Defence Costs shall be treated in accordance with section 4.8 hereof; and (ii) any Class Action Indemnity Claim of an Other Director and/or Officer against SFC in respect of the Indemnified Noteholder Class Action Claims shall be treated in the manner set forth in section 4.4(b)(ii) hereof.
- (e) All Section 5.1(2) D&O Claims and all Conspiracy Claims shall not be compromised, released, discharged, cancelled or barred by this Plan, provided that any Section 5.1(2) D&O Claims against Named Directors and Officers and any Conspiracy Claims against Named Directors and Officers shall be limited to recovery from any insurance proceeds payable in respect of such Section 5.1(2) D&O Claims or Conspiracy Claims, as applicable, pursuant to the Insurance Policies, and Persons with any such Section 5.1(2) D&O Claims against Named Directors and Officers or Conspiracy Claims against Named Directors and Officers shall have no right to, and shall not, make any claim or seek any recoveries from any Person (including SFC, any of the Subsidiaries, Newco or Newco II), other than enforcing such Persons' rights to be paid from the proceeds of an Insurance Policy by the applicable insurer(s).
- (f) All D&O Claims against the Directors and Officers of SFC or the Subsidiaries for fraud or criminal conduct shall not be compromised, discharged, released, cancelled or barred by this Plan and shall be permitted to continue as against all applicable Directors and Officers ("**Non-Released D&O Claims**").
- (g) Notwithstanding anything to the contrary herein, from and after the Plan Implementation Date, a Person may only commence an action for a Non-Released D&O Claim against a Named Director or Officer if such Person has first obtained (i) the consent of the Monitor or (ii) leave of the Court on notice to the applicable Directors and Officers, SFC, the Monitor, the Initial Consenting Noteholders and any applicable insurers. For the avoidance of doubt, the foregoing requirement for the consent of the Monitor or leave of the Court shall not apply to any Non-Released D&O Claim that is asserted against an Other Director and/or Officer.

4.10 Intercompany Claims

All SFC Intercompany Claims (other than those transferred to SFC Barbados pursuant to section 6.4(j) hereof or set-off pursuant to section 6.4(l) hereof) shall be deemed to be assigned by SFC to Newco on the Plan Implementation Date pursuant to section 6.4(m) hereof, and shall

then be deemed to be assigned by Newco to Newco II pursuant to section 6.4(x) hereof. The obligations of SFC to the applicable Subsidiaries and Greenheart in respect of all Subsidiary Intercompany Claims (other than those set-off pursuant to section 6.4(l) hereof) shall be assumed by Newco on the Plan Implementation Date pursuant to 6.4(m) hereof, and then shall be assumed by Newco II pursuant to section 6.4(x) hereof. Notwithstanding anything to the contrary herein, Newco II shall be liable to the applicable Subsidiaries and Greenheart for such Subsidiary Intercompany Claims and SFC shall be released from such Subsidiary Intercompany Claims from and after the Plan Implementation Date, and the applicable Subsidiaries and Greenheart shall be liable to Newco II for such SFC Intercompany Claims from and after the Plan Implementation Date. For greater certainty, nothing in this Plan affects any rights or claims as between any of the Subsidiaries, Greenheart and Greenheart's direct and indirect subsidiaries.

4.11 Entitlement to Litigation Trust Interests

- (a) The Litigation Trust Interests to be created in accordance with this Plan and the Litigation Trust shall be allocated as follows:
 - (i) the Affected Creditors shall be collectively entitled to 75% of such Litigation Trust Interests; and
 - (ii) the Noteholder Class Action Claimants shall be collectively entitled to 25% of such Litigation Trust Interests,

which allocations shall occur at the times and in the manner set forth in section 6.4 hereof and shall be recorded by the Litigation Trustee in its registry of Litigation Trust Interests.

- (b) Notwithstanding anything to the contrary in section 4.11(a) hereof, if any of the Noteholder Class Action Claims against any of the Third Party Defendants are finally resolved (whether by final judgment, settlement or any other binding means of resolution) within two years of the Plan Implementation Date, then the Litigation Trust Interests to which the applicable Noteholder Class Action Claimants would otherwise have been entitled in respect of such Noteholder Class Action Claims pursuant to section 4.11(a)(ii) hereof (based on the amount of such resolved Noteholder Class Action Claims in proportion to all Noteholder Class Action Claims in existence as of the Claims Bar Date) shall be fully, finally, irrevocably and forever cancelled.

4.12 Litigation Trust Claims

- (a) At any time prior to the Plan Implementation Date, SFC and the Initial Consenting Noteholders may agree to exclude one or more Causes of Action from the Litigation Trust Claims and/or to specify that any Causes of Action against a specified Person will not constitute Litigation Trust Claims ("**Excluded Litigation Trust Claims**"), in which case, any such Causes of Action shall not be transferred to the Litigation Trust on the Plan Implementation Date. Any such Excluded Litigation Trust Claims shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred on the Plan

Implementation Date in accordance with Article 7 hereof. All Affected Creditors shall be deemed to consent to such treatment of Excluded Litigation Trust Claims pursuant to this section 4.12(a).

- (b) All Causes of Action against the Underwriters by (i) SFC or (ii) the Trustees (on behalf of the Noteholders) shall be deemed to be Excluded Litigation Trust Claims that are fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred on the Plan Implementation Date in accordance with Article 7 hereof, provided that, unless otherwise agreed by SFC and the Initial Consenting Noteholders prior to the Plan Implementation Date in accordance with section 4.12(a) hereof, any such Causes of Action for fraud or criminal conduct shall not constitute Excluded Litigation Trust Claims and shall be transferred to the Litigation Trust in accordance with section 6.4(o) hereof.
- (c) At any time from and after the Plan Implementation Date, and subject to the prior consent of the Initial Consenting Noteholders and the terms of the Litigation Trust Agreement, the Litigation Trustee shall have the right to seek and obtain an order from any court of competent jurisdiction, including an Order of the Court in the CCAA or otherwise, that gives effect to any releases of any Litigation Trust Claims agreed to by the Litigation Trustee in accordance with the Litigation Trust Agreement, including a release that fully, finally, irrevocably and forever compromises, releases, discharges, cancels and bars the applicable Litigation Trust Claims as if they were Excluded Litigation Trust Claims released in accordance with Article 7 hereof. All Affected Creditors shall be deemed to consent to any such treatment of any Litigation Trust Claims pursuant to this section 4.12(b).

4.13 Multiple Affected Claims

On the Plan Implementation Date, any and all liabilities for and guarantees and indemnities of the payment or performance of any Affected Claim, Unaffected Claim, Section 5.1(2) D&O Claim, Conspiracy Claim, Continuing Other D&O Claim or Non-Released D&O Claim by any of the Subsidiaries, and any purported liability for the payment or performance of such Affected Claim, Unaffected Claim, Section 5.1(2) D&O Claim, Conspiracy Claim, Continuing Other D&O Claim or Non-Released D&O Claim by Newco or Newco II, will be deemed eliminated and cancelled, and no Person shall have any rights whatsoever to pursue or enforce any such liabilities for or guarantees or indemnities of the payment or performance of any such Affected Claim, Unaffected Claim, Section 5.1(2) D&O Claim, Conspiracy Claim, Continuing Other D&O Claim or Non-Released D&O Claim against any Subsidiary, Newco or Newco II.

4.14 Interest

Subject to section 12.4 hereof, no holder of an Affected Claim shall be entitled to interest accruing on or after the Filing Date.

4.15 Existing Shares

Holders of Existing Shares and Equity Interests shall not receive any consideration or distributions under the Plan in respect thereof and shall not be entitled to vote on the Plan at the Meeting. Unless otherwise agreed between the Monitor, SFC and the Initial Consenting Noteholders, all Existing Shares and Equity Interests shall be fully, finally and irrevocably cancelled in accordance with and at the time specified in section 6.5 hereof.

4.16 Canadian Exempt Plans

If an Affected Creditor is a trust governed by a plan which is exempt from tax under Part I of the Canadian Tax Act (including, for example, a registered retirement savings plan), such Affected Creditor may make arrangements with Newco (if Newco so agrees) and the Litigation Trustee (if the Litigation Trustee so agrees) to have the Newco Shares, Newco Notes and Litigation Trust Interests to which it is entitled under this Plan directed to (or in the case of Litigation Trust Interests, registered in the name of) an affiliate of such Affected Creditor or the annuitant or controlling person of the governing tax-deferred plan.

ARTICLE 5 DISTRIBUTION MECHANICS

5.1 Letters of Instruction

In order to issue (i) Newco Shares and Newco Notes to Ordinary Affected Creditors and (ii) Newco Shares to Early Consent Noteholders, the following steps will be taken:

- (a) with respect to Ordinary Affected Creditors with Proven Claims or Unresolved Claims:
 - (i) on the next Business Day following the Distribution Record Date, the Monitor shall send blank Letters of Instruction by prepaid first class mail, courier, email or facsimile to each such Ordinary Affected Creditor to the address of each such Ordinary Affected Creditor (as specified in the applicable Proof of Claim) as of the Distribution Record Date, or as evidenced by any assignment or transfer in accordance with section 5.10;
 - (ii) each such Ordinary Affected Creditor shall deliver to the Monitor a duly completed and executed Letter of Instruction that must be received by the Monitor on or before the date that is seven (7) Business Days after the Distribution Record Date or such other date as the Monitor may determine; and
 - (iii) any such Ordinary Affected Creditor that does not return a Letter of Instruction to the Monitor in accordance with section 5.1(a)(ii) shall be deemed to have requested that such Ordinary Affected Creditor's Newco Shares and Newco Notes be registered or distributed, as applicable, in accordance with the information set out in such Ordinary Affected Creditor's Proof of Claim; and

- (b) with respect to Early Consent Noteholders:
 - (i) on the next Business Day following the Distribution Record Date the Monitor shall send blank Letters of Instruction by prepaid first class mail, courier, email or facsimile to each Early Consent Noteholder to the address of each such Early Consent Noteholder as confirmed by the Monitor on or before the Distribution Record Date;
 - (ii) each Early Consent Noteholder shall deliver to the Monitor a duly completed and executed Letter of Instruction that must be received by the Monitor on or before the date that is seven (7) Business Days after the Distribution Record Date or such other date as the Monitor may determine; and
 - (iii) any such Early Consent Noteholder that does not return a Letter of Instruction to the Monitor in accordance with section 5.1(b)(ii) shall be deemed to have requested that such Early Consent Noteholder's Newco Shares be distributed or registered, as applicable, in accordance with information confirmed by the Monitor on or before the Distribution Record Date.

5.2 Distribution Mechanics with respect to Newco Shares and Newco Notes

- (a) To effect distributions of Newco Shares and Newco Notes, the Monitor shall deliver a direction at least two (2) Business Days prior to the Initial Distribution Date to Newco or its agent, as applicable, directing Newco or its agent, as applicable, to issue on such Initial Distribution Date or subsequent Distribution Date:
 - (i) in respect of the Ordinary Affected Creditors with Proven Claims:
 - (A) the number of Newco Shares that each such Ordinary Affected Creditor is entitled to receive in accordance with section 4.1(a) hereof; and
 - (B) the amount of Newco Notes that each such Ordinary Affected Creditor is entitled to receive in accordance with section 4.1(b) hereof,

all of which Newco Shares and Newco Notes shall be issued to such Ordinary Affected Creditors and distributed in accordance with this Article 5;
 - (ii) in respect of the Ordinary Affected Creditors with Unresolved Claims:
 - (A) the number of Newco Shares that each such Ordinary Affected Creditor would have been entitled to receive in accordance with section 4.1(a) hereof had such Ordinary Affected Creditor's

Unresolved Claim been a Proven Claim on the Plan Implementation Date; and

- (B) the amount of Newco Notes that each such Ordinary Affected Creditor would have been entitled to receive in accordance with section 4.1(b) hereof had such Ordinary Affected Creditor's Unresolved Claim been a Proven Claim on the Plan Implementation Date,

all of which Newco Shares and Newco Notes shall be issued in the name of the Unresolved Claims Escrow Agent for the benefit of the Persons entitled thereto under the Plan, which Newco Shares and Newco Notes shall comprise part of the Unresolved Claims Reserve and shall be held in escrow by the Unresolved Claims Escrow Agent until released and distributed in accordance with this Article 5;

- (iii) in respect of the Noteholders:

- (A) the number of Newco Shares that the Trustees are collectively required to receive such that, upon distribution to the Noteholders in accordance with this Article 5, each individual Noteholder receives the number of Newco Shares to which it is entitled in accordance with section 4.1(a) hereof; and
- (B) the amount of Newco Notes that the Trustees are collectively required to receive such that, upon distribution to the Noteholders in accordance with this Article 5, each individual Noteholder receives the amount of Newco Notes to which it is entitled in accordance with section 4.1(b) hereof,

all of which Newco Shares and Newco Notes shall be issued to such Noteholders and distributed in accordance with this Article 5; and

- (iv) in respect of Early Consent Noteholders, the number of Newco Shares that each such Early Consent Noteholder is entitled to receive in accordance with section 4.3 hereof, all of which Newco Shares shall be issued to such Early Consent Noteholders and distributed in accordance with this Article 5.

The direction delivered by the Monitor in respect of the applicable Ordinary Affected Creditors and Early Consent Noteholders shall: (A) indicate the registration and delivery details of each applicable Ordinary Affected Creditor and Early Consent Noteholder based on the information prescribed in section 5.1; and (B) specify the number of Newco Shares and, in the case of Ordinary Affected Creditors, the amount of Newco Notes to be issued to each such Person on the applicable Distribution Date. The direction delivered by the Monitor in respect of the Noteholders shall: (C) indicate that the registration and delivery details with respect to the number of Newco Shares and amount of Newco Notes

to be distributed to each Noteholder will be the same as the registration and delivery details in effect with respect to the Notes held by each Noteholder as of the Distribution Record Date; and (D) specify the number of Newco Shares and the amount of Newco Notes to be issued to each of the Trustees for purposes of satisfying the entitlements of the Noteholders set forth in sections 4.1(a) and 4.1(b) hereof. The direction delivered by the Monitor in respect of the Newco Shares and Newco Notes to be issued in the name of the Unresolved Claims Escrow Agent, for the benefit of the Persons entitled thereto under the Plan, for purposes of the Unresolved Claims Reserve shall specify the number of Newco Shares and the amount of Newco Notes to be issued in the name of the Unresolved Claims Escrow Agent for that purpose.

- (b) If the registers for the Newco Shares and/or Newco Notes are maintained by the Transfer Agent in a direct registration system (without certificates), the Monitor and/or Newco and/or the Unresolved Claims Escrow Agent, as applicable, shall, on the Initial Distribution Date or any subsequent Distribution Date, as applicable:
 - (i) instruct the Transfer Agent to record, and the Transfer Agent shall record, in the Direct Registration Account of each applicable Ordinary Affected Creditor and each Early Consent Noteholder the number of Newco Shares and, in the case of Ordinary Affected Creditors, the amount of Newco Notes that are to be distributed to each such Person, and the Monitor and/or Newco and/or the Unresolved Claims Escrow Agent, as applicable, shall send or cause to be sent to each such Ordinary Affected Creditor and Early Consent Noteholder a Direct Registration Transaction Advice based on the delivery information as determined pursuant to section 5.1; and
 - (ii) with respect to the distribution of Newco Shares and/or Newco Notes to Noteholders:
 - (A) if the Newco Shares and/or Newco Notes are DTC eligible, the Monitor and/or Newco and/or the Unresolved Claims Escrow Agent, as applicable, shall instruct the Transfer Agent to register, and the Transfer Agent shall register, the applicable Newco Shares and/or Newco Notes in the name of DTC (or its nominee) for the benefit of the Noteholders, and the Trustees shall provide their consent to DTC to the distribution of such Newco Shares and Newco Notes to the applicable Noteholders, in the applicable amounts, through the facilities of DTC in accordance with customary practices and procedures; and
 - (B) if the Newco Shares and/or Newco Notes are not DTC eligible, the Monitor and/or Newco and/or the Unresolved Claims Escrow Agent, as applicable, shall instruct the Transfer Agent to register the applicable Newco Shares and/or Newco Notes in the Direct Registration Accounts of the applicable Noteholders pursuant to the registration instructions obtained through DTC and the DTC

participants (by way of a letter of transmittal process or such other process as agreed by SFC, the Monitor, the Trustees and the Initial Consenting Noteholders), and the Transfer Agent shall (A) register such Newco Shares and/or Newco Notes, in the applicable amounts, in the Direct Registration Accounts of the applicable Noteholders; and (B) send or cause to be sent to each Noteholder a Direct Registration Transaction Advice in accordance with customary practices and procedures; provided that the Transfer Agent shall not be permitted to effect the foregoing registrations without the prior written consent of the Trustees.

- (o) If the registers for the Newco Shares and/or Newco Notes are not maintained by the Transfer Agent in a direct registration system, Newco shall prepare and deliver to the Monitor and/or the Unresolved Claims Escrow Agent, as applicable, and the Monitor and/or the Unresolved Claims Escrow Agent, as applicable, shall promptly thereafter, on the Initial Distribution Date or any subsequent Distribution Date, as applicable:
 - (i) deliver to each Ordinary Affected Creditor and each Early Consent Noteholder Newco Share Certificates and, in the case of Ordinary Affected Creditors, Newco Note Certificates representing the applicable number of Newco Shares and the applicable amount of Newco Notes that are to be distributed to each such Person; and
 - (ii) with respect to the distribution of Newco Shares and/or Newco Notes to Noteholders:
 - (A) if the Newco Shares and/or Newco Notes are DTC eligible, the Monitor and/or Newco and/or the Unresolved Claims Escrow Agent, as applicable, shall distribute to DTC (or its nominee), for the benefit of the Noteholders, Newco Share Certificates and/or Newco Note Certificates representing the aggregate of all Newco Shares and Newco Notes to be distributed to the Noteholders on such Distribution Date, and the Trustees shall provide their consent to DTC to the distribution of such Newco Shares and Newco Notes to the applicable Noteholders, in the applicable amounts, through the facilities of DTC in accordance with customary practices and procedures; and
 - (B) if the Newco Shares and/or Newco Notes are not DTC eligible, the Monitor and/or Newco and/or the Unresolved Claims Escrow Agent, as applicable, shall distribute to the applicable Trustees, Newco Share Certificates and/or Newco Note Certificates representing the aggregate of all Newco Shares and/or Newco Notes to be distributed to the Noteholders on such Distribution Date, and the Trustees shall make delivery of such Newco Share Certificates and Newco Note Certificates, in the applicable

amounts, directly to the applicable Noteholders pursuant to the delivery instructions obtained through DTC and the DTC participants (by way of a letter of transmittal process or such other process as agreed by SFC, the Monitor, the Trustees and the Initial Consenting Noteholders), all of which shall occur in accordance with customary practices and procedures.

- (d) Upon receipt of and in accordance with written instructions from the Monitor, the Trustees shall instruct DTC to and DTC shall: (i) set up an escrow position representing the respective positions of the Noteholders as of the Distribution Record Date for the purpose of making distributions on the Initial Distribution Date and any subsequent Distribution Dates (the "**Distribution Escrow Position**"); and (ii) block any further trading of the Notes, effective as of the close of business on the day immediately preceding the Plan Implementation Date, all in accordance with DTC's customary practices and procedures.
- (e) The Monitor, Newco, Newco II, the Trustees, SFC, the Named Directors and Officers and the Transfer Agent shall have no liability or obligation in respect of deliveries by DTC (or its nominee) to the DTC participants or the Noteholders pursuant to this Article 5.

5.3 Allocation of Litigation Trust Interests

The Litigation Trustee shall administer the Litigation Trust Claims and the Litigation Funding Amount for the benefit of the Persons that are entitled to the Litigation Trust Interests and shall maintain a registry of such Persons as follows:

- (a) with respect to Affected Creditors:
 - (i) the Litigation Trustee shall maintain a record of the amount of Litigation Trust Interests that each Ordinary Affected Creditor is entitled to receive in accordance with sections 4.1(c) and 4.11(a) hereof;
 - (ii) the Litigation Trustee shall maintain a record of the aggregate amount of all Litigation Trust Interests to which the Noteholders are collectively entitled in accordance with sections 4.1(c) and 4.11(a) hereof, and if cash is distributed from the Litigation Trust to Persons with Litigation Trust Interests, the amount of such cash that is payable to the Noteholders will be distributed through the Distribution Escrow Position (such that each beneficial Noteholder will receive a percentage of such cash distribution that is equal to its entitlement to Litigation Trust Interests (as set forth in section 4.1(c) hereof) as a percentage of all Litigation Trust Interests); and
 - (iii) with respect to any Litigation Trust Interests to be allocated in respect of the Unresolved Claims Reserve, the Litigation Trustee shall record such Litigation Trust Interests in the name of the Unresolved Claims Escrow Agent, for the benefit of the Persons entitled thereto in accordance with

this Plan, which shall be held by the Unresolved Claims Escrow Agent in escrow until released and distributed unless and until otherwise directed by the Monitor in accordance with this Plan;

- (b) with respect to the Noteholder Class Action Claimants, the Litigation Trustee shall maintain a record of the aggregate of all Litigation Trust Interests that the Noteholder Class Action Claimants are entitled to receive pursuant to sections 4.4(f) and 4.11(a) hereof, provided that such record shall be maintained in the name of the Noteholder Class Action Representative, to be allocated to individual Noteholder Class Action Claimants in any manner ordered by the applicable Class Action Court, and provided further that if any such Litigation Trust Interests are cancelled in accordance with section 4.11(b) hereof, the Litigation Trustee shall record such cancellation in its registry of Litigation Trust Interests.

5.4 Treatment of Undeliverable Distributions

If any distribution under section 5.2 or section 5.3 of Newco Shares, Newco Notes or Litigation Trust Interests is undeliverable (that is, for greater certainty, that it cannot be properly registered or delivered to the Applicable Affected Creditor because of inadequate or incorrect registration or delivery information or otherwise) (an "**Undeliverable Distribution**"), it shall be delivered to SFC Escrow Co., which shall hold such Undeliverable Distribution in escrow and administer it in accordance with this section 5.4. No further distributions in respect of an Undeliverable Distribution shall be made unless and until SFC and the Monitor are notified by the applicable Person of its current address and/or registration information, as applicable, at which time the Monitor shall direct SFC Escrow Co. to make all such distributions to such Person, and SFC Escrow Co. shall make all such distributions to such Person. All claims for Undeliverable Distributions must be made on or before the date that is six months following the final Distribution Date, after which date the right to receive distributions under this Plan in respect of such Undeliverable Distributions shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred, without any compensation therefore, notwithstanding any federal, state or provincial laws to the contrary, at which time any such Undeliverable Distributions held by SFC Escrow Co. shall be deemed to have been gifted by the owner of the Undeliverable Distribution to Newco or the Litigation Trust, as applicable, without consideration, and, in the case of Newco Shares, Newco Notes and Litigation Trust Interests, shall be cancelled by Newco and the Litigation Trustee, as applicable. Nothing contained in the Plan shall require SFC, the Monitor, SFC Escrow Co. or any other Person to attempt to locate any owner of an Undeliverable Distribution. No interest is payable in respect of an Undeliverable Distribution. Any distribution under this Plan on account of the Notes, other than any distributions in respect of Litigation Trust Interests, shall be deemed made when delivered to DTC or the applicable Trustee, as applicable, for subsequent distribution to the applicable Noteholders in accordance with section 5.2.

5.5 Procedure for Distributions Regarding Unresolved Claims

- (a) An Affected Creditor that has asserted an Unresolved Claim will not be entitled to receive a distribution under the Plan in respect of such Unresolved Claim or any portion thereof unless and until such Unresolved Claim becomes a Proven Claim.

- (b) Distributions in respect of any Unresolved Claim in existence at the Plan Implementation Date will be held in escrow by the Unresolved Claims Escrow Agent in the Unresolved Claims Reserve until settlement or final determination of the Unresolved Claim in accordance with the Claims Procedure Order, the Meeting Order or this Plan, as applicable.
- (c) To the extent that Unresolved Claims become Proven Claims or are finally disallowed, the Unresolved Claims Escrow Agent shall release from escrow and deliver (or in the case of Litigation Trust Interests, cause to be registered) the following from the Unresolved Claims Reserve (on the next Distribution Date, as determined by the Monitor with the consent of SFC and the Initial Consenting Noteholders):
 - (i) in the case of Affected Creditors whose Unresolved Claims are ultimately determined, in whole or in part, to be Proven Claims, the Unresolved Claims Escrow Agent shall release from escrow and deliver to such Affected Creditor that number of Newco Shares, Newco Notes and Litigation Trust Interests (and any income or proceeds therefrom) that such Affected Creditor is entitled to receive in respect of its Proven Claim pursuant to section 4.1 hereof;
 - (ii) in the case of Affected Creditors whose Unresolved Claims are ultimately determined, in whole or in part, to be disallowed, the Unresolved Claims Escrow Agent shall release from escrow and deliver to all Affected Creditors with Proven Claims the number of Newco Shares, Newco Notes and Litigation Trust Interests (and any income or proceeds therefrom) that had been reserved in the Unresolved Claims Reserve for such Affected Creditor whose Unresolved Claims has been disallowed, Claims such that, following such delivery, all of the Affected Creditors with Proven Claims have received the amount of Newco Shares, Newco Notes and Litigation Trust Interests that they are entitled to receive pursuant to section 4.1 hereof, which delivery shall be effected in accordance with sections 5.2 and 5.3 hereof.
- (d) As soon as practicable following the date that all Unresolved Claims have been finally resolved and any required distributions contemplated in section 5.5(c) have been made, the Unresolved Claims Escrow Agent shall distribute (or in the case of Litigation Trust Interests, cause to be registered) any Litigation Trust Interests, Newco Shares and Newco Notes (and any income or proceeds therefrom), as applicable, remaining in the Unresolved Claims Reserve to the Affected Creditors with Proven Claims such that after giving effect to such distributions each such Affected Creditor has received the amount of Litigation Trust Interests, Newco Shares and Newco Notes that it is entitled to receive pursuant to section 4.1 hereof.
- (e) During the time that Newco Shares, Newco Notes and/or Litigation Trust Interests are held in escrow in the Unresolved Claims Reserve, any income or proceeds

received therefrom or accruing thereon shall be added to the Unresolved Claims Reserve by the Unresolved Claims Escrow Agent and no Person shall have any right to such income or proceeds until such Newco Shares, Newco Notes or Litigation Trust Interests, as applicable, are distributed (or in the case of Litigation Trust Interests, registered) in accordance with section 5.5(c) and 5.5(d) hereof, at which time the recipient thereof shall be entitled to any applicable income or proceeds therefrom.

- (f) The Unresolved Claims Escrow Agent shall have no beneficial interest or right in the Unresolved Claims Reserve. The Unresolved Claims Escrow Agent shall not take any step or action with respect to the Unresolved Claims Reserve or any other matter without the consent or direction of the Monitor or the direction of the Court. The Unresolved Claims Escrow Agent shall forthwith, upon receipt of an Order of the Court or instruction of the Monitor directing the release of any Newco Shares, Newco Notes and/or Litigation Trust Interests from the Unresolved Claims Reserve, comply with any such Order or instruction.
- (g) Nothing in this Plan impairs, affects or limits in any way the ability of SFC, the Monitor or the Initial Consenting Noteholders to seek or obtain an Order, whether before or after the Plan Implementation Date, directing that any Unresolved Claims should be disallowed in whole or in part or that such Unresolved Claims should receive the same or similar treatment as is afforded to Equity Claims under the terms of this Plan.
- (h) Persons with Unresolved Claims shall have standing in any proceeding in respect of the determination or status of any Unresolved Claim, and Goodmans LLP (in its capacity as counsel to the Initial Consenting Noteholders) shall have standing in any such proceeding on behalf of the Initial Consenting Noteholders (in their capacity as Affected Creditors with Proven Claims).

5.6 Tax Refunds

Any input tax credits or tax refunds received by or on behalf of SFC after the Effective Time shall, immediately upon receipt thereof, be paid directly by, or on behalf of, SFC to Newco without consideration.

5.7 Final Distributions from Reserves

- (a) If there is any cash remaining in: (i) the Unaffected Claims Reserve on the date that all Unaffected Claims have been finally paid or otherwise discharged and/or (ii) the Administration Charge Reserve on the date that all Claims secured by the Administration Charge have been finally paid or otherwise discharged, the Monitor shall, in each case, forthwith transfer all such remaining cash to the Monitor's Post-Implementation Reserve.
- (b) The Monitor will not terminate the Monitor's Post-Implementation Reserve prior to the termination of each of the Unaffected Claims Reserve and the Administration Charge Reserve. The Monitor may, at any time, from time to time

and at its sole discretion, release amounts from the Monitor's Post-Implementation Reserve to Newco. Goodmans LLP (in its capacity as counsel to the Initial Consenting Noteholders) shall be permitted to apply for an Order of the Court directing the Monitor to make distributions from the Monitor's Post-Implementation Reserve. Once the Monitor has determined that the cash remaining in the Monitor's Post-Implementation Reserve is no longer necessary for administering SFC or the Claims Procedure, the Monitor shall forthwith transfer any such remaining cash (the "Remaining Post-Implementation Reserve Amount") to Newco.

5.8 Other Payments and Distributions

All other payments and distributions to be made pursuant to this Plan shall be made in the manner described in this Plan, the Sanction Order or any other Order, as applicable.

5.9 Note Indentures to Remain in Effect Solely for Purpose of Distributions

Following completion of the steps in the sequence set forth in section 6.4, all debentures, indentures, notes (including the Notes), certificates, agreements, invoices and other instruments evidencing Affected Claims will not entitle any holder thereof to any compensation or participation other than as expressly provided for in the Plan and will be cancelled and will be null and void. Any and all obligations of SFC and the Subsidiaries under and with respect to the Notes, the Note Indentures and any guarantees or indemnities with respect to the Notes or the Note Indentures shall be terminated and cancelled on the Plan Implementation Date and shall not continue beyond the Plan Implementation Date. Notwithstanding the foregoing and anything to the contrary in the Plan, the Note Indentures shall remain in effect solely for the purpose of and only to the extent necessary to allow the Trustees to make distributions to Noteholders on the Initial Distribution Date and, as necessary, each subsequent Distribution Date thereafter, and to maintain all of the rights and protections afforded to the Trustees as against the Noteholders under the applicable Note Indentures, including their lien rights with respect to any distributions under this Plan, until all distributions provided for hereunder have been made to the Noteholders. The obligations of the Trustees under or in respect of this Plan shall be solely as expressly set out herein. Without limiting the generality of the releases, injunctions and other protections afforded to the Trustees under this Plan and the applicable Note Indentures, the Trustees shall have no liability whatsoever to any Person resulting from the due performance of their obligations hereunder, except if such Trustee is adjudged by the express terms of a non-appealable judgment rendered on a final determination on the merits to have committed gross negligence or wilful misconduct in respect of such matter.

5.10 Assignment of Claims for Distribution Purposes

(a) Assignment of Claims by Ordinary Affected Creditors

Subject to any restrictions contained in Applicable Laws, an Ordinary Affected Creditor may transfer or assign the whole of its Affected Claim after the Meeting provided that neither SFC nor Newco nor Newco II nor the Monitor nor the Unresolved Claims Escrow Agent shall be obliged to make distributions to any such transferee or assignee or otherwise deal with such

transferee or assignee as an Ordinary Affected Creditor in respect thereof unless and until actual notice of the transfer or assignment, together with satisfactory evidence of such transfer or assignment and such other documentation as SFC and the Monitor may reasonably require, has been received by SFC and the Monitor on or before the Plan Implementation Date, or such other date as SFC and the Monitor may agree, failing which the original transferor shall have all applicable rights as the "Ordinary Affected Creditor" with respect to such Affected Claim as if no transfer of the Affected Claim had occurred. Thereafter, such transferee or assignee shall, for all purposes in accordance with this Plan, constitute an Ordinary Affected Creditor and shall be bound by any and all notices previously given to the transferor or assignor in respect of such Claim. For greater certainty, SFC shall not recognize partial transfers or assignments of Claims.

(b) *Assignment of Notes*

Only those Noteholders who have beneficial ownership of one or more Notes as at the Distribution Record Date shall be entitled to receive a distribution under this Plan on the Initial Distribution Date or any Distribution Date. Noteholders who have beneficial ownership of Notes shall not be restricted from transferring or assigning such Notes prior to or after the Distribution Record Date (unless the Distribution Record Date is the Plan Implementation Date), provided that if such transfer or assignment occurs after the Distribution Record Date, neither SFC nor Newco nor Newco II nor the Monitor nor the Unresolved Claims Escrow Agent shall have any obligation to make distributions to any such transferee or assignee of Notes in respect of the Claims associated therewith, or otherwise deal with such transferee or assignee as an Affected Creditor in respect thereof. Noteholders who assign or acquire Notes after the Distribution Record Date shall be wholly responsible for ensuring that Plan distributions in respect of the Claims associated with such Notes are in fact delivered to the assignee, and the Trustees shall have no liability in connection therewith.

5.11 Withholding Rights

SFC, Newco, Newco II, the Monitor, the Litigation Trustee, the Unresolved Claims Escrow Agent and/or any other Person making a payment contemplated herein shall be entitled to deduct and withhold from any consideration payable to any Person such amounts as it is required to deduct and withhold with respect to such payment under the Canadian Tax Act, the United States Internal Revenue Code of 1986 or any provision of federal, provincial, territorial, state, local or foreign Tax laws, in each case, as amended. To the extent that amounts are so withheld or deducted, such withheld or deducted amounts shall be treated for all purposes hereof as having been paid to the Person in respect of which such withholding was made, provided that such amounts are actually remitted to the appropriate Taxing Authority. To the extent that the amounts so required or permitted to be deducted or withheld from any payment to a Person exceed the cash portion of the consideration otherwise payable to that Person: (i) the payor is authorized to sell or otherwise dispose of such portion of the consideration as is necessary to provide sufficient funds to enable it to comply with such deduction or withholding requirement or entitlement, and the payor shall notify the applicable Person thereof and remit to such Person any unapplied balance of the net proceeds of such sale; or (ii) if such sale is not reasonably possible, the payor shall not be required to make such excess payment until the Person has directly satisfied any such withholding obligation and provides evidence thereof to the payor.

5.12 Fractional Interests

No fractional interests of Newco Shares or Newco Notes ("**Fractional Interests**") will be issued under this Plan. For purposes of calculating the number of Newco Shares and Newco Notes to be issued by Newco pursuant to this Plan, recipients of Newco Shares or Newco Notes will have their entitlements adjusted downwards to the nearest whole number of Newco Shares or Newco Notes, as applicable, to eliminate any such Fractional Interests and no compensation will be given for the Fractional Interest.

5.13 Further Direction of the Court

The Monitor shall, in its sole discretion, be entitled to seek further direction of the Court, including a plan implementation order, with respect to any matter relating to the implementation of the plan including with respect to the distribution mechanics and restructuring transaction as set out in Articles 5 and 6 of this Plan.

ARTICLE 6 RESTRUCTURING TRANSACTION

6.1 Corporate Actions

The adoption, execution, delivery, implementation and consummation of all matters contemplated under the Plan involving corporate action of SFC will occur and be effective as of the Plan Implementation Date, other than such matters occurring on the Equity Cancellation Date which will occur and be effective on such date, and in either case will be authorized and approved under the Plan and by the Court, where appropriate, as part of the Sanction Order, in all respects and for all purposes without any requirement of further action by shareholders, Directors or Officers of SFC. All necessary approvals to take actions shall be deemed to have been obtained from the directors or the shareholders of SFC, as applicable, including the deemed passing by any class of shareholders of any resolution or special resolution and no shareholders' agreement or agreement between a shareholder and another Person limiting in any way the right to vote shares held by such shareholder or shareholders with respect to any of the steps contemplated by the Plan shall be deemed to be effective and shall have no force and effect, provided that, subject to sections 12.6 and 12.7 hereof, where any matter expressly requires the consent or approval of SFC, the Initial Consenting Noteholders or SFC's board of directors pursuant to this Plan, such consent or approval shall not be deemed to be given unless actually given.

6.2 Incorporation of Newco and Newco II

- (a) Newco shall be incorporated prior to the Plan Implementation Date. Newco shall be authorized to issue an unlimited number of Newco Shares and shall have no restrictions on the number of its shareholders. At the time that Newco is incorporated, Newco shall issue one Newco Share to the Initial Newco Shareholder, as the sole shareholder of Newco, and the Initial Newco Shareholder shall be deemed to hold the Newco Share for the purpose of facilitating the

Restructuring Transaction. For greater certainty, the Initial Newco Shareholder shall not hold such Newco Share as agent of or for the benefit of SFC, and SFC shall have no rights in relation to such Newco Share. Newco shall not carry on any business or issue any other Newco Shares or other securities until the Plan Implementation Date, and then only in accordance with section 6.4 hereof. The Initial Newco Shareholder shall be deemed to have no liability whatsoever for any matter pertaining to its status as the Initial Newco Shareholder, other than its obligations under this Plan to act as the Initial Newco Shareholder.

- (b) Newco II shall be incorporated prior to the Plan Implementation Date as a wholly-owned subsidiary of Newco. The memorandum and articles of association of Newco II will be in a form customary for a wholly-owned subsidiary under the applicable jurisdiction and the initial board of directors of Newco II will consist of the same Persons appointed as the directors of Newco on or prior to the Plan Implementation Date.

6.3 Incorporation of SFC Escrow Co.

SFC Escrow Co. shall be incorporated prior to the Plan Implementation Date. SFC Escrow Co. shall be incorporated under the laws of the Cayman Islands, or such other jurisdiction as may be agreed by SFC, the Monitor and the Initial Consenting Noteholders. The sole director of SFC Escrow Co. shall be Codan Services (Cayman) Limited, or such other Person as may be agreed by SFC, the Monitor and the Initial Consenting Noteholders. At the time that SFC Escrow Co. is incorporated, SFC Escrow Co. shall issue one share (the "SFC Escrow Co. Share") to SFC, as the sole shareholder of SFC Escrow Co. and SFC shall be deemed to hold the SFC Escrow Co. Share for the purpose of facilitating the Restructuring Transaction. SFC Escrow Co. shall have no assets other than any assets that it is required to hold in escrow pursuant to the terms of this Plan, and it shall have no liabilities other than its obligations as set forth in this Plan. SFC Escrow Co. shall not carry on any business or issue any shares or other securities (other than the SFC Escrow Co. Share). The sole activity and function of SFC Escrow Co. shall be to perform the obligations of the Unresolved Claims Escrow Agent as set forth in this Plan and to administer Undeliverable Distributions as set forth in section 5.4 of this Plan. SFC Escrow Co. shall not make any sale, distribution, transfer or conveyance of any Newco Shares, Newco Notes or any other assets or property that it holds unless it is directed to do so by an Order of the Court or by a written direction from the Monitor, in which case SFC Escrow Co. shall promptly comply with such Order of the Court or such written direction from the Monitor. SFC shall not sell, transfer or convey the SFC Escrow Co. Share nor effect or cause to be effected any liquidation, dissolution, merger or other corporate reorganization of SFC Escrow Co. unless it is directed to do so by an Order of the Court or by a written direction from the Monitor, in which case SFC shall promptly comply with such Order of the Court or such written direction from the Monitor. SFC Escrow Co. shall not exercise any voting rights (including any right to vote at a meeting of shareholders or creditors held or in any written resolution) in respect of Newco Shares or Newco Notes held in the Unresolved Claims Reserve. SFC Escrow Co. shall not be entitled to receive any compensation for the performance of its obligations under this Plan.

6.4 Plan Implementation Date Transactions

The following steps and compromises and releases to be effected shall occur, and be deemed to have occurred in the following manner and order (sequentially, each step occurring five minutes apart, except that within such order steps (a) to (f) (Cash Payments) shall occur simultaneously and steps (t) to (w) (Releases) shall occur simultaneously) without any further act or formality, on the Plan Implementation Date beginning at the Effective Time (or in such other manner or order or at such other time or times as SFC, the Monitor and the Initial Consenting Noteholders may agree):

Cash Payments and Satisfaction of Lien Claims

- (a) SFC shall pay required funds to the Monitor for the purpose of funding the Unaffected Claims Reserve, and the Monitor shall hold and administer such funds in trust for the purpose of paying the Unaffected Claims pursuant to the Plan.
- (b) SFC shall pay the required funds to the Monitor for the purpose of funding the Administration Charge Reserve, and the Monitor shall hold and administer such funds in trust for the purpose of paying Unaffected Claims secured by Administration Charge.
- (c) SFC shall pay the required funds to the Monitor for the purpose of funding the Monitor's Post-Implementation Reserve, and the Monitor shall hold and administer such funds in trust for the purpose of administering SFC, as necessary, from and after the Plan Implementation Date.
- (d) SFC shall pay to the Noteholder Advisors and the Initial Consenting Noteholders, as applicable, each such Person's respective portion of the Expense Reimbursement. SFC shall pay all fees and expenses owing to each of the SFC Advisors, the advisors to the current Board of Directors of SFC, Chandler Fraser Keating Limited and Spencer Stuart and SFC or any of the Subsidiaries shall pay all fees and expenses owing to each of Indufor Asia Pacific Limited and Stewart Murray (Singapore) Pte. Ltd. If requested by the Monitor (with the consent of the Initial Consenting Noteholders) no more than 10 days prior to the Plan Implementation Date and provided that all fees and expenses set out in all previous invoices rendered by the applicable Person to SFC have been paid, SFC and the Subsidiaries, as applicable, shall, with respect to the final one or two invoices rendered prior to the Plan Implementation Date, pay any such fees and expenses to such Persons for all work up to and including the Plan Implementation Date (including any reasonable estimates of work to be performed on the Plan Implementation Date) first by applying any such monetary retainers currently held by such Persons and then by paying any remaining balance in cash.
- (e) If requested by the Monitor (with the consent of the Initial Consenting Noteholders) prior to the Plan Implementation Date, any Person with a monetary retainer from SFC that remains outstanding following the steps and payment of all

fees and expenses set out in section 6.4(d) hereof shall pay to SFC in cash the full amount of such remaining retainer, less any amount permitted by the Monitor (with the Consent of the Initial Consenting Noteholders and after prior discussion with the applicable Person as to any remaining work that may reasonably be required) to remain as a continuing monetary retainer in connection with completion of any remaining work after the Plan Implementation Date that may be requested by the Monitor, SFC or the Initial Consenting Noteholders (each such continuing monetary retainer being a "Permitted Continuing Retainer"). Such Persons shall have no duty or obligation to perform any further work or tasks in respect of SFC unless such Persons are satisfied that they are holding adequate retainers or other security or have received payment to compensate them for all fees and expenses in respect of such work or tasks. The obligation of such Persons to repay the remaining amounts of any monetary retainers (including the unused portions of any Permitted Continuing Retainers) and all cash received therefrom shall constitute SFC Assets.

- (f) The Lien Claims shall be satisfied in accordance with section 4.2(c) hereof.

Transaction Steps

- (g) All accrued and unpaid interest owing on, or in respect of, or as part of, Affected Creditor Claims (including any Accrued Interest on the Notes and any interest accruing on the Notes or any Ordinary Affected Creditor Claim after the Filing Date) shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred for no consideration, and from and after the occurrence of this step, no Person shall have any entitlement to any such accrued and unpaid interest.
- (h) All of the Affected Creditors shall be deemed to assign, transfer and convey to Newco all of their Affected Creditor Claims, and from and after the occurrence of this step, Newco shall be the legal and beneficial owner of all Affected Creditor Claims. In exchange for the assignment, transfer and conveyance of the Affected Creditor Claims to Newco:
- (i) with respect to Affected Creditor Claims that are Proven Claims at the Effective Time:
- (A) Newco shall issue to each applicable Affected Creditor the number of Newco Shares that each such Affected Creditor is entitled to receive in accordance with section 4.1(a) hereof;
- (B) Newco shall issue to each applicable Affected Creditor the amount of Newco Notes that each such Affected Creditor is entitled to receive in accordance with section 4.1(b) hereof;
- (C) Newco shall issue to each of the Early Consent Noteholders the number of Newco Shares that each such Early Consent Noteholder is entitled to receive pursuant to section 4.3 hereof;

- (D) such Affected Creditors shall be entitled to receive the Litigation Trust Interests to be acquired by Newco in section 6.4(q) hereof, following the establishment of the Litigation Trust;
- (E) such Affected Creditors shall be entitled to receive, at the time or times contemplated in sections 5.5(c) and 5.5(d) hereof, the Newco Shares, Newco Notes and Litigation Trust Interests that are subsequently distributed to (or in the case of Litigation Trust Interests registered for the benefit of) Affected Creditors with Proven Claims pursuant to sections 5.5(c) and 5.5(d) hereof (if any),

and all such Newco Shares and Newco Notes shall be distributed in the manner described in section 5.2 hereof; and

- (ii) with respect to Affected Creditor Claims that are Unresolved Claims as at the Effective Time, Newco shall issue in the name of the Unresolved Claims Escrow Agent, for the benefit of the Persons entitled thereto under the Plan, the Newco Shares and the Newco Notes that would have been distributed to the applicable Affected Creditors in respect of such Unresolved Claims if such Unresolved Claims had been Proven Claims at the Effective Time; such Newco Shares, Newco Notes and Litigation Trust Interests acquired by Newco in section 6.4(q) and assigned to and registered in the name of the Unresolved Claims Escrow Agent in accordance with section 6.4(r) shall comprise part of the Unresolved Claims Reserve and the Unresolved Claims Escrow Agent shall hold all such Newco Shares, Newco Notes and Litigation Trust Interests in escrow for the benefit of those Persons entitled to receive distributions thereof pursuant to the Plan.
- (i) The initial Newco Share in the capital of Newco held by the Initial Newco Shareholder shall be redeemed and cancelled for no consideration.
- (j) SFC shall be deemed to assign, transfer and convey to SFC Barbados those SFC Intercompany Claims and/or Equity Interests in one or more Direct Subsidiaries as agreed to by SFC and the Initial Consenting Noteholders prior to the Plan Implementation Date (the "**Barbados Property**") first in full repayment of the Barbados Loans and second, to the extent the fair market value of the Barbados Property exceeds the amount owing under the Barbados Loans, as a contribution to the capital of SFC Barbados by SFC. Immediately after the time of such assignment, transfer and conveyance, the Barbados Loans shall be considered to be fully paid by SFC and no longer outstanding.
- (k) SFC shall be deemed to assign, transfer and convey to Newco all shares and other Equity Interests (other than the Barbados Property) in the capital of (i) the Direct Subsidiaries and (ii) any other Subsidiaries that are directly owned by SFC immediately prior to the Effective Time, other than SFC Escrow Co. (all such

shares and other equity interests being the "Direct Subsidiary Shares") for a purchase price equal to the fair market value of the Direct Subsidiary Shares and, in consideration therefor, Newco shall be deemed to pay to SFC consideration equal to the fair market value of the Direct Subsidiary Shares, which consideration shall be comprised of a U.S. dollar denominated demand non-interest-bearing promissory note issued to SFC by Newco having a principal amount equal to the fair market value of the Direct Subsidiary Shares (the "Newco Promissory Note 1"). At the time of such assignment, transfer and conveyance, all prior rights that Newco had to acquire the Direct Subsidiary Shares, under the Plan or otherwise, shall cease to be outstanding. For greater certainty, SFC shall not assign, transfer or convey the SFC Escrow Co. Share, and the SFC Escrow Co. Share shall remain the property of SFC.

- (l) If the Initial Consenting Noteholders and SFC agree prior to the Plan Implementation Date, there will be a set-off of any SFC Intercompany Claim so agreed against a Subsidiary Intercompany Claim owing between SFC and the same Subsidiary. In such case, the amounts will be set-off in repayment of both claims to the extent of the lesser of the two amounts, and the excess (if any) shall continue as an SFC Intercompany Claim or a Subsidiary Intercompany Claim, as applicable.
- (m) SFC shall be deemed to assign, transfer and convey to Newco all SFC Intercompany Claims (other than the SFC Intercompany Claims transferred to SFC Barbados in section 6.4(j) hereof or set-off pursuant to section 6.4(l) hereof) for a purchase price equal to the fair market value of such SFC Intercompany Claims and, in consideration therefor, Newco shall be deemed to pay SFC consideration equal to the fair market value of the SFC Intercompany Claims, which consideration shall be comprised of the following: (i) the assumption by Newco of all of SFC's obligations to the Subsidiaries in respect of Subsidiary Intercompany Claims (other than the Subsidiary Intercompany Claims set-off pursuant to section 6.4(l) hereof); and (ii) if the fair market value of the transferred SFC Intercompany Claims exceeds the fair market value of the assumed Subsidiary Intercompany Claims, Newco shall issue to SFC a U.S. dollar denominated demand non-interest-bearing promissory note having a principal amount equal to such excess (the "Newco Promissory Note 2").
- (n) SFC shall be deemed to assign, transfer and convey to Newco all other SFC Assets (namely, all SFC Assets other than the Direct Subsidiary Shares and the SFC Intercompany Claims (which shall have already been transferred to Newco in accordance with sections 6.4(k) and 6.4(m) hereof)), for a purchase price equal to the fair market value of such other SFC Assets and, in consideration therefor, Newco shall be deemed to pay to SFC consideration equal to the fair market value of such other SFC Assets, which consideration shall be comprised of a U.S. dollar denominated demand non-interest-bearing promissory note issued to SFC by Newco having a principal amount equal to the fair market value of such other SFC Assets (the "Newco Promissory Note 3").

- (o) SFC shall establish the Litigation Trust and SFC and the Trustees (on behalf of the Noteholders) shall be deemed to convey, transfer and assign to the Litigation Trustee all of their respective rights, title and interest in and to the Litigation Trust Claims. SFC shall advance the Litigation Funding Amount to the Litigation Trustee for use by the Litigation Trustee in prosecuting the Litigation Trust Claims in accordance with the Litigation Trust Agreement, which advance shall be deemed to create a non-interest bearing receivable from the Litigation Trustee in favour of SFC in the amount of the Litigation Funding Amount (the "Litigation Funding Receivable"). The Litigation Funding Amount and Litigation Trust Claims shall be managed by the Litigation Trustee in accordance with the terms and conditions of the Litigation Trust Agreement.
- (p) The Litigation Trust shall be deemed to be effective from the time that it is established in section 6.4(o) hereof. Initially, all of the Litigation Trust Interests shall be held by SFC. Immediately thereafter, SFC shall assign, convey and transfer a portion of the Litigation Trust Interests to the Noteholder Class Action Claimants in accordance with the allocation set forth in section 4.11 hereof.
- (q) SFC shall settle and discharge the Affected Creditor Claims by assigning Newco Promissory Note 1, Newco Promissory Note 2 and Newco Promissory Note 3 (collectively, the "Newco Promissory Notes"), the Litigation Funding Receivable and the remaining Litigation Trust Interests held by SFC to Newco. Such assignment shall constitute payment, by set-off, of the full principal amount of the Newco Promissory Notes and of a portion of the Affected Creditor Claims equal to the aggregate principal amount of the Newco Promissory Notes, the Litigation Trust Receivable and the fair market value of the Litigation Trust Interests so transferred (with such payment being allocated first to the Noteholder Claims and then to the Ordinary Affected Creditor Claims). As a consequence thereof:
- (i) Newco shall be deemed to discharge and release SFC of and from all of SFC's obligations to Newco in respect of the Affected Creditor Claims, and all of Newco's rights against SFC of any kind in respect of the Affected Creditor Claims shall thereupon be fully, finally, irrevocably and forever compromised, released, discharged and cancelled; and
 - (ii) SFC shall be deemed to discharge and release Newco of and from all of Newco's obligations to SFC in respect of the Newco Promissory Notes, and the Newco Promissory Notes and all of SFC's rights against Newco in respect thereof shall thereupon be fully, finally, irrevocably and forever released, discharged and cancelled.
- (r) Newco shall cause a portion of the Litigation Trust Interests it acquired in section 6.4(q) hereof to be assigned to and registered in the name of the Affected Creditors with Proven Claims as contemplated in section 6.4(h), and with respect to any Affected Creditor Claims that are Unresolved Claims as at the Effective Time, the remaining Litigation Trust Interests held by Newco that would have been allocated to the applicable Affected Creditors in respect of such Unresolved

Claims if such Unresolved Claims had been Proven Claims at the Effective Time shall be assigned and registered by the Litigation Trustee to the Unresolved Claims Escrow Agent and in the name of the Unresolved Claims Escrow Agent, in escrow for the benefit of Persons entitled thereto, and such Litigation Trust Interests shall comprise part of the Unresolved Claims Reserve. The Litigation Trustee shall record entitlements to the Litigation Trust Interests in the manner set forth in section 5.3.

Cancellation of Instruments and Guarantees

- (s) Subject to section 5.9 hereof, all debentures, indentures, notes, certificates, agreements, invoices, guarantees, pledges and other instruments evidencing Affected Claims, including the Notes and the Note Indentures, will not entitle any holder thereof to any compensation or participation other than as expressly provided for in the Plan and shall be cancelled and will thereupon be null and void. The Trustees shall be directed by the Court and shall be deemed to have released, discharged and cancelled any guarantees, indemnities, Encumbrances or other obligations owing by or in respect of any Subsidiary relating to the Notes or the Note Indentures.

Releases

- (t) Each of Newco and Newco II shall be deemed to have no liability or obligation of any kind whatsoever for: any Claim (including, notwithstanding anything to the contrary herein, any Unaffected Claim); any Affected Claim (including any Affected Creditor Claim, Equity Claim, D&O Claim, D&O Indemnity Claim and Noteholder Class Action Claim); any Section 5.1(2) D&O Claim; any Conspiracy Claim; any Continuing Other D&O Claim; any Non-Released D&O Claim; any Class Action Claim; any Class Action Indemnity Claim; any right or claim in connection with or liability for the Notes or the Note Indentures; any guarantees, indemnities, share pledges or Encumbrances relating to the Notes or the Note Indentures; any right or claim in connection with or liability for the Existing Shares or other Equity Interests or any other securities of SFC; any rights or claims of the Third Party Defendants relating to SFC or the Subsidiaries; any right or claim in connection with or liability for the RSA, the Plan, the CCAA Proceedings, the Restructuring Transaction, the Litigation Trust, the business and affairs of SFC and the Subsidiaries (whenever or however conducted), the administration and/or management of SFC and the Subsidiaries, or any public filings, statements, disclosures or press releases relating to SFC; any right or claim in connection with or liability for any guaranty, indemnity or claim for contribution in respect of any of the foregoing; and any Encumbrance in respect of the foregoing, provided only that Newco shall assume SFC's obligations to the applicable Subsidiaries in respect of the Subsidiary Intercompany Claims pursuant to section 6.4(l) hereof and Newco II shall assume Newco's obligations to the applicable Subsidiaries in respect of the Subsidiary Intercompany Claims pursuant to section 6.4(x) hereof.

- (u) Each of the Charges shall be discharged, released and cancelled.
- (v) The releases and injunctions referred to in Article 7 of the Plan shall become effective in accordance with the Plan.
- (w) Any contract defaults arising as a result of the CCAA Proceedings and/or the implementation of the Plan (including, notwithstanding anything to the contrary herein, any such contract defaults in respect of the Unaffected Claims) shall be deemed to be cured.

Newco II

- (x) Newco shall be deemed to assign, transfer and convey to Newco II all of Newco's right, title and interest in and to all of its properties, assets and rights of every kind and description (namely the SFC Assets acquired by Newco pursuant to the Plan) for a purchase price equal to the fair market value thereof and, in consideration therefor, Newco II shall be deemed to pay to Newco consideration equal to the fair market value of such properties, assets and rights (the "**Newco II Consideration**"). The Newco II Consideration shall be comprised of: (i) the assumption by Newco II of any and all indebtedness of Newco other than the indebtedness of Newco in respect of the Newco Notes (namely, any indebtedness of Newco in respect of the Subsidiary Intercompany Claims); and (ii) the issuance to Newco of that number of common shares in Newco II as is necessary to ensure that the value of the Newco II Consideration is equal to the fair market value of the properties, assets and rights conveyed by Newco to Newco II pursuant to this section 6.4(x).

6.5 Cancellation of Existing Shares and Equity Interests

Unless otherwise agreed between the Monitor, SFC and the Initial Consenting Noteholders, on the Equity Cancellation Date all Existing Shares and Equity Interests shall be fully, finally and irrevocably cancelled, and the following steps will be implemented pursuant to the Plan as a plan of reorganization under section 191 of the *CBCA*, to be effected by articles of reorganization to be filed by SFC, subject to the receipt of any required approvals from the Ontario Securities Commission with respect to the trades in securities contemplated by the following:

- (a) SFC will create a new class of common shares to be called Class A common shares that are equivalent to the current Existing Shares except that they carry two votes per share;
- (b) SFC will amend the share conditions of the Existing Shares to provide that they are cancellable for no consideration at such time as determined by the board of directors of SFC;
- (c) prior to the cancellation of the Existing Shares, SFC will issue for nominal consideration one Class A common share of SFC to the SFC Continuing Shareholder;

- (d) SFC will cancel the Existing Shares for no consideration on the Equity Cancellation Date; and
- (e) SFC will apply to Canadian securities regulatory authorities for SFC to cease to be a reporting issuer effective immediately before the Effective Time.

Unless otherwise agreed by SFC, the Monitor and the Initial Consenting Noteholders or as otherwise directed by Order of the Court, SFC shall maintain its corporate existence at all times from and after the Plan Implementation Date until the later of the date: (i) on which SFC Escrow Co. has completed all of its obligations as Unresolved Claims Escrow Agent under this Plan; (ii) on which SFC escrow Co. no longer holds any Undeliverable Distributions delivered to it in accordance with the section 5.4 hereof; and (iii) as determined by the Litigation Trustee.

6.6 Transfers and Vesting Free and Clear

- (a) All of the SFC Assets (including for greater certainty the Direct Subsidiary Shares, the SFC Intercompany Claims and all other SFC Assets assigned, transferred and conveyed to Newco and/or Newco II pursuant to section 6.4) shall be deemed to vest absolutely in Newco or Newco II, as applicable, free and clear of and from any and all Charges, Claims (including, notwithstanding anything to the contrary herein, any Unaffected Claims), D&O Claims, D&O Indemnity Claims, Section 5.1(2) D&O Claims, Conspiracy Claims, Continuing Other D&O Claims, Non-Released D&O Claims, Affected Claims, Class Action Claims, Class Action Indemnity Claims, claims or rights of any kind in respect of the Notes or the Note Indentures, and any right or claim that is based in whole or in part on facts, underlying transactions, Causes of Action or events relating to the Restructuring Transaction, the CCAA Proceedings or any of the foregoing, and any guarantees or indemnities with respect to any of the foregoing. Any Encumbrances or claims affecting, attaching to or relating to the SFC Assets in respect of the foregoing shall be deemed to be irrevocably expunged and discharged as against the SFC Assets, and no such Encumbrances or claims shall be pursued or enforceable as against Newco or Newco II. For greater certainty, with respect to the Subsidiaries, Greenheart and Greenheart's direct and indirect subsidiaries: (i) the vesting free and clear in Newco and/or Newco II, as applicable, and the expunging and discharging that occurs by operation of this paragraph shall only apply to SFC's ownership interests in the Subsidiaries, Greenheart and Greenheart's subsidiaries; and (ii) except as provided for in the Plan (including this section 6.6(a) and sections 4.9(g), 6.4(k), 6.4(l) and 6.4(m) hereof and Article 7 hereof) and the Sanction Order, the assets, liabilities, business and property of the Subsidiaries, Greenheart and Greenheart's direct and indirect subsidiaries shall remain unaffected by the Restructuring Transaction.
- (b) Any issuance, assignment, transfer or conveyance of any securities, interests, rights or claims pursuant to the Plan, including the Newco Shares, the Newco Notes and the Affected Creditor Claims, will be free and clear of and from any and all Charges, Claims (including, notwithstanding anything to the contrary herein, any Unaffected Claims), D&O Claims, D&O Indemnity Claims, Affected

Claims, Section 5.1(2) D&O Claims; Conspiracy Claims; Continuing Other D&O Claims, Non-Released D&O Claims; Class Action Claims, Class Action Indemnity Claims, claims or rights of any kind in respect of the Notes or the Note Indentures, and any right or claim that is based in whole or in part on facts, underlying transactions, Causes of Action or events relating to the Restructuring Transaction, the CCAA Proceedings or any of the foregoing, and any guarantees or indemnities with respect to any of the foregoing. For greater certainty, with respect to the Subsidiaries, Greenheart and Greenheart's direct and indirect subsidiaries: (i) the vesting free and clear in Newco and Newco II that occurs by operation of this paragraph shall only apply to SFC's direct and indirect ownership interests in the Subsidiaries, Greenheart and Greenheart's direct and indirect subsidiaries; and (ii) except as provided for in the Plan (including section 6.6(a) and sections 4.9(g), 6.4(k), 6.4(l) and 6.4(m) hereof and Article 7 hereof) and the Sanction Order, the assets, liabilities, business and property of the Subsidiaries, Greenheart and Greenheart's direct and indirect subsidiaries shall remain unaffected by the Restructuring Transaction.

ARTICLE 7 RELEASES

7.1 Plan Releases

Subject to 7.2 hereof, all of the following shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred on the Plan Implementation Date:

- (a) all Affected Claims, including all Affected Creditor Claims, Equity Claims, D&O Claims (other than Section 5.1(2) D&O Claims, Conspiracy Claims, Continuing Other D&O Claims and Non-Released D&O Claims), D&O Indemnity Claims (except as set forth in section 7.1(d) hereof) and Noteholder Class Action Claims (other than the Continuing Noteholder Class Action Claims);
- (b) all Claims of the Ontario Securities Commission or any other Governmental Entity that have or could give rise to a monetary liability, including fines, awards, penalties, costs, claims for reimbursement or other claims having a monetary value;
- (c) all Class Action Claims (including the Noteholder Class Action Claims) against SFC, the Subsidiaries or the Named Directors or Officers of SFC or the Subsidiaries (other than Class Action Claims that are Section 5.1(2) D&O Claims, Conspiracy Claims or Non-Released D&O Claims);
- (d) all Class Action Indemnity Claims (including related D&O Indemnity Claims), other than any Class Action Indemnity Claim by the Third Party Defendants against SFC in respect of the Indemnified Noteholder Class Action Claims (including any D&O Indemnity Claim in that respect), which shall be limited to the Indemnified Noteholder Class Action Limit pursuant to the releases set out in section 7.1(f) hereof and the injunctions set out in section 7.3 hereof;

- (e) any portion or amount of liability of the Third Party Defendants for the Indemnified Noteholder Class Action Claims (on a collective, aggregate basis in reference to all Indemnified Noteholder Class Action Claims together) that exceeds the Indemnified Noteholder Class Action Limit;
- (f) any portion or amount of liability of the Underwriters for the Noteholder Class Action Claims (other than any Noteholder Class Action Claims against the Underwriters for fraud or criminal conduct) (on a collective, aggregate basis in reference to all such Noteholder Class Action Claims together) that exceeds the Indemnified Noteholder Class Action Limit;
- (g) any portion or amount of, or liability of SFC for, any Class Action Indemnity Claims by the Third Party Defendants against SFC in respect of the Indemnified Noteholder Class Action Claims (on a collective, aggregate basis in reference to all such Class Action Indemnity Claims together) to the extent that such Class Action Indemnity Claims exceed the Indemnified Noteholder Class Action Limit;
- (h) any and all Excluded Litigation Trust Claims;
- (i) any and all Causes of Action against Newco, Newco II, the directors and officers of Newco, the directors and officers of Newco II, the Noteholders, members of the *ad hoc* committee of Noteholders, the Trustees, the Transfer Agent, the Monitor, FTI Consulting Canada Inc., FTI HK, counsel for the current Directors of SFC, counsel for the Monitor, counsel for the Trustees, the SFC Advisors, the Noteholder Advisors, and each and every member (including members of any committee or governance council), partner or employee of any of the foregoing, for or in connection with or in any way relating to: any Claims (including, notwithstanding anything to the contrary herein, any Unaffected Claims); Affected Claims; Section 5.1(2) D&O Claims; Conspiracy Claims; Continuing Other D&O Claims; Non-Released D&O Claims; Class Action Claims; Class Action Indemnity Claims; any right or claim in connection with or liability for the Notes or the Note Indentures; any guarantees, indemnities, claims for contribution, share pledges or Encumbrances related to the Notes or the Note Indentures; any right or claim in connection with or liability for the Existing Shares, Equity Interests or any other securities of SFC; any rights or claims of the Third Party Defendants relating to SFC or the Subsidiaries;
- (j) any and all Causes of Action against Newco, Newco II, the directors and officers of Newco, the directors and officers of Newco II, the Noteholders, members of the *ad hoc* committee of Noteholders, the Trustees, the Transfer Agent, the Monitor, FTI Consulting Canada Inc., FTI HK, the Named Directors and Officers, counsel for the current Directors of SFC, counsel for the Monitor, counsel for the Trustees, the SFC Advisors, the Noteholder Advisors, and each and every member (including members of any committee or governance council), partner or employee of any of the foregoing, based in whole or in part on any act, omission, transaction, duty, responsibility, indebtedness, liability, obligation, dealing or other occurrence existing or taking place on or prior to the Plan Implementation

Date (or, with respect to actions taken pursuant to the Plan after the Plan Implementation Date, the date of such actions) in any way relating to, arising out of, leading up to, for, or in connection with the CCAA Proceeding, RSA, the Restructuring Transaction, the Plan, any proceedings commenced with respect to or in connection with the Plan, or the transactions contemplated by the RSA and the Plan, including the creation of Newco and/or Newco II and the creation, issuance or distribution of the Newco Shares, the Newco Notes, the Litigation Trust or the Litigation Trust Interests, provided that nothing in this paragraph shall release or discharge any of the Persons listed in this paragraph from or in respect of any obligations any of them may have under or in respect of the RSA, the Plan or under or in respect of any of Newco, Newco II, the Newco Shares, the Newco Notes, the Litigation Trust or the Litigation Trust Interests, as the case may be;

- (k) any and all Causes of Action against the Subsidiaries for or in connection with any Claim (including, notwithstanding anything to the contrary herein, any Unaffected Claim); any Affected Claim (including any Affected Creditor Claim, Equity Claim, D&O Claim, D&O Indemnity Claim and Noteholder Class Action Claim); any Section 5.1(2) D&O Claim; any Conspiracy Claim; any Continuing Other D&O Claim; any Non-Released D&O Claim; any Class Action Claim; any Class Action Indemnity Claim; any right or claim in connection with or liability for the Notes or the Note Indentures; any guarantees, indemnities, share pledges or Encumbrances relating to the Notes or the Note Indentures; any right or claim in connection with or liability for the Existing Shares, Equity Interests or any other securities of SFC; any rights or claims of the Third Party Defendants relating to SFC or the Subsidiaries; any right or claim in connection with or liability for the RSA, the Plan, the CCAA Proceedings, the Restructuring Transaction, the Litigation Trust, the business and affairs of SFC and the Subsidiaries (whenever or however conducted), the administration and/or management of SFC and the Subsidiaries, or any public filings, statements, disclosures or press releases relating to SFC; any right or claim in connection with or liability for any indemnification obligation to Directors or Officers of SFC or the Subsidiaries pertaining to SFC, the Notes, the Note Indentures, the Existing Shares, the Equity Interests, any other securities of SFC or any other right, claim or liability for or in connection with the RSA, the Plan, the CCAA Proceedings, the Restructuring Transaction, the Litigation Trust, the business and affairs of SFC (whenever or however conducted), the administration and/or management of SFC, or any public filings, statements, disclosures or press releases relating to SFC; any right or claim in connection with or liability for any guaranty, indemnity or claim for contribution in respect of any of the foregoing; and any Encumbrance in respect of the foregoing;
- (l) all Subsidiary Intercompany Claims as against SFC (which are assumed by Newco and then Newco II pursuant to the Plan);
- (m) any entitlements of Ernst & Young to receive distributions of any kind (including Newco Shares, Newco Notes and Litigation Trust Interests) under this Plan;

- (n) any entitlements of the Named Third Party Defendants to receive distributions of any kind (including Newco Shares, Newco Notes and Litigation Trust Interests) under this Plan; and
- (o) any entitlements of the Underwriters to receive distributions of any kind (including Newco Shares, Newco Notes and Litigation Trust Interests) under this Plan.

7.2 Claims Not Released

Notwithstanding anything to the contrary in section 7.1 hereof, nothing in this Plan shall waive, compromise, release, discharge, cancel or bar any of the following:

- (a) SFC of its obligations under the Plan and the Sanction Order;
- (b) SFC from or in respect of any Unaffected Claims (provided that recourse against SFC in respect of Unaffected Claims shall be limited in the manner set out in section 4.2 hereof);
- (c) any Directors or Officers of SFC or the Subsidiaries from any Non-Released D&O Claims, Conspiracy Claims or any Section 5.1(2) D&O Claims, provided that recourse against the Named Directors or Officers of SFC in respect of any Section 5.1(2) D&O Claims and any Conspiracy Claims shall be limited in the manner set out in section 4.9(e) hereof;
- (d) any Other Directors and/or Officers from any Continuing Other D&O Claims, provided that recourse against the Other Directors and/or Officers in respect of the Indemnified Noteholder Class Action Claims shall be limited in the manner set out in section 4.4(b)(i) hereof;
- (e) the Third Party Defendants from any claim, liability or obligation of whatever nature for or in connection with the Class Action Claims, provided that the maximum aggregate liability of the Third Party Defendants collectively in respect of the Indemnified Noteholder Class Action Claims shall be limited to the Indemnified Noteholder Class Action Limit pursuant to section 4.4(b)(i) hereof and the releases set out in sections 7.1(e) and 7.1(f) hereof and the injunctions set out in section 7.3 hereof;
- (f) Newco II from any liability to the applicable Subsidiaries in respect of the Subsidiary Intercompany Claims assumed by Newco II pursuant to section 6.4(x) hereof;
- (g) the Subsidiaries from any liability to Newco II in respect of the SFC Intercompany Claims conveyed to Newco II pursuant to section 6.4(x) hereof;
- (h) SFC of or from any investigations by or non-monetary remedies of the Ontario Securities Commission, provided that, for greater certainty, all monetary rights, claims or remedies of the Ontario Securities Commission against SFC shall be

treated as Affected Creditor Claims in the manner described in section 4.1 hereof and released pursuant to section 7.1(b) hereof;

- (i) the Subsidiaries from their respective indemnification obligations (if any) to Directors or Officers of the Subsidiaries that relate to the ordinary course operations of the Subsidiaries and that have no connection with any of the matters listed in section 7.1(i) hereof;
- (j) SFC or the Directors and Officers from any Insured Claims, provided that recovery for Insured Claims shall be irrevocably limited to recovery solely from the proceeds of Insurance Policies paid or payable on behalf of SFC or its Directors and Officers in the manner set forth in section 2.4 hereof;
- (k) insurers from their obligations under insurance policies; and
- (l) any Released Party for fraud or criminal conduct.

7.3 Injunctions

All Persons are permanently and forever barred, estopped, stayed and enjoined, on and after the Effective Time, with respect to any and all Released Claims, from (i) commencing, conducting or continuing in any manner, directly or indirectly, any action, suits, demands or other proceedings of any nature or kind whatsoever (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against the Released Parties; (ii) enforcing, levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, decree or order against the Released Parties or their property; (iii) commencing, conducting or continuing in any manner, directly or indirectly, any action, suits or demands, including without limitation, by way of contribution or indemnity or other relief, in common law, or in equity, breach of trust or breach of fiduciary duty or under the provisions of any statute or regulation, or other proceedings of any nature or kind whatsoever (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against any Person who makes such a claim or might reasonably be expected to make such a claim, in any manner or forum, against one or more of the Released Parties; (iv) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any lien or encumbrance of any kind against the Released Parties or their property; or (v) taking any actions to interfere with the implementation or consummation of this Plan; provided, however, that the foregoing shall not apply to the enforcement of any obligations under the Plan.

7.4 Timing of Releases and Injunctions

All releases and injunctions set forth in this Article 7 shall become effective on the Plan Implementation Date at the time or times and in the manner set forth in section 6.4 hereof.

7.5 Equity Class Action Claims Against the Third Party Defendants

Subject only to Article 11 hereof, and notwithstanding anything else to the contrary in this Plan, any Class Action Claim against the Third Party Defendants that relates to the purchase, sale or ownership of Existing Shares or Equity Interests: (a) is unaffected by this Plan; (b) is not

discharged, released, cancelled or barred pursuant to this Plan; (c) shall be permitted to continue as against the Third Party Defendants; (d) shall not be limited or restricted by this Plan in any manner as to quantum or otherwise (including any collection or recovery for any such Class Action Claim that relates to any liability of the Third Party Defendants for any alleged liability of SFC); and (e) does not constitute an Equity Claim or an Affected Claim under this Plan.

ARTICLE 8 COURT SANCTION

8.1 Application for Sanction Order

If the Plan is approved by the Required Majority, SFC shall apply for the Sanction Order on or before the date set for the hearing of the Sanction Order or such later date as the Court may set.

8.2 Sanction Order

The Sanction Order shall, among other things:

- (a) declare that: (i) the Plan has been approved by the Required Majority in conformity with the CCAA; (ii) the activities of SFC have been in reasonable compliance with the provisions of the CCAA and the Orders of the Court made in this CCAA Proceeding in all respects; (iii) the Court is satisfied that SFC has not done or purported to do anything that is not authorized by the CCAA; and (iv) the Plan and the transactions contemplated thereby are fair and reasonable;
- (b) declare that the Plan and all associated steps, compromises, releases, discharges, cancellations, transactions, arrangements and reorganizations effected thereby are approved, binding and effective as herein set out as of the Plan Implementation Date;
- (c) confirm the amount of each of the Unaffected Claims Reserve, the Administration Charge Reserve and the Monitor's Post-Implementation Reserve;
- (d) declare that, on the Plan Implementation Date, all Affected Claims shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred, subject only to the right of the applicable Persons to receive the distributions to which they are entitled pursuant to the Plan;
- (e) declare that, on the Plan Implementation Date, the ability of any Person to proceed against SFC or the Subsidiaries in respect of any Released Claims shall be forever discharged and restrained, and all proceedings with respect to, in connection with or relating to any such matter shall be permanently stayed;
- (f) declare that the steps to be taken, the matters that are deemed to occur and the compromises and releases to be effective on the Plan Implementation Date are deemed to occur and be effected in the sequential order contemplated by section 6.4, beginning at the Effective Time;

- (g) declare that, on the Plan Implementation Date, the SFC Assets vest absolutely in Newco and that, in accordance with section 6.4(x) hereof, the SFC Assets transferred by Newco to Newco II vest absolutely in Newco II, in each case in accordance with the terms of section 6.6(a) hereof;
- (h) confirm that the Court was satisfied that: (i) the hearing of the Sanction Order was open to all of the Affected Creditors and all other Persons with an interest in SFC and that such Affected Creditors and other Persons were permitted to be heard at the hearing in respect of the Sanction Order; (ii) prior to the hearing, all of the Affected Creditors and all other Persons on the service list in respect of the CCAA Proceeding were given adequate notice thereof;
- (i) provide that the Court was advised prior to the hearing in respect of the Sanction Order that the Sanction Order will be relied upon by SFC and Newco as an approval of the Plan for the purpose of relying on the exemption from the registration requirements of the United States Securities Act of 1933, as amended, pursuant to Section 3(a)(10) thereof for the issuance of the Newco Shares, Newco Notes and, to the extent they may be deemed to be securities, the Litigation Trust Interests, and any other securities to be issued pursuant to the Plan;
- (j) declare that all obligations, agreements or leases to which (i) SFC remains a party on the Plan Implementation Date, or (ii) Newco and/or Newco II becomes a party as a result of the conveyance of the SFC Assets to Newco and the further conveyance of the SFC Assets to Newco II on the Plan Implementation Date, shall be and remain in full force and effect, unamended, as at the Plan Implementation Date and no party to any such obligation or agreement shall on or following the Plan Implementation Date, accelerate, terminate, refuse to renew, rescind, refuse to perform or otherwise disclaim or resiliate its obligations thereunder, or enforce or exercise (or purport to enforce or exercise) any right or remedy under or in respect of any such obligation or agreement, by reason:
 - (i) of any event which occurred prior to, and not continuing after, the Plan Implementation Date, or which is or continues to be suspended or waived under the Plan, which would have entitled any other party thereto to enforce those rights or remedies;
 - (ii) that SFC sought or obtained relief or has taken steps as part of the Plan or under the CCAA;
 - (iii) of any default or event of default arising as a result of the financial condition or insolvency of SFC;
 - (iv) of the completion of any of the transactions contemplated under the Plan, including the transfer, conveyance and assignment of the SFC Assets to Newco and the further transfer, conveyance and assignment of the SFC Assets by Newco to Newco II; or

- (v) of any compromises, settlements, restructurings, recapitalizations or reorganizations effected pursuant to the Plan;
- (k) stay the commencing, taking, applying for or issuing or continuing any and all steps or proceedings, including without limitation, administrative hearings and orders, declarations or assessments, commenced, taken or proceeded with or that may be commenced, taken or proceed with to advance any Released Claims;
- (l) stay as against Ernst & Young the commencing, taking, applying for or issuing or continuing any and all steps or proceedings (other than all steps or proceedings to implement the Ernst & Young Settlement) pursuant to the terms of the Order of the Honourable Justice Morawetz dated May 8, 2012 between (i) the Plan Implementation Date and (ii) the earlier of the Ernst & Young Settlement Date or such other date as may be ordered by the Court on a motion to the Court on reasonable notice to Ernst & Young;
- (m) declare that in no circumstances will the Monitor have any liability for any of SFC's tax liability regardless of how or when such liability may have arisen;
- (n) authorize the Monitor to perform its functions and fulfil its obligations under the Plan to facilitate the implementation of the Plan;
- (o) direct and deem the Trustees to release, discharge and cancel any guarantees, indemnities, Encumbrances or other obligations owing by or in respect of any Subsidiary relating to the Notes or the Note Indentures;
- (p) declare that upon completion by the Monitor of its duties in respect of SFC pursuant to the CCAA and the Orders, the Monitor may file with the Court a certificate of Plan Implementation stating that all of its duties in respect of SFC pursuant to the CCAA and the Orders have been completed and thereupon, FTI Consulting Canada Inc. shall be deemed to be discharged from its duties as Monitor and released of all claims relating to its activities as Monitor; and
- (q) declare that, on the Plan Implementation Date, each of the Charges shall be discharged, released and cancelled, and that any obligations secured thereby shall satisfied pursuant to section 4.2(b) hereof, and that from and after the Plan Implementation Date the Administration Charge Reserve shall stand in place of the Administration Charge as security for the payment of any amounts secured by the Administration Charge;
- (r) declare that the Monitor may not make any payment from the Monitor's Post-Implementation Plan Reserve to any third party professional services provider (other than its counsel) that exceeds \$250,000 (alone or in a series of related payments) without the prior consent of the Initial Consenting Noteholders or an Order of the Court;
- (s) declare that SFC and the Monitor may apply to the Court for advice and direction in respect of any matters arising from or under the Plan;

- (t) declare that, subject to the due performance of its obligations as set forth in the Plan and subject to its compliance with any written directions or instructions of the Monitor and/or directions of the Court in the manner set forth in the Plan, SFC Escrow Co. shall have no liabilities whatsoever arising from the performance of its obligations under the Plan;
- (u) order and declare that all Persons with Unresolved Claims shall have standing in any proceeding in respect of the determination or status of any Unresolved Claim, and that Goodmans LLP (in its capacity as counsel to the Initial Consenting Noteholders) shall have standing in any such proceeding on behalf of the Initial Consenting Noteholders (in their capacity as Affected Creditors with Proven Claims);
- (v) order and declare that, from and after the Plan Implementation Date, Newco will be permitted, in its sole discretion and on terms acceptable to Newco, to advance additional cash amounts to the Litigation Trustee from time to time for the purpose of providing additional financing to the Litigation Trust, including the provision of such additional amounts as a non-interest bearing loan to the Litigation Trust that is repayable to Newco on similar terms and conditions as the Litigation Funding Receivable;
- (w) order and declare that: (i) subject to the prior consent of the Initial Consenting Noteholders, each of the Monitor and the Litigation Trustee shall have the right to seek and obtain an order from any court of competent jurisdiction, including an Order of the Court in the CCAA or otherwise, that gives effect to any releases of any Litigation Trust Claims agreed to by the Litigation Trustee in accordance with the Litigation Trust Agreement, and (ii) in accordance with this section 8.2(w), all Affected Creditors shall be deemed to consent to any such releases in any such proceedings;
- (x) order and declare that, prior to the Effective Time, SFC shall: (i) preserve or cause to be preserved copies of any documents (as such term is defined in the *Rules of Civil Procedure* (Ontario)) that are relevant to the issues raised in the Class Actions; and (ii) make arrangements acceptable to SFC, the Monitor, the Initial Consenting Noteholders, counsel to Ontario Class Action Plaintiffs, counsel to Ernst & Young, counsel to the Underwriters and counsel to the Named Third Party Defendants to provide the parties to the Class Actions with access thereto, subject to customary commercial confidentiality, privilege or other applicable restrictions, including lawyer-client privilege, work product privilege and other privileges or immunities, and to restrictions on disclosure arising from s. 16 of the *Securities Act* (Ontario) and comparable restrictions on disclosure in other relevant jurisdictions, for purposes of prosecuting and/or defending the Class Actions, as the case may be, provided that nothing in the foregoing reduces or otherwise limits the parties' rights to production and discovery in accordance with the *Rules of Civil Procedure* (Ontario) and the *Class Proceedings Act, 1992* (Ontario);

- (y) order that releases and injunctions set forth in Article 7 of this Plan are effective on the Plan Implementation Date at the time or times and in the manner set forth in section 6.4 hereof;
- (z) order that the Ernst & Young Release shall become effective on the Ernst & Young Settlement Date in the manner set forth in section 11.1 hereof;
- (aa) order that any Named Third Party Defendant Releases shall become effective if and when the terms and conditions of sections 11.2(a), 11.2(b), 11.2(c) have been fulfilled.;
- (bb) order and declare that the matters described in Article 11 hereof shall occur subject to and in accordance with the terms and conditions of Article 11; and
- (cc) declare that section 95 to 101 of the BIA shall not apply to any of the transactions implemented pursuant to the Plan.

If agreed by SFC, the Monitor and the Initial Consenting Noteholders, any of the relief to be included in the Sanction Order pursuant to this section 8.2 in respect of matters relating to the Litigation Trust may instead be included in a separate Order of the Court satisfactory to SFC, the Monitor and the Initial Consenting Noteholders granted prior to the Plan Implementation Date.

ARTICLE 9 CONDITIONS PRECEDENT AND IMPLEMENTATION

9.1 Conditions Precedent to Implementation of the Plan

The implementation of the Plan shall be conditional upon satisfaction or waiver of the following conditions prior to or at the Effective Time, each of which is for the benefit of SFC and the Initial Consenting Noteholders and may be waived only by SFC and the Initial Consenting Noteholders collectively; provided, however, that the conditions in sub-paragraphs (g), (h), (n), (o), (q), (r), (u), (z), (ff), (gg), (mm), (ll) and (nn) shall only be for the benefit of the Initial Consenting Noteholders and, if not satisfied on or prior to the Effective Time, may be waived only by the Initial Consenting Noteholders; and provided further that such conditions shall not be enforceable by SFC if any failure to satisfy such conditions results from an action, error, omission by or within the control of SFC and such conditions shall not be enforceable by the Initial Consenting Noteholders if any failure to satisfy such conditions results from an action, error, omission by or within the control of the Initial Consenting Noteholders;

Plan Approval Matters

- (a) the Plan shall have been approved by the Required Majority and the Court, and in each case the Plan shall have been approved in a form consistent with the RSA or otherwise acceptable to SFC and the Initial Consenting Noteholders, each acting reasonably;
- (b) the Sanction Order shall have been made and shall be in full force and effect prior to December 17, 2012 (or such later date as may be consented to by SFC and the

Initial Consenting Noteholders), and all applicable appeal periods in respect thereof shall have expired and any appeals therefrom shall have been disposed of by the applicable appellate court;

- (c) the Sanction Order shall be in a form consistent with the Plan or otherwise acceptable to SFC and the Initial Consenting Noteholders, each acting reasonably;
- (d) all filings under Applicable Laws that are required in connection with the Restructuring Transaction shall have been made and any regulatory consents or approvals that are required in connection with the Restructuring Transaction shall have been obtained and, in the case of waiting or suspensory periods, such waiting or suspensory periods shall have expired or been terminated; without limiting the generality of the foregoing, such filings and regulatory consents or approvals include:
 - (i) any required filings, consents and approvals of securities regulatory authorities in Canada;
 - (ii) a consultation with the Executive of the Hong Kong Securities and Futures Commission that is satisfactory to SFC, the Monitor and the Initial Consenting Noteholders confirming that implementation of the Restructuring Transaction will not result in an obligation arising for Newco, its shareholders, Newco II or any Subsidiary to make a mandatory offer to acquire shares of Greenheart;
 - (iii) the submission by SFC and each applicable Subsidiary of a Circular 698 tax filing with all appropriate tax authorities in the PRC within the requisite time prior to the Plan Implementation Date, such filings to be in form and substance satisfactory to the Initial Consenting Noteholders; and
 - (iv) if notification is necessary or desirable under the *Antimonopoly Law of People's Republic of China* and its implementation rules, the submission of all antitrust filings considered necessary or prudent by the Initial Consenting Noteholders and the acceptance and (to the extent required) approval thereof by the competent Chinese authority, each such filing to be in form and substance satisfactory to the Initial Consenting Noteholders;
- (e) there shall not be in effect any preliminary or final decision, order or decree by a Governmental Entity, no application shall have been made to any Governmental Entity, and no action or investigation shall have been announced, threatened or commenced by any Governmental Entity, in consequence of or in connection with the Restructuring Transaction that restrains, impedes or prohibits (or if granted could reasonably be expected to restrain, impede or prohibit) the Restructuring Transaction or any material part thereof or requires or purports to require a variation of the Restructuring Transaction, and SFC shall have provided the Initial Consenting Noteholders with a certificate signed by an officer of SFC, without

personal liability on the part of such officer, certifying compliance with this Section 9.1(e) as of the Plan Implementation Date;

Newco and Newco II Matters

- (f) the organization, incorporating documents, articles, by-laws and other constating documents of Newco and Newco II (including any shareholders agreement, shareholder rights plan and classes of shares (voting and non-voting)) and any affiliated or related entities formed in connection with the Restructuring Transaction or the Plan, and all definitive legal documentation in connection with all of the foregoing, shall be acceptable to the Initial Consenting Noteholders and in form and in substance reasonably satisfactory to SFC;
- (g) the composition of the board of directors of Newco and Newco II and the senior management and officers of Newco and Newco II that will assume office, or that will continue in office, as applicable, on the Plan Implementation Date shall be acceptable to the Initial Consenting Noteholders;
- (h) the terms of employment of the senior management and officers of Newco and Newco II shall be acceptable to the Initial Consenting Noteholders;
- (i) except as expressly set out in this Plan, neither Newco nor Newco II shall have:
 - (i) issued or authorized the issuance of any shares, notes, options, warrants or other securities of any kind, (ii) become subject to any Encumbrance with respect to its assets or property; (iii) become liable to pay any indebtedness or liability of any kind (other than as expressly set out in section 6.4 hereof); or (iv) entered into any Material agreement;
- (j) any securities that are formed in connection with the Plan, including the Newco Shares and the Newco Notes, when issued and delivered pursuant to the Plan, shall be duly authorized, validly issued and fully paid and non-assessable and the issuance and distribution thereof shall be exempt from all prospectus and registration requirements of any applicable securities, corporate or other law, statute, order, decree, consent decree, judgment, rule, regulation, ordinance, notice, policy or other pronouncement having the effect of law applicable in the provinces of Canada;
- (k) Newco shall not be a reporting issuer (or equivalent) in any province of Canada or any other jurisdiction;
- (l) all of the steps, terms, transactions and documents relating to the conveyance of the SFC Assets to Newco and the further conveyance of the SFC Assets by Newco to Newco II in accordance with the Plan shall be in form and in substance acceptable to SFC and the Initial Consenting Noteholders;
- (m) all of the following shall be in form and in substance acceptable to the Initial Consenting Noteholders and reasonably satisfactory to SFC: (i) the Newco Shares; (ii) the Newco Notes (including the aggregate principal amount of the

Newco Notes); (iii) any trust indenture or other document governing the terms of the Newco Notes; and (iv) the number of Newco Shares and Newco Notes to be issued in accordance with this Plan;

Plan Matters

- (n) the Indemnified Noteholder Class Action Limit shall be acceptable to the Initial Consenting Noteholders;
- (o) the aggregate amount of the Proven Claims held by Ordinary Affected Creditors shall be acceptable to the Initial Consenting Noteholders;
- (p) the amount of each of the Unaffected Claims Reserve and the Administration Charge Reserve shall, in each case, be acceptable to SFC, the Monitor and the Initial Consenting Noteholders;
- (q) the amount of the Monitor's Post-Implementation Reserve and the amount of any Permitted Continuing Retainers shall be acceptable to the Initial Consenting Noteholders, and the Initial Consenting Noteholders shall be satisfied that all outstanding monetary retainers held by any SFC Advisors (net of any Permitted Continuing Retainers) have been repaid to SFC on the Plan Implementation Date;
- (r) **[Intentionally deleted];**
- (s) the amount of each of the following shall be acceptable to SFC, the Monitor and the Initial Consenting Noteholders: (i) the aggregate amount of Lien Claims to be satisfied by the return to the applicable Lien Claimants of the applicable secured property in accordance with section 4.2(c)(i) hereof; and (ii) the aggregate amount of Lien Claims to be repaid in cash on the Plan Implementation Date in accordance with section 4.2(c)(ii) hereof;
- (t) the aggregate amount of Unaffected Claims, and the aggregate amount of the Claims listed in each subparagraph of the definition of "Unaffected Claims" shall, in each case, be acceptable to SFC, the Monitor and the Initial Consenting Noteholders;
- (u) the aggregate amount of Unresolved Claims and the amount of the Unresolved Claims Reserve shall, in each case, be acceptable to the Initial Consenting Noteholders and shall be confirmed in the Sanction Order;
- (v) Litigation Trust and the Litigation Trust Agreement shall be in form and in substance acceptable to SFC and the Initial Consenting Noteholders, each acting reasonably, and the Litigation Trust shall be established in a jurisdiction that is acceptable to the Initial Consenting Noteholders and SFC, each acting reasonably;
- (w) SFC, the Monitor and the Initial Consenting Noteholders, each acting reasonably, shall be satisfied with the proposed use of proceeds and payments relating to all aspects of the Restructuring Transaction and the Plan, including, without

limitation, any change of control payments, consent fees, transaction fees, third party fees or termination or severance payments, in the aggregate of \$500,000 or more, payable by SFC or any Subsidiary to any Person (other than a Governmental Entity) in respect of or in connection with the Restructuring Transaction or the Plan, including without limitation, pursuant to any employment agreement or incentive plan of SFC or any Subsidiary;

- (x) SFC, the Monitor and the Initial Consenting Noteholders, each acting reasonably, shall be satisfied with the status and composition of all liabilities, indebtedness and obligations of the Subsidiaries and all releases of the Subsidiaries provided for in the Plan and the Sanction Order shall be binding and effective as of the Plan Implementation Date;

Plan Implementation Date Matters

- (y) the steps required to complete and implement the Plan shall be in form and in substance satisfactory to SFC and the Initial Consenting Noteholders;
- (z) the Noteholders and the Early Consent Noteholders shall receive, on the Plan Implementation Date, all of the consideration to be distributed to them pursuant to the Plan;
- (aa) all of the following shall be in form and in substance satisfactory to SFC and the Initial Consenting Noteholders: (i) all materials filed by SFC with the Court or any court of competent jurisdiction in the United States, Canada, Hong Kong, the PRC or any other jurisdiction that relates to the Restructuring Transaction; (ii) the terms of any court-imposed charges on any of the assets, property or undertaking of any of SFC, including without limitation any of the Charges; (iii) the Initial Order; (iv) the Claims Procedure Order; (v) the Meeting Order; (vi) the Sanction Order; (vii) any other Order granted in connection with the CCAA Proceeding or the Restructuring Transaction by the Court or any other court of competent jurisdiction in Canada, the United States, Hong Kong, the PRC or any other jurisdiction; and (viii) the Plan (as it is approved by the Required Majority and the Sanction Order);
- (bb) any and all court-imposed charges on any assets, property or undertaking of SFC, including the Charges, shall be discharged on the Plan Implementation Date on terms acceptable to the Initial Consenting Noteholders and SFC, each acting reasonably;
- (cc) SFC shall have paid, in full, the Expense Reimbursement and all fees and costs owing to the SFC Advisors on the Plan Implementation Date, and neither Newco nor Newco II shall have any liability for any fees or expenses due to the SFC Advisors or the Noteholder Advisors either as at or following the Plan Implementation Date;
- (dd) SFC or the Subsidiaries shall have paid, in full all fees owing to each of Chandler Fraser Keating Limited and Spencer Stuart on the Plan Implementation Date, and

neither Newco nor Newco II shall have any liability for any fees or expenses due to either Chandler Fraser Keating Limited and Spencer Stuart as at or following the Plan Implementation Date;

- (ee) SFC shall have paid all Trustee Claims that are outstanding as of the Plan Implementation Date, and the Initial Consenting Noteholders shall be satisfied that SFC has made adequate provision in the Unaffected Claims Reserve for the payment of all Trustee Claims to be incurred by the Trustees after the Plan Implementation Date in connection with the performance of their respective duties under the Note Indentures or this Plan;
- (ff) there shall not exist or have occurred any Material Adverse Effect, and SFC shall have provided the Initial Consenting Noteholders with a certificate signed by an officer of the Company, without any personal liability on the part of such officer, certifying compliance with this section 9.1(ff) as of the Plan Implementation Date;
- (gg) there shall have been no breach of the Noteholder Confidentiality Agreements (as defined in the RSA) by SFC or any of the Sino-Forest Representatives (as defined therein) in respect of the applicable Initial Consenting Noteholder;
- (hh) the Plan Implementation Date shall have occurred no later than January 15, 2013 (or such later date as may be consented to by SFC and the Initial Consenting Noteholders);

RSA Matters

- (ii) all conditions set out in sections 6 and 7 of the RSA shall have been satisfied or waived in accordance with the terms of the RSA;
- (jj) the RSA shall not have been terminated;

Other Matters

- (kk) the organization, incorporating documents, articles, by-laws and other constating documents of SFC Escrow Co. and all definitive legal documentation in connection with SFC Escrow Co., shall be acceptable to the Initial Consenting Noteholders and the Monitor and in form and in substance reasonably satisfactory to SFC;
- (ll) except as expressly set out in this Plan, SFC Escrow Co. shall not have: (i) issued or authorized the issuance of any shares, notes, options, warrants or other securities of any kind, (ii) become subject to any Encumbrance with respect to its assets or property; (iii) acquired any assets or become liable to pay any indebtedness or liability of any kind (other than as expressly set out in this Plan); or (iv) entered into any agreement;

- (mm) the Initial Consenting Noteholders shall have completed due diligence in respect of SFC and the Subsidiaries and the results of such due diligence shall be acceptable to the Initial Consenting Noteholders prior to the date for the hearing of the Sanction Order, except in respect of any new material information or events arising or discovered on or after the date of the hearing for the Sanction Order of which the Initial Consenting Noteholders were previously unaware, in respect of which the date for the Initial Consenting Noteholders to complete such due diligence shall be the Plan Implementation Date, provided that "new material information or events" for purposes of this Section 9.1(mm) shall not include any information or events disclosed prior to the date of the hearing for the Sanction Order in a press release issued by SFC, an affidavit filed with the Court by SFC or a Monitor's Report filed with the Court;
- (nn) if so requested by the Initial Consenting Noteholders, the Sanction Order shall have been recognized and confirmed as binding and effective pursuant to an order of a court of competent jurisdiction in Canada and any other jurisdiction requested by the Initial Consenting Noteholders, and all applicable appeal periods in respect of any such recognition order shall have expired and any appeals therefrom shall have been disposed of by the applicable appellate court;
- (oo) all press releases, disclosure documents and definitive agreements in respect of the Restructuring Transaction or the Plan shall be in form and substance satisfactory to SFC and the Initial Consenting Noteholders, each acting reasonably; and
- (pp) Newco and SFC shall have entered into arrangements reasonably satisfactory to SFC and the Initial Consenting Noteholders for ongoing preservation and access to the books and records of SFC and the Subsidiaries in existence as at the Plan Implementation Date, as such access may be reasonably requested by SFC or any Director or Officer in the future in connection with any administrative or legal proceeding, in each such case at the expense of the Person making such request.

For greater certainty, nothing in Article 11 hereof is a condition precedent to the implementation of the Plan.

9.2 Monitor's Certificate of Plan Implementation

Upon delivery of written notice from SFC and Goodmans LLP (on behalf of the Initial Consenting Noteholders) of the satisfaction of the conditions set out in section 9.1, the Monitor shall deliver to Goodmans LLP and SFC a certificate stating that the Plan Implementation Date has occurred and that the Plan and the Sanction Order are effective in accordance with their respective terms. Following the Plan Implementation Date, the Monitor shall file such certificate with the Court.

ARTICLE 10
ALTERNATIVE SALE TRANSACTION

10.1 Alternative Sale Transaction

At any time prior to the Plan Implementation Date (whether prior to or after the granting of the Sanction Order), and subject to the prior written consent of the Initial Consenting Noteholders, SFC may complete a sale of all or substantially all of the SFC Assets on terms that are acceptable to the Initial Consenting Noteholders (an "**Alternative Sale Transaction**"), provided that such Alternative Sale Transaction has been approved by the Court pursuant to section 36 of the CCAA on notice to the service list. In the event that such an Alternative Sale Transaction is completed, the terms and conditions of this Plan shall continue to apply in all respects, subject to the following:

- (a) The Newco Shares and Newco Notes shall not be distributed in the manner contemplated herein. Instead, the consideration paid or payable to SFC pursuant to the Alternative Sale Transaction (the "**Alternative Sale Transaction Consideration**") shall be distributed to the Persons entitled to receive Newco Shares hereunder, and such Persons shall receive the Alternative Sale Transaction Consideration in the same proportions and subject to the same terms and conditions as are applicable to the distribution of Newco Shares hereunder.
- (b) All provisions in this Plan that address Newco or Newco II shall be deemed to be ineffective to the extent that they address Newco or Newco II, given that Newco and Newco II will not be required in connection with an Alternative Sale Transaction.
- (c) All provisions addressing the Newco Notes shall be deemed to be ineffective to the extent such provisions address the Newco Notes, given that the Newco Notes will not be required in connection with an Alternative Sale Transaction.
- (d) All provisions relating to the Newco Shares shall be deemed to address the Alternative Sale Transaction Consideration to the limited extent such provisions address the Newco Shares.
- (e) SFC, with the written consent of the Monitor and the Initial Consenting Noteholders, shall be permitted to make such amendments, modifications and supplements to the terms and conditions of this Plan as are necessary to: (i) facilitate the Alternative Sale Transaction; (ii) cause the Alternative Sale Transaction Consideration to be distributed in the same proportions and subject to the same terms and conditions as are subject to the distribution of Newco Shares hereunder; and (iii) complete the Alternative Sale Transaction and distribute the Alternative Sale Transaction Proceeds in a manner that is tax efficient for SFC and the Affected Creditors with Proven Claims, provided in each case that (y) a copy of such amendments, modifications or supplements is filed with the Court and served upon the service list; and (z) the Monitor is satisfied that such amendments, modifications or supplements do not materially alter the

proportionate entitlements of the Affected Creditors, as amongst themselves, to the consideration distributed pursuant to the Plan.

Except for the requirement of obtaining the prior written consent of the Initial Consenting Noteholders with respect to the matters set forth in this section 10.1 and subject to the approval of the Alternative Sale Transaction by the Court pursuant to section 36 of the CCAA (on notice to the service list), once this Plan has been approved by the Required Majority of Affected Creditors, no further meeting, vote or approval of the Affected Creditors shall be required to enable SFC to complete an Alternative Sale Transaction or to amend the Plan in the manner described in this 10.1.

ARTICLE 11 SETTLEMENT OF CLAIMS AGAINST THIRD PARTY DEFENDANTS

11.1 Ernst & Young

- (a) Notwithstanding anything to the contrary herein, subject to: (i) the granting of the Sanction Order; (ii) the issuance of the Settlement Trust Order (as may be modified in a manner satisfactory to the parties to the Ernst & Young Settlement and SFC (if occurring on or prior to the Plan Implementation Date), the Monitor and the Initial Consenting Noteholders, as applicable, to the extent, if any, that such modifications affect SFC, the Monitor or the Initial Consenting Noteholders, each acting reasonably); (iii) the granting of an Order under Chapter 15 of the United States Bankruptcy Code recognizing and enforcing the Sanction Order and the Settlement Trust Order in the United States; (iv) any other order necessary to give effect to the Ernst & Young Settlement (the orders referenced in (iii) and (iv) being collectively the "**Ernst & Young Orders**"); (v) the fulfillment of all conditions precedent in the Ernst & Young Settlement and the fulfillment by the Ontario Class Action Plaintiffs of all of their obligations thereunder; and (vi) the Sanction Order, the Settlement Trust Order and all Ernst & Young Orders being final orders and not subject to further appeal or challenge, Ernst & Young shall pay the settlement amount as provided in the Ernst & Young Settlement to the trust established pursuant to the Settlement Trust Order (the "**Settlement Trust**"). Upon receipt of a certificate from Ernst & Young confirming it has paid the settlement amount to the Settlement Trust in accordance with the Ernst & Young Settlement and the trustee of the Settlement Trust confirming receipt of such settlement amount, the Monitor shall deliver to Ernst & Young a certificate (the "**Monitor's Ernst & Young Settlement Certificate**") stating that (i) Ernst & Young has confirmed that the settlement amount has been paid to the Settlement Trust in accordance with the Ernst & Young Settlement; (ii) the trustee of the Settlement Trust has confirmed that such settlement amount has been received by the Settlement Trust; and (iii) the Ernst & Young Release is in full force and effect in accordance with the Plan. The Monitor shall thereafter file the Monitor's Ernst & Young Settlement Certificate with the Court.
- (b) Notwithstanding anything to the contrary herein, upon receipt by the Settlement Trust of the settlement amount in accordance with the Ernst & Young Settlement:

- (i) all Ernst & Young Claims shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled, barred and deemed satisfied and extinguished as against Ernst & Young; (ii) section 7.3 hereof shall apply to Ernst & Young and the Ernst & Young Claims *mutatis mutandis* on the Ernst & Young Settlement Date; and (iii) none of the plaintiffs in the Class Actions shall be permitted to claim from any of the other Third Party Defendants that portion of any damages that corresponds to the liability of Ernst & Young, proven at trial or otherwise, that is the subject of the Ernst & Young Settlement.
- (c) In the event that the Ernst & Young Settlement is not completed in accordance with its terms, the Ernst & Young Release and the injunctions described in section 11.1(b) shall not become effective.

11.2 Named Third Party Defendants

- (a) Notwithstanding anything to the contrary in section 12.5(a) or 12.5(b) hereof, at any time prior to 10:00 a.m. (Toronto time) on December 6, 2012 or such later date as agreed in writing by the Monitor, SFC (if on or prior to the Plan Implementation Date) and the Initial Consenting Noteholders, Schedule "A" to this Plan may be amended, restated, modified or supplemented at any time and from time to time to add any Eligible Third Party Defendant as a "Named Third Party Defendant", subject in each case to the prior written consent of such Third Party Defendant, the Initial Consenting Noteholders, counsel to the Ontario Class Action Plaintiffs, the Monitor and, if occurring on or prior to the Plan Implementation Date, SFC. Any such amendment, restatement, modification and/or supplement of Schedule "A" shall be deemed to be effective automatically upon all such required consents being received. The Monitor shall: (A) provide notice to the service list of any such amendment, restatement, modification and/or supplement of Schedule "A"; (B) file a copy thereof with the Court; and (C) post an electronic copy thereof on the Website. All Affected Creditors shall be deemed to consent thereto any and no Court Approval thereof will be required.
- (b) Notwithstanding anything to the contrary herein, subject to: (i) the granting of the Sanction Order; (ii) the granting of the applicable Named Third Party Defendant Settlement Order; and (iii) the satisfaction or waiver of all conditions precedent contained in the applicable Named Third Party Defendant Settlement, the applicable Named Third Party Defendant Settlement shall be given effect in accordance with its terms. Upon receipt of a certificate (in form and in substance satisfactory to the Monitor) from each of the parties to the applicable Named Third Party Defendant Settlement confirming that all conditions precedent thereto have been satisfied or waived, and that any settlement funds have been paid and received, the Monitor shall deliver to the applicable Named Third Party Defendant a certificate (the "Monitor's Named Third Party Settlement Certificate") stating that (i) each of the parties to such Named Third Party Defendant Settlement has confirmed that all conditions precedent thereto have been satisfied or waived; (ii) any settlement funds have been paid and received; and (iii) immediately upon the delivery of the Monitor's Named Third Party

Settlement Certificate, the applicable Named Third Party Defendant Release will be in full force and effect in accordance with the Plan. The Monitor shall thereafter file the Monitor's Named Third Party Settlement Certificate with the Court.

- (c) Notwithstanding anything to the contrary herein, upon delivery of the Monitor's Named Third Party Settlement Certificate, any claims and Causes of Action shall be dealt with in accordance with the terms of the applicable Named Third Party Defendant Settlement, the Named Third Party Defendant Settlement Order and the Named Third Party Defendant Release. To the extent provided for by the terms of the applicable Named Third Party Defendant Release: (i) the applicable Causes of Action against the applicable Named Third Party Defendant shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled, barred and deemed satisfied and extinguished as against the applicable Named Third Party Defendant; and (ii) section 7.3 hereof shall apply to the applicable Named Third Party Defendant and the applicable Causes of Action against the applicable Named Third Party Defendant *mutatis mutandis* on the effective date of the Named Third Party Defendant Settlement.

ARTICLE 12 GENERAL

12.1 Binding Effect

On the Plan Implementation Date:

- (a) the Plan will become effective at the Effective Time;
- (b) the Plan shall be final and binding in accordance with its terms for all purposes on all Persons named or referred to in, or subject to, the Plan and their respective heirs, executors, administrators and other legal representatives, successors and assigns;
- (c) each Person named or referred to in, or subject to, the Plan will be deemed to have consented and agreed to all of the provisions of the Plan, in its entirety and shall be deemed to have executed and delivered all consents, releases, assignments and waivers, statutory or otherwise, required to implement and carry out the Plan in its entirety.

12.2 Waiver of Defaults

- (a) From and after the Plan Implementation Date, all Persons shall be deemed to have waived any and all defaults of SFC then existing or previously committed by SFC, or caused by SFC, the commencement of the CCAA Proceedings by SFC, any matter pertaining to the CCAA Proceedings, any of the provisions in the Plan or steps contemplated in the Plan, or non-compliance with any covenant, warranty, representation, term, provision, condition or obligation, expressed or implied, in any contract, instrument, credit document, indenture, note, lease,

guarantee, agreement for sale or other agreement, written or oral, and any and all amendments or supplements thereto, existing between such Person and SFC, and any and all notices of default and demands for payment or any step or proceeding taken or commenced in connection therewith under any such agreement shall be deemed to have been rescinded and of no further force or effect, provided that nothing shall be deemed to excuse SFC from performing its obligations under the Plan or be a waiver of defaults by SFC under the Plan and the related documents.

- (b) Effective on the Plan Implementation Date, any and all agreements that are assigned to Newco and/or to Newco II as part of the SFC Assets shall be and remain in full force and effect, unamended, as at the Plan Implementation Date, and no Person shall, following the Plan Implementation Date, accelerate, terminate, rescind, refuse to perform or otherwise repudiate its obligations under, or enforce or exercise any right (including any right of set-off, dilution or other remedy) or make any demand against Newco, Newco II or any Subsidiary under or in respect of any such agreement with Newco, Newco II or any Subsidiary, by reason of:
- (i) any event that occurred on or prior to the Plan Implementation Date that would have entitled any Person thereto to enforce those rights or remedies (including defaults or events of default arising as a result of the insolvency of SFC);
 - (ii) the fact that SFC commenced or completed the CCAA Proceedings;
 - (iii) the implementation of the Plan, or the completion of any of the steps, transactions or things contemplated by the Plan; or
 - (iv) any compromises, arrangements, transactions, releases, discharges or injunctions effected pursuant to the Plan or this Order.

12.3 Deeming Provisions

In the Plan, the deeming provisions are not rebuttable and are conclusive and irrevocable.

12.4 Non-Consummation

SFC reserves the right to revoke or withdraw the Plan at any time prior to the Sanction Date, with the consent of the Monitor and the Initial Consenting Noteholders. If SFC so revokes or withdraws the Plan, or if the Sanction Order is not issued or if the Plan Implementation Date does not occur, (a) the Plan shall be null and void in all respects, (b) any settlement or compromise embodied in the Plan, including the fixing or limiting to an amount certain any Claim, and any document or agreement executed pursuant to the Plan shall be deemed null and void, and (c) nothing contained in the Plan, and no acts taken in preparation for consummation of the Plan, shall (i) constitute or be deemed to constitute a waiver or release of any Claims by or against SFC or any other Person; (ii) prejudice in any manner the rights of SFC or any other Person in any further proceedings involving SFC; or (iii) constitute an admission of any sort by SFC or any other Person.

12.5 Modification of the Plan

- (a) SFC may, at any time and from time to time, amend, restate, modify and/or supplement the Plan with the consent of the Monitor and the Initial Consenting Noteholders, provided that: any such amendment, restatement, modification or supplement must be contained in a written document that is filed with the Court and:
- (i) if made prior to or at the Meeting: (A) the Monitor, SFC or the Chair (as defined in the Meeting Order) shall communicate the details of any such amendment, restatement, modification and/or supplement to Affected Creditors and other Persons present at the Meeting prior to any vote being taken at the Meeting; (B) SFC shall provide notice to the service list of any such amendment, restatement, modification and/or supplement and shall file a copy thereof with the Court forthwith and in any event prior to the Court hearing in respect of the Sanction Order; and (C) the Monitor shall post an electronic copy of such amendment, restatement, modification and/or supplement on the Website forthwith and in any event prior to the Court hearing in respect of the Sanction Order; and
 - (ii) if made following the Meeting: (A) SFC shall provide notice to the service list of any such amendment, restatement, modification and/or supplement and shall file a copy thereof with the Court; (B) the Monitor shall post an electronic copy of such amendment, restatement, modification and/or supplement on the Website; and (C) such amendment, restatement, modification and/or supplement shall require the approval of the Court following notice to the Affected Creditors and the Trustees.
- (b) Notwithstanding section 12.5(a), any amendment, restatement, modification or supplement may be made by SFC: (i) if prior to the Sanction Date, with the consent of the Monitor and the Initial Consenting Noteholders; and (ii) if after the Sanction Date, with the consent of the Monitor and the Initial Consenting Noteholders and upon approval by the Court, provided in each case that it concerns a matter that, in the opinion of SFC, acting reasonably, is of an administrative nature required to better give effect to the implementation of the Plan and the Sanction Order or to cure any errors, omissions or ambiguities and is not materially adverse to the financial or economic interests of the Affected Creditors or the Trustees.
- (c) Any amended, restated, modified or supplementary plan or plans of compromise filed with the Court and, if required by this section, approved by the Court, shall, for all purposes, be and be deemed to be a part of and incorporated in the Plan.

12.6 Actions and Approvals of SFC after Plan Implementation

- (a) From and after the Plan Implementation Date, and for the purpose of this Plan only:

- (i) if SFC does not have the ability or the capacity pursuant to Applicable Law to provide its agreement, waiver, consent or approval to any matter requiring SFC's agreement, waiver, consent or approval under this Plan, such agreement, waiver consent or approval may be provided by the Monitor; and
- (ii) if SFC does not have the ability or the capacity pursuant to Applicable Law to provide its agreement, waiver, consent or approval to any matter requiring SFC's agreement, waiver, consent or approval under this Plan, and the Monitor has been discharged pursuant to an Order, such agreement, waiver consent or approval shall be deemed not to be necessary.

12.7 Consent of the Initial Consenting Noteholders

For the purposes of this Plan, any matter requiring the agreement, waiver, consent or approval of the Initial Consenting Noteholders shall be deemed to have been agreed to, waived, consented to or approved by such Initial Consenting Noteholders if such matter is agreed to, waived, consented to or approved in writing by Goodmans LLP, provided that Goodmans LLP expressly confirms in writing (including by way of e-mail) to the applicable Person that it is providing such agreement, consent or waiver on behalf of Initial Consenting Noteholders. In addition, following the Plan Implementation Date, any matter requiring the agreement, waiver, consent or approval of the Initial Consenting Noteholders shall: (i) be deemed to have been given if agreed to, waived, consented to or approved by Initial Consenting Noteholders in their capacities as holders of Newco Shares, Newco Notes or Litigation Trust Interests (provided that they continue to hold such consideration); and (ii) with respect to any matter concerning the Litigation Trust or the Litigation Trust Claims, be deemed to be given if agreed to, waived, consented to or approved by the Litigation Trustee.

12.8 Claims Not Subject to Compromise

Nothing in this Plan, including section 2.4 hereof, shall prejudice, compromise, release, discharge, cancel, bar or otherwise affect any: (i) Non-Released D&O Claims (except to the extent that such Non-Released D&O Claim is asserted against a Named Director or Officer, in which case section 4.9(g) applies); (ii) Section 5.1(2) D&O Claims or Conspiracy Claims (except that, in accordance with section 4.9(e) hereof, any Section 5.1(2) D&O Claims against Named Directors and Officers and any Conspiracy Claims against Named Directors and Officers shall be limited to recovery from any insurance proceeds payable in respect of such Section 5.1(2) D&O Claims or Conspiracy Claims, as applicable, pursuant to the Insurance Policies, and Persons with any such Section 5.1(2) D&O Claims against Named Directors and Officers or Conspiracy Claims against Named Directors and Officers shall have no right to, and shall not, make any claim or seek any recoveries from any Person, other than enforcing such Persons' rights to be paid from the proceeds of an Insurance Policy by the applicable insurer(s)); or (iii) any Claims that are not permitted to be compromised under section 19(2) of the CCAA.

12.9 Paramountcy

From and after the Effective Time on the Plan Implementation Date, any conflict between:

- (a) the Plan; and
- (b) the covenants, warranties, representations, terms, conditions, provisions or obligations, expressed or implied, of any contract, mortgage, security agreement, indenture, trust indenture, note, loan agreement, commitment letter, agreement for sale, lease or other agreement, written or oral and any and all amendments or supplements thereto existing between any Person and SFC and/or the Subsidiaries as at the Plan Implementation Date,

will be deemed to be governed by the terms, conditions and provisions of the Plan and the Sanction Order, which shall take precedence and priority.

12.10 Foreign Recognition

- (a) From and after the Plan Implementation Date, if requested by the Initial Consenting Noteholders or Newco, the Monitor (at the Monitor's election) or Newco (if the Monitor does not so elect) shall and is hereby authorized to seek an order of any court of competent jurisdiction recognizing the Plan and the Sanction Order and confirming the Plan and the Sanction Order as binding and effective in Canada, the United States, and any other jurisdiction so requested by the Initial Consenting Noteholders or Newco, as applicable.
- (b) Without limiting the generality of section 12.10(a), as promptly as practicable, but in no event later than the third Business Day following the Plan Implementation Date, a foreign representative of SFC (as agreed by SFC, the Monitor and the Initial Consenting Noteholders) (the "Foreign Representative") shall commence a proceeding in a court of competent jurisdiction in the United States seeking recognition of the Plan and the Sanction Order and confirming that the Plan and the Sanction Order are binding and effective in the United States, and the Foreign Representative shall use its best efforts to obtain such recognition order.

12.11 Severability of Plan Provisions

If, prior to the Sanction Date, any term or provision of the Plan is held by the Court to be invalid, void or unenforceable, the Court, at the request of SFC and with the consent of the Monitor and the Initial Consenting Noteholders, shall have the power to either (a) sever such term or provision from the balance of the Plan and provide SFC with the option to proceed with the implementation of the balance of the Plan as of and with effect from the Plan Implementation Date, or (b) alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, and provided that SFC proceeds with the implementation of the Plan, the remainder of the terms and provisions of

the Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation.

12.12 Responsibilities of the Monitor

The Monitor is acting in its capacity as Monitor in the CCAA Proceeding and the Plan with respect to SFC and will not be responsible or liable for any obligations of SFC.

12.13 Different Capacities

Persons who are affected by this Plan may be affected in more than one capacity. Unless expressly provided herein to the contrary, a Person will be entitled to participate hereunder, and will be affected hereunder, in each such capacity. Any action taken by or treatment of a Person in one capacity will not affect such Person in any other capacity, unless expressly agreed by the Person, SFC, the Monitor and the Initial Consenting Noteholders in writing, or unless the Person's Claims overlap or are otherwise duplicative.

12.14 Notices

Any notice or other communication to be delivered hereunder must be in writing and reference the Plan and may, subject as hereinafter provided, be made or given by personal delivery, ordinary mail or by facsimile or email addressed to the respective parties as follows:

(a) if to SFC or any Subsidiary:

Sino-Forest Corporation
Room 3815-29 38/F, Sun Hung Kai Centre
30 Harbour Road, Wanchai, Hong Kong

Attention: Mr. Judson Martin, Executive Vice-Chairman and Chief
Executive Officer

Fax: +852-2877-0062

with a copy by email or fax (which shall not be deemed notice) to:

Bennett Jones LLP
One First Canadian Place, Suite 3400
Toronto, ON M5X 1A4

Attention: Kevin J. Zych and Raj S. Sahnir
Email: zychk@bennettjones.com and sahnir@bennettjones.com
Fax: 416-863-1716

(b) if to the Initial Consenting Noteholders:

c/o Goodmans LLP
Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto, Ontario M5H 2S7

Attention: Robert Chadwick and Brendan O'Neill
Email: rchadwick@goodmans.ca and boneill@goodmans.ca
Fax: 416-979-1234

and with a copy by email or fax (which shall not be deemed notice) to:

Hogan Lovells International LLP
11th Floor, One Pacific Place, 88 Queensway
Hong Kong China

Attention: Neil McDonald
Email: neil.mcdonald@hoganlovells.com
Fax: 852-2219-0222

(c) if to the Monitor:

FTI Consulting Canada Inc.
TD Waterhouse Tower
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, ON M5K 1G8

Attention: Greg Watson
Email: greg.watson@fticonsulting.com
Fax: (416) 649-8101

and with a copy by email or fax (which shall not be deemed notice) to:

Gowling Lafleur Henderson LLP
1 First Canadian Place
100 King Street West, Suite 1600
Toronto, Ontario M5X 1G5

Attention: Derrick Tay
Email: derrick.tay@gowlings.com
Fax: (416) 862-7661

(d) if to Ernst & Young:

Ernst & Young LLP
Ernst & Young Tower
222 Bay Street
P.O. Box 251

Toronto, ON M5K 1J7

Attention: Doris Stamml
Email: doris.stamml@ca.ey.com
Fax: (416) 943-[TBD]

and with a copy by email or fax (which shall not be deemed notice) to:

Lenczner Slaght Royce Smith Griffin
130 Adelaide Street West, Suite 2600
Toronto, Ontario M5H 3P5

Attention: Peter Griffin
Email: pgriffin@litigate.com
Fax: (416) 865-2921

or to such other address as any party may from time to time notify the others in accordance with this section. Any such communication so given or made shall be deemed to have been given or made and to have been received on the day of delivery if delivered, or on the day of faxing or sending by other means of recorded electronic communication, provided that such day in either event is a Business Day and the communication is so delivered, faxed or sent before 5:00 p.m. (Toronto time) on such day. Otherwise, such communication shall be deemed to have been given and made and to have been received on the next following Business Day.

12.15 Further Assurances

SFC, the Subsidiaries and any other Person named or referred to in the Plan will execute and deliver all such documents and instruments and do all such acts and things as may be necessary or desirable to carry out the full intent and meaning of the Plan and to give effect to the transactions contemplated herein.

DATED as of the 3rd day of December, 2012.

SCHEDULE A**NAMED THIRD PARTY DEFENDANTS**

1. The Underwriters, together with their respective present and former affiliates, partners, associates, employees, servants, agents, contractors, directors, officers, insurers and successors, administrators, heirs and assigns, excluding any Director or Officer and successors, administrators, heirs and assigns of any Director or Officer in their capacity as such.
2. Ernst & Young LLP (Canada), Ernst & Young Global Limited and all other member firms thereof, together with their respective present and former affiliates, partners, associates, employees, servants, agents, contractors, directors, officers, insurers and successors, administrators, heirs and assigns, excluding any Director or Officer and successors, administrators, heirs and assigns of any Director or Officer in their capacity as such, in the event that the Ernst & Young Settlement is not completed.
3. BDO Limited, together with its respective present and former affiliates, partners, associates, employees, servants, agents, contractors, directors, officers, insurers and successors, administrators, heirs and assigns, excluding any Director or Officer and successors, administrators, heirs and assigns of any Director or Officer in their capacity as such.

Schedule "B"

FORM OF MONITOR'S CERTIFICATE OF PLAN IMPLEMENTATION

Court File No. CV-12-9667-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

IN THE MATTER OF THE *COMPANIES' CREDITORS*
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDEDAND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF SINO-FOREST CORPORATION

MONITOR'S CERTIFICATE

(Plan Implementation)

All capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Plan of Compromise and Reorganization of Sino-Forest Corporation ("SFC") dated December 3, 2012 (the "Plan"), which is attached as Schedule "A" to the Order of the Honourable Mr. Justice Morawetz made in these proceedings on the [7th] day of December, 2012 (the "Order"), as such Plan may be further amended, varied or supplemented from time to time in accordance with the terms thereof.

Pursuant to paragraph 12 of the Order, FTI Consulting Canada Inc. (the "Monitor") in its capacity as Court-appointed Monitor of SFC delivers to SFC and Goodmans LLP this certificate and hereby certifies that:

1. The Monitor has received written notice from SFC and Goodmans LLP (on behalf of the Initial Consenting Noteholders) that the conditions precedent set out in section 9.1 of the Plan have been satisfied or waived in accordance with the terms of the Plan; and
2. The Plan Implementation Date has occurred and the Plan and the Plan Sanction Order are effective in accordance with their terms.

DATED at the City of Toronto, in the Province of Ontario, this ■ day of ■, 201■,

FTI CONSULTING CANADA INC., in its capacity as Court-appointed Monitor of the Sino-Forest Corporation and not in its personal capacity

By: _____
Name:
Title:

Schedule "C"



Industry Canada / Industrie Canada
 Canada Business / Loi canadienne sur les
 Corporations Act / sociétés par actions

FORM 14 / FORMULAIRE 14
 ARTICLES OF REORGANIZATION / CLAUSES DE RÉORGANISATION
 (SECTION 191) / (ARTICLE 191)

1 -- Name of Corporation - Dénomination sociale de la société Sino-Forest Corporation	2 -- Corporation No. - N° de la société 409023-3
--	---

3 -- In accordance with the order for reorganization, the articles of incorporation are amended as follows: / Conformément à l'ordonnance de réorganisation, les statuts constitutifs sont modifiés comme suit:

Please see Schedule A attached hereto,

Signature	Printed Name - Nom en lettres moulées	4 -- Capacity of - En qualité de	5 -- Tel, N° - N° de tél.
-----------	---------------------------------------	----------------------------------	---------------------------

FOR DEPARTMENTAL USE ONLY / À L'USAGE DU MINISTRE SEULEMENT

Schedule A

3. In accordance with the order for reorganization, the articles of continuance of the Corporation dated June 25, 2002, as amended by articles of amendment dated June 22, 2004, are amended as follows:

(a) to decrease the minimum number of directors of the Corporation from three (3) directors to one (1) director;

(b) to create a new class of shares consisting of an unlimited number of "Class A Common Shares" having the following rights, privileges, restrictions and conditions:

The holders of Class A Common Shares are entitled:

(i) to two (2) votes per Class A Common Share at any meeting of shareholders of the Corporation, except meetings at which only holders of a specified class of shares are entitled to vote;

(ii) subject to the rights, privileges, restrictions and conditions attaching to shares of any other class or series of shares of the Corporation, to receive the remaining property of the Corporation upon dissolution pro rata with the holders of the Common Shares; and

(iii) subject to the rights, privileges, restrictions and conditions attaching to shares of any other class or series of shares of the Corporation, to receive any dividend declared by the directors of the Corporation and payable on the Class A Common Shares.

(c) to delete the rights, privileges, restrictions and conditions attaching to the Common Shares and to substitute therefor the following:

(1) The holders of Common Shares are entitled:

(i) to one (1) vote per Common Share at any meeting of shareholders of the Corporation, except meetings at which only holders of a specified class of shares are entitled to vote;

(ii) subject to the rights, privileges, restrictions and conditions attaching to shares of any other class or series of shares of the Corporation, to receive the remaining property of the Corporation upon dissolution pro rata with the holders of the Class A Common Shares; and

(iii) subject to the rights, privileges, restrictions and conditions attaching to shares of any other class or series of shares of the Corporation, to receive any dividend declared by the directors of the Corporation and payable on the Common Shares.

(2) At a time to be determined by the board of directors of the Corporation, the Common Shares shall be cancelled and eliminated for no consideration whatsoever, and shall be of no further force and effect, whether surrendered for cancellation or otherwise, and the obligation of the Corporation thereunder or in any way related thereto shall be deemed to

be satisfied and discharged and the holders of the Common Shares shall have no further rights or interest in the Corporation on account thereof and the rights, privileges, restrictions and conditions attached to the Common Shares shall be deleted.

(d) to confirm that the authorized capital of the Corporation consists of an unlimited number of Class A Common Shares, an unlimited number of Common Shares and an unlimited number of Preference Shares, issuable in series.

Schedule "D"

1. Unaffected Claims Reserve:	\$1,500,000
2. Unresolved Claims Reserve for Defence Costs:	\$8,000,000

**IN THE MATTER OF THE COMPANIES CREDITORS' ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED AND IN THE
MATTER OF A PLAN OR COMPROMISE OR ARRANGEMENT OF SINO-FOREST CORPORATION**

Court File No. CV-12-9667-00CL

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

Proceedings commenced in Toronto

PLAN SANCTION ORDER

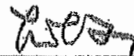
BENNETT JONES LLP
One First Canadian Place
Suite 3400, P.O. Box 130
Toronto, Ontario
M5X 1A4

Rob Staley (LSUC #27115J)
Kevin Zych (LSUC #33129T)
Derek Bell (LSUC #43420J)
Jonathan Bell (LSUC #55457P)
Tel: 416-863-1200
Fax: 416-863-1716

Lawyers for Sino-Forest Corporation

TAB H

This is Exhibit "H" to the
Affidavit of Cosimo Borelli
Sworn before me on 26 April 2015



A Commissioner, etc.
LI SIU FUNG
NOTARY PUBLIC
HONG KONG SAR.
Unit 1303, 13/R,
Tower 1, Admiralty Centre,
18 Harcourt Road,
Hong Kong.

SINO-FOREST LITIGATION TRUST AGREEMENT

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THIS LITIGATION TRUST AGREEMENT (this "Agreement"), dated as of the Effective Date, is entered into by and among:

1. Sino-Forest Corporation ("SFC"); and
2. Cosimo Borzelli, as trustee of the Litigation Trust (the "Litigation Trustee").

PRELIMINARY STATEMENT

On March 30, 2012 (the "Filing Date"), SFC commenced reorganization proceedings under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the "CCAA") (Case No. CV-12-9667-CL) before the Ontario Superior Court of Justice (the "CCAA Court").

On December 3, 2012, SFC filed that certain Plan of Compromise and Reorganization dated December 3, 2012 pursuant to the provisions of the CCAA and the *Companies' Business Corporations Act* (together with any supplement to such Plan and the exhibits and schedules thereto, as the same may be amended, modified or supplemented from time to time in accordance with the terms thereof, the "Plan").

On December 12, 2012, the CCAA Court entered the Plan Sanction Order approving the Plan, which contemplates the creation of this Litigation Trust, which is hereby created pursuant to this Agreement and in accordance with the laws of Ontario in order to effectuate certain provisions of the Plan and the Plan Sanction Order and, in accordance therewith and herewith, the Litigation Trustee will hold the Litigation Trust Claims and the other Litigation Trust Assets for the benefit of the Litigation Trust Beneficiaries, all as defined herein or in the Plan.

In this Agreement, "Litigation Trust Claims" means any and all claims, actions, causes of action, demands, counterclaims, suits, rights, entitlements, litigation, arbitration, proceeding, hearing, complaint, debt, obligation, sums of money, accounts, covenants, damages, judgments, orders, including for injunctive relief or specific performance and compliance orders, expenses, executions, Encumbrances and other recoveries of whatever nature that any Person may be entitled to assert in law, equity or otherwise, whether known or unknown, foreseen or unforeseen, reduced to judgment or not reduced to judgment, liquidated or unliquidated, contingent or non-contingent, matured or unmatured, disputed or undisputed, secured or unsecured, assertable directly, indirectly or derivatively, existing or hereafter arising and whether pertaining to events occurring before, on or after the Filing Date (the "Causes of Action") which have been or may be asserted by or on behalf of (a) SFC against any and all third parties; or (b) the Trustees (on behalf of the Noteholders) against any and all Persons in connection with the Notes issued by SFC, which claims are transferred to and vested in the Litigation Trustee pursuant to the Plan, the Plan Sanction Order and this Agreement; provided, however, that in no event shall Litigation Trust Claims include any (i) claim, right or cause of action against any Person that is released pursuant to Article 7 of the Plan or (ii) Excluded Litigation Trust Claim. For greater certainty: (x) the claims being advanced or that are subsequently advanced in the Class Actions are not being transferred to the Litigation Trust; and (y) the claims transferred to the Litigation Trust shall not be advanced in the Class Actions.

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In this Agreement, "Litigation Trust Assets" means the Litigation Trust Claims, the Litigation Funding Amount, and any other assets acquired by the Litigation Trust on or after the Effective Date pursuant to this Agreement or the Plan.

The Litigation Trust is established for the sole purpose of liquidating and distributing the Litigation Trust Assets pursuant to the Plan and this Agreement with no objective to continue or engage in the conduct of a trade or business.

The Litigation Trust is established for (i) the benefit of the Affected Creditors with Proven Claims and the Noteholder Class Action Claimants entitled to receive Litigation Trust Interests under the Plan (individually, a "Litigation Trust Beneficiary" and collectively, the "Litigation Trust Beneficiaries") and (ii) the pursuit of all Litigation Trust Claims.

The Litigation Trustee is duly appointed pursuant to the Plan, the Plan Sanction Order and Section 1.2(b) of this Agreement.

Unless the context otherwise requires, capitalized terms used in this Agreement and not otherwise defined herein shall have the meanings ascribed to them in the Plan. Schedule A to this Agreement sets forth an index of terms that are defined in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements contained herein and in the Plan, SFC and the Litigation Trustee intending to be legally bound, agree as follows:

ARTICLE I ESTABLISHMENT OF THE LITIGATION TRUST

1.1 Settling the Litigation Trust and Funding Expenses of the Litigation Trust

SFC hereby settles the Litigation Trust with the sum of twenty (\$20.00) Canadian dollars (serial number: BER6584805) (the "Settlement Funds"), the receipt of which is hereby acknowledged by the Litigation Trustee, and loans the Litigation Funding Amount to the Litigation Trustee, by way of the form of promissory note appended hereto at Schedule B, which is executed as of the date of this Agreement, to finance the operations of the Litigation Trust. The Litigation Trust Claims Transferors (as defined below) have no other funding obligations with respect to the Litigation Trust.

1.2 Establishment of Litigation Trust and Appointment of the Litigation Trustee

- (a) Pursuant to the Plan, the Plan Sanction Order and this Agreement, the Litigation Trust is hereby established on the date and at the time set out in section 6.4 of the Plan, and shall be known as the "SFC Litigation Trust" on behalf of and for the benefit of the Litigation Trust Beneficiaries.
- (b) The Litigation Trustee hereby accepts its appointment as trustee of the Litigation Trust as of the Plan Implementation Date (the "Effective Date") and agrees to accept and hold the Settlement Funds and the Litigation Trust Assets in trust for

the Litigation Trust Beneficiaries, subject to the terms of this Agreement. The Litigation Trustee (and each successor trustee thereto serving from time to time hereunder) shall have all the rights, powers and duties set forth herein and pursuant to applicable law for accomplishing the purposes of the Litigation Trust.

1.3 Transfer of Assets and Rights to the Litigation Trustee

- (a) Subject to section 1.3(b), on the Effective Date, pursuant to the Plan and the Plan Sanction Order, each of the Litigation Trust Claims shall be deemed to be irrevocably transferred, assigned and delivered to the Litigation Trustee, including (i) all rights, title and interests in and to the Litigation Trust Claims (and with respect to the Trustees, all of the rights, title and interests of the Noteholders in and to the Litigation Trust Claims on behalf of the Noteholders), free and clear of any and all liens, claims (other than claims in the nature of setoff or recoupment), encumbrances or interests of any kind in such property of any other Person, and (ii) all respective rights, title and interests in and to any lawyer-client privilege, work product privilege or other privilege or immunity attaching to any documents or communications (whether written or oral) associated with the Litigation Trust Claims (collectively, the "Privileges") (and with respect to the Trustees, all of the rights, title and interests of the Noteholders in and to the Privileges on behalf of the Noteholders), all of which shall, and shall be deemed to, vest in the Litigation Trustee for the benefit of the Litigation Trust Beneficiaries. In no event shall any part of the Litigation Trust Claims revert to or be distributed to SFC or the Noteholders (or any representative thereof (including the Trustees)). None of the foregoing transfers to the Litigation Trustee shall constitute a merger or consolidation of the respective Litigation Trust Claims, each of which shall retain its separateness following the transfer for all purposes relevant to the prosecution thereof. The Litigation Trustee's receipt of the Privileges shall be without waiver in recognition of the joint and/or successor interest in prosecuting claims on behalf of the Litigation Trust Claims Transferees.
- (b) At any time prior to the Effective Date, SFC and the Initial Consenting Noteholders may agree to exclude one or more Causes of Action from the Litigation Trust Claims and/or to specify that any Causes of Action against a specified Person will not constitute Litigation Trust Claims ("Excluded Litigation Trust Claims"). In which case, any such Causes of Action shall not be transferred to the Litigation Trust on the Effective Date. Any such Excluded Litigation Trust Claims shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred on the Plan Implementation Date in accordance with Article 7 of the Plan.
- (c) Pursuant to and consistent with the provisions of the Plan, all Causes of Action against the Underwriters by (i) SFC or (ii) the Trustees (on behalf of the Noteholders) shall be deemed to be Excluded Litigation Trust Claims that are fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred on the Plan Implementation Date in accordance with Article 7 of the Plan, provided that, unless otherwise agreed by SFC and the Initial Consenting Noteholders prior to the Plan Implementation Date in accordance with

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section 4.12(a) of the Plan, any such Causes of Action for fraud or criminal conduct shall not constitute Excluded Litigation Trust Claims and shall be transferred to the Litigation Trust in accordance with section 6.4(c) of the Plan.

- (d) Subject to Section 1.3(e), after the Effective Date, SFC shall (i) deliver or cause to be delivered to the Litigation Trustee, documents reasonably requested and related to the Litigation Trust Claims (including those maintained in electronic format), whether held by SFC or its employees, agents, advisors, counsel, accountants, or other professionals and (ii) provide reasonable access to such employees, agents, advisors, counsel, accountants or other professionals with knowledge of matters relevant to the Litigation Trust Claims. Where original documents are required, SFC will make reasonable efforts to make such original documents available. For the avoidance of doubt, the rights of the Litigation Trustee pursuant to this Section 1.3(d) shall include the right to demand or compel the production of copies of any such documents or information from any party, committee or person who may have produced such documents for or on behalf of SFC or any committee appointed by SFC or its board of directors.
- (e) Any documents or information delivered by SFC to the Litigation Trustee pursuant to Section 1.3(d): (i) shall be used strictly for the purposes of advancing the Litigation Trust Claims and for no other purpose; (ii) shall not, except as may be required by law, be used for any purpose in relation to any regulatory proceedings involving the Named Directors and Officers; and (iii) shall be subject to the continuation of any privilege attaching to such documents, including but not limited to lawyer-client privilege, litigation privilege, and common interest privilege, which privileges the Litigation Trustee agrees to maintain and uphold.
- (f) Where documents, information and/or access is requested of third party agents, advisors, lawyers, accountants or other professionals ("Third Party Disclosers"), the Litigation Trustee shall pay such reasonable fees and costs of such Third Party Disclosers as are necessary for them to comply with the requests of the Litigation Trustee.
- (g) SFC hereby agrees at any time and from time to time on and after the Effective Date, (i) at the reasonable request of the Litigation Trustee, to execute and/or deliver any instruments, documents, books, and records (including those maintained in electronic format and original documents as may be needed), (ii) to take, or cause to be taken, all such further actions as the Litigation Trustee may reasonably request in order to evidence or effectuate the transfer of the Litigation Trust Claims and the Privileges to the Litigation Trustee contemplated hereby and by the Plan and to otherwise carry out the intent of the parties hereunder, and (iii) to cooperate with the Litigation Trustee in the prosecution of Litigation Trust Claims to the extent reasonable.
- (h) The Litigation Trustee agrees that it will accommodate reasonable requests by Named Directors and Officers (and their agents, advisors, lawyers, accountants or other professionals) to access, at their expense, copies or originals of any documents obtained by the Litigation Trustee pursuant to the terms of this

Agreement, for the purposes of defending any civil, regulatory or other proceedings involving the Named Directors and Officers or in connection with their financial affairs.

1.4 Title to Litigation Trust Assets

- (a) Upon the transfer of the Litigation Trust Claims to the Litigation Trust pursuant to the Plan, the Plan Sanction Order and this Agreement, SFC and any other holders of the Litigation Trust Claims (the "Litigation Trust Claims Transferors") shall have no interest in or with respect to the Litigation Trust Assets, and the Litigation Trustee, on behalf of the Litigation Trust Beneficiaries, shall succeed to all of the Litigation Trust Claims Transferors' rights, title and interests in and to the Litigation Trust Claims.
- (b) Notwithstanding anything in the Plan or in this Agreement to the contrary, the transfer of the Litigation Trust Claims to the Litigation Trustee does not diminish, and fully preserves, any defences or privileges a defendant would have if such Litigation Trust Claims had been retained by the Litigation Trust Claims Transferors.
- (c) To the extent that any Litigation Trust Assets cannot be transferred to the Litigation Trustee because of a restriction on transferability under applicable non-bankruptcy law, such Litigation Trust Assets shall be deemed to have been retained by the applicable Litigation Trust Claims Transferors, and the Litigation Trustee shall be deemed to have been designated as the exclusive representative of such Litigation Trust Claims Transferors to enforce and pursue such Litigation Trust Assets on behalf of such Litigation Trust Claims Transferors, and all proceeds, income and recoveries on account of any such Litigation Trust Assets shall be assets of the Litigation Trust and paid over thereto immediately upon receipt by the Litigation Trust Claims Transferors, or any other Person. Notwithstanding the foregoing, but subject to Section 3.4 and Article 6 of this Agreement, all net proceeds, income, and recoveries of or on account of such Litigation Trust Assets shall be transferred to the Litigation Trust to be distributed to the holders of the Litigation Trust Interests consistent with the terms of this Agreement.

1.5 Nature and Purpose of the Litigation Trust

- (a) Purpose. The Litigation Trust is organized and established as a trust pursuant to which the Litigation Trustee, subject to the terms and conditions contained herein, is to (i) hold the assets of the Litigation Trust and (ii) oversee the efficient prosecution of the Litigation Trust Claims, on the terms and conditions set forth herein.
- (b) Actions of the Litigation Trustee. Subject to the terms of this Agreement, the Litigation Trustee shall, in consultation with the Litigation Trust Board and subject to the exercise of their collective reasonable business judgment, and with the consent of the Litigation Trust Board where required under the terms of this

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Agreement, in an efficient and responsible manner prosecute the Litigation Trust Claims and preserve and endeavour to enhance the value of the Litigation Trust Assets. The efficient and responsible prosecution of the Litigation Trust Claims may be accomplished either through the prosecution, compromise and settlement, abandonment, dismissal or other disposition of any or all claims, rights or causes of action, or otherwise, as determined by the Litigation Trustee and the Litigation Trustee Board in accordance with the terms of this Agreement and the exercise of their collective reasonable best judgement. The Litigation Trustee shall, subject to the terms of this Agreement, have the absolute right to pursue, settle and compromise or not pursue any and all Litigation Trust Claims as it determines is in the best interests of the Litigation Trust Beneficiaries and consistent with the purposes of the Litigation Trust, and the Litigation Trustee shall have no liability for the outcome of any such decision except for any damages caused by gross negligence, bad faith, willful misconduct or knowing violation of law.

- (c) Limitation on Actions Against Named Directors and Officers. From and after the Plan Implementation Date, to the extent that the Litigation Trust Claims include rights of action against a Named Director or Officer, (a) the Litigation Trustee may only commence or prosecute an action for a Non-Released D&O Claim against a Named Director or Officer if the Litigation Trustee has first obtained (i) the consent of the Monitor or (ii) leave of the Court on notice to the applicable Directors and Officers, SFC, the Monitor, the Initial Consenting Noteholders and any applicable insurers; and (b) in connection with any action brought or prosecuted by the Litigation Trustee against a Named Director or Officer asserting a Section 5.1(2) D&O Claim or a Conspiracy Claim, the Litigation Trustee shall, as against the Named Directors and Officers, in relation to such claims, be irrevocably limited to recovery solely from the proceeds of the Insurance Policies paid or payable on behalf of SFC or its Directors or Officers, and shall have no right to, and shall not, directly or indirectly, make any claim or seek any recoveries from any of the Named Directors and Officers other than enforcing the Litigation Trustee's rights to be paid from the proceeds of an Insurance Policy by the applicable insurer(s).
- (d) Relationship. This Agreement is intended to create a trust and a trust relationship and to be governed and construed in all respects as a trust. The Litigation Trust is not intended to be, and shall not be deemed to be or treated as, a general partnership, limited partnership, joint venture, corporation, joint stock company or association, nor shall the Litigation Trustee, or the Litigation Trust Board (or any of its members or *ex officio* members); or the Litigation Trust Beneficiaries, or any of them, for any purpose be, or be deemed to be or treated in any way whatsoever to be, liable or responsible hereunder as partners or joint venturers. The relationship of the Litigation Trust Beneficiaries, on the one hand, to the Litigation Trustee and the Litigation Trust Board, on the other, shall not be deemed a principal or agency relationship, and their rights shall be limited to those conferred upon them by this Agreement.
- (e) No Waiver of Claims. Subject to the terms of this Agreement, the Litigation Trustee may enforce all rights to commence and pursue, as appropriate, any and

all Litigation Trust Claims after the Effective Date. The Litigation Trustee shall have, retain, reserve, and be entitled to assert all such Litigation Trust Claims, rights of setoff, and other legal or equitable defenses which the Litigation Trust Claims Transferors had on the Effective Date fully as if the Litigation Trust Claims had not been transferred to the Litigation Trustee in accordance with the Plan, the Plan Sanction Order and this Agreement, and all of the Litigation Trust Claims Transferors' legal and equitable rights may be asserted after the Effective Date. Nothing in this Agreement shall be construed in a manner that is inconsistent with the Plan, the Plan Sanction Order or any other orders made by the CCAA Court.

1.6 Incorporation of Plan

The Plan and the Plan Sanction Order are each hereby incorporated into this Agreement and made a part hereof by this reference; provided, however, to the extent that there is conflict between the provisions of this Agreement, the provisions of the Plan, and/or the Plan Sanction Order, each such document shall have controlling effect in the following rank order: (1) the Plan; (2) the Plan Sanction Order; and (3) this Agreement.

ARTICLE 2 LITIGATION TRUST INTERESTS

2.1 Allocation of Litigation Trust Interests

The Litigation Trust Interests shall be allocated pursuant to the Plan.

2.2 Interests Beneficial Only

The ownership of a Litigation Trust Interest shall not entitle any holder of Litigation Trust Interests to any title in or to the assets of the Litigation Trust as such (which title shall be vested in the Litigation Trustee) or to any right to call for a partition or division of the assets of the Litigation Trust or to require an accounting.

2.3 Evidence of Beneficial Interests

The entitlements of the holders of Litigation Trust Interests (and the beneficial interests therein) are as established pursuant to the Plan and the Plan Sanction Order and will not be represented by any certificates, securities, receipts or in any other form or manner whatsoever, except as may be maintained on the books and records of the Litigation Trust by the Litigation Trustee or the Registrar. The death, incapacity or bankruptcy of any Litigation Trust Beneficiary during the term of the Litigation Trust shall not (i) operate to terminate the Litigation Trust, (ii) entitle the representatives or creditors of the deceased party to an accounting, (iii) entitle the representatives or creditors of the deceased party to take any action in the CCAA Court or elsewhere for the distribution of the Litigation Trust Assets or for a partition thereof or (iv) otherwise affect the rights and obligations of any of the Litigation Trust Beneficiaries hereunder.

2.4 Securities Law Registration

It is intended that the Litigation Trust Interests shall not constitute "securities." To the extent the Litigation Trust Interests are deemed to be "securities," the issuance of Litigation Trust Interests to Litigation Trust Beneficiaries hereunder or under the Plan (and any redistribution of any of the foregoing pursuant to the Plan or otherwise) shall be exempt from the prospectus and registration requirements of any applicable provincial laws pursuant to section 2.11 of National Instrument 45-106 - Prospectus and Registration Exemptions. If the Litigation Trustee determines, with the advice of counsel, that the Litigation Trust is required to comply with registration and/or reporting requirements of any applicable securities laws, then the Litigation Trustee shall, after consultation with the Litigation Trust Board, take any and all actions to comply with such registration and reporting requirements, if any, to the extent required by applicable law. Notwithstanding the foregoing, nothing herein shall be deemed to preclude the Litigation Trust Board and the Litigation Trustee from amending this Agreement to make such changes as are deemed necessary or appropriate by the Litigation Trustee, with the advice of counsel, to ensure that the Litigation Trust is not subject to any such registration and/or reporting requirements.

2.5 No Transfers

- (a) No transfer, sale, assignment, distribution, exchange, pledge, hypothecation, mortgage or other disposition (each, a "Transfer") of a Litigation Trust Interest may be effected or made; provided, that, Transfers of a Litigation Trust Interest may be made by operation of law or by will or the laws of descent and distribution.
- (b) The Litigation Trustee may appoint a registrar, which may be the Litigation Trustee (the "Registrar"), for the purpose of recording entitlement to the Litigation Trust Interests as provided for in this Agreement. The Registrar, if other than the Litigation Trustee, may be such other institution acceptable to the Litigation Trust Board. For its services hereunder, the Registrar, unless it is the Litigation Trustee, shall be entitled to receive reasonable compensation from the Litigation Trust as approved by the Litigation Trust Board, as an expense of the Litigation Trust.
- (c) The Litigation Trustee may cause to be kept at the office of the Registrar, or at such other place or places as shall be designated by the Litigation Trustee from time to time, a registry of the holders of Litigation Trust Interests (the "Trust Register") which shall be maintained on a strictly confidential basis by the Registrar. The identity and extent of the Litigation Trust Interests of any Litigation Trust Beneficiary shall not be disclosed to any third party (other than the Litigation Trustee, the Litigation Trust Board and the Registrar, each of them shall maintain any such information in strict confidence), without the prior written consent of such Litigation Trust Beneficiary in each case.

2.6 Absolute Owners

The Litigation Trustee may deem and treat the holder of a Litigation Trust Interest (of record in the Trust Register or otherwise) as the absolute owner of such Litigation Trust Interests for the

purpose of receiving distributions and payment thereon or on account thereof and for all other purposes whatsoever and the Litigation Trustee shall not be charged with having received notice of any claim or demand to such Litigation Trust Interests or the interest therein of any other Person.

ARTICLE 3 THE LITIGATION TRUSTEE

3.1 Litigation Trust Proceeds

Any and all proceeds, income and/or recoveries obtained on account of or from the Litigation Trust Assets shall be added to the assets of the Litigation Trust (the "Litigation Trust Proceeds", which, for greater certainty, shall not include the Litigation Funding Amount), held as a part thereof and dealt with in accordance with the terms of this Agreement.

3.2 Collection of Litigation Trust Proceeds

The Litigation Trustee shall collect all Litigation Trust Proceeds and title therein shall be vested in the Litigation Trustee, in trust for the benefit of the Litigation Trust Beneficiaries, to be dealt with in accordance with the terms of this Agreement.

3.3 Payment of Litigation Trust Expenses

Subject to Section 3.12 of this Agreement and the obligations of the Litigation Trustee under Section 3.4 of this Agreement, the Litigation Trustee shall maintain the Litigation Funding Amount and expend the Litigation Funding Amount, together with any other amounts received as litigation funding amounts in accordance with Section 3.12(s), (i) as is reasonably necessary to pay reasonable and necessary administrative expenses (including but not limited to, the reasonable costs and expenses of the Litigation Trustee (including reasonable fees, costs, and expenses of professionals retained thereby) and the compensation and the reasonable costs and expenses of the members of the Litigation Trust Board as contemplated by Section 4.10 hereof (including the fees of professionals retained by such members as contemplated by Sections 4.2 hereof), any taxes imposed on the Litigation Trust or in respect of the Litigation Trust Assets or reasonable fees and expenses in connection with, arising out of, or related to, the Litigation Trust Assets and litigations associated therewith), (ii) to pay the costs and expenses of the valuations of the Litigation Trust Assets incurred by the Litigation Trust Board and/or the Litigation Trustee in accordance with Section 5.1(o) of this Agreement, (iii) to pay or reimburse amounts in accordance with Article 7 hereof and (iv) to satisfy other liabilities incurred or assumed by the Litigation Trust (or to which the assets of the Litigation Trust are otherwise subject) in accordance with this Agreement.

3.4 Distributions

The Litigation Trustee shall make distributions of Litigation Trust Proceeds in accordance with the provisions of Article 6 of this Agreement.

3.5 Tenure, Removal, and Replacement of the Litigation Trustee

- (a) Each Litigation Trustee will serve until the earliest of (i) the completion of all the Litigation Trustee's duties, responsibilities and obligations under this Agreement, (ii) the Litigation Trustee's resignation and the appointment of a successor pursuant to Section 3.5(b) of this Agreement, (iii) the Litigation Trustee's removal pursuant to Section 3.5(c) of this Agreement, (iv) the Litigation Trustee's death (if applicable) and (v) the termination of the Litigation Trust in accordance with this Agreement.
- (b) The Litigation Trustee may resign by giving not less than 90 days' prior written notice to the Litigation Trust Board. Such resignation will become effective on the later to occur of: (i) the day specified in such written notice and (ii) the appointment of a successor trustee as provided herein and the acceptance by such successor trustee of such appointment in accordance with Section 3.6 of this Agreement. If a successor trustee is not appointed or does not accept its appointment within 90 days following delivery of notice of resignation, the Litigation Trustee may file a motion with the CCAA Court, upon notice and hearing, for the appointment of a successor trustee.
- (c) The Litigation Trustee may be removed for any reason by majority vote of the members of the Litigation Trust Board.
- (d) In the event of a vacancy in the position of the Litigation Trustee (whether by removal, resignation, or death, if applicable), the vacancy will be filled by the appointment of a successor trustee by (i) majority vote of the members of the Litigation Trust Board, and by the acceptance of the Litigation Trust by the successor trustee in accordance with Section 3.6 of this Agreement or (ii) an order of the CCAA Court after an opportunity for a hearing (provided, however, that only the Litigation Trust Board shall have standing to seek such an order (and the Litigation Trust Board shall only seek such an order upon a majority vote of the members of the Litigation Trust Board, except as provided in Section 3.5(b) of this Agreement)). If a successor trustee is appointed as provided in clause (i) or (ii) of the preceding sentence, and such appointment is accepted by the successor trustee in accordance with Section 3.6 of this Agreement, the Litigation Trust Board shall provide notice of such appointment to the holders of the Litigation Trust Interests, which notice will include the name, address, and telephone number of the successor trustee provided, however, that the provision of such notice shall not be a condition precedent to the vesting in the successor Litigation Trustee of all the estates, properties, rights, powers, trusts, and duties of its predecessor.
- (e) Immediately upon the appointment of any successor trustee, all rights, powers, duties, authority, and privileges of the predecessor Litigation Trustee hereunder will be vested in and undertaken by the successor trustee without any further act and the successor trustee will not be liable personally for any act or omission of the predecessor Litigation Trustee. A successor trustee shall have all the rights, privileges, powers, and duties of its predecessor under this Agreement.

- (f) Upon the appointment of a successor trustee, the predecessor Litigation Trustee (or the duly appointed legal representative of a deceased Litigation Trustee) shall, if applicable, when requested in writing by the successor trustee or the CCAA Court, execute and deliver an instrument or instruments conveying and transferring to such successor trustee upon the trusts herein expressed all the estates, properties, rights, powers and trusts of such predecessor Litigation Trustee, and shall duly assign, transfer, and deliver to such successor trustee all property and money held hereunder, and all other assets, documents, instruments, records and other writings relating to the Litigation Trust, the Litigation Trust Assets, the Litigation Trust Proceeds, the Litigation Funding Amount, and the Litigation Trust Interests, then in its possession and held hereunder, and shall execute and deliver such documents, instruments and other writings as may be requested by the successor trustee or the CCAA Court to effect the termination of such predecessor Litigation Trustee's capacity under the Litigation Trust, this Agreement and the Plan and otherwise assist and cooperate, without cost or expense to the predecessor Litigation Trustee, in effectuating the assumption of its obligations and functions by the successor trustee.
- (g) During any period in which there is a vacancy in the position of Litigation Trustee, the Litigation Trust Board shall appoint one of its members to serve as Interim Litigation Trustee (the "Interim Trustee"). The Interim Trustee shall be subject to all the terms and conditions applicable to a Litigation Trustee hereunder. Such Interim Trustee shall not be limited in any manner from exercising any rights or powers as a member of the Litigation Trust Board merely by its appointment as Interim Trustee.
- (h) The death, resignation or removal of the Litigation Trustee shall not terminate the Litigation Trust or revoke any existing agency created pursuant to this Agreement or invalidate any action theretofore taken by the Litigation Trustee.

3.6 Acceptance of Appointment by Successor Trustee

Any successor trustee appointed hereunder shall execute an instrument accepting such appointment and assuming all of the obligations of the predecessor Litigation Trustee hereunder and accepting the terms of this Agreement and agreeing that the provisions of this Agreement shall be binding upon and inure to the benefit of the successor trustee and all of its heirs, and legal and personal representatives, successors and assigns, and thereupon the successor trustee shall, without any further act, become vested with all the estates, properties, rights, powers, trusts, and duties of its predecessor Litigation Trustee in the Litigation Trust hereunder with like effect as if originally named herein.

3.7 Regular Meetings of the Litigation Trustee and the Litigation Trust Board

Meetings of the Litigation Trustee, on one hand, and the Litigation Trust Board, on the other, are to be held with such frequency and in such manner and at such place as the Litigation Trust Board may determine in its sole discretion, but in no event shall such meetings be held less frequently than one time during each quarter of each calendar year.

3.8 Special Meetings of the Litigation Trustee and the Litigation Trust Board

Special meetings of the Litigation Trustee on the one hand, and the Litigation Trust Board, on the other, may be held whenever, wherever and however called for either by the Litigation Trustee or at least two members of the Litigation Trust Board.

3.9 Notice of, and Waiver of Notice for Litigation Trustee and Litigation Trust Board Meeting

Notice of the time and place (but not necessarily the purpose or all of the purposes) of any regular or special meeting of the Litigation Trust Board and the Litigation Trustee will be given to the Litigation Trustee and the members of the Litigation Trust Board in person or by telephone, or via mail, electronic mail, or facsimile transmission. Notice to the Litigation Trustee and the members of the Litigation Trust Board of any such meeting will be deemed given sufficiently in advance when (i) if given by mail, the same is deposited in the mail at least ten calendar days before the meeting date, with postage thereon prepaid, (ii) if given by electronic mail or facsimile transmission, the same is transmitted at least one Business Day prior to the convening of the meeting, or (iii) if personally delivered (including by overnight courier) or given by telephone, the same is handed, or the substance thereof is communicated over the telephone, to the Litigation Trustee and the members of the Litigation Trust Board or to an adult member of his/her office staff or household, at least one Business Day prior to the convening of the meeting. The Litigation Trustee and any member of the Litigation Trust Board may waive notice of any meeting of the Litigation Trust Board and any adjournment thereof at any time before, during, or after it is held, subject to applicable law. Except as provided in the next sentence below, the waiver must be in writing, signed by the Litigation Trustee or the applicable member or members of the Litigation Trust Board entitled to the notice, and filed with the minutes or records of the Litigation Trust. The attendance of the Litigation Trustee or a member of the Litigation Trust Board at a meeting (whether in person or by telephone or videoconference) shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

3.10 Manner of Acting

The Litigation Trustee or any member of the Litigation Trust Board may participate in a regular or special meeting by, or conduct the meeting through the use of, conference telephone, or similar communications equipment by means of which all persons participating in the meeting may hear each other, in which case any required notice of such meeting may generally describe the arrangements (rather than or in addition to the place) for the holding thereof. The Litigation Trustee or any member of the Litigation Trust Board participating in a meeting by this means is deemed to be present in person at the meeting.

3.11 Role of the Litigation Trustee

In furtherance of and consistent with the purpose of the Litigation Trust, the Litigation Trustee, subject to the terms and conditions of this Agreement, shall have the power to (i) prosecute, compromise and settle, abandon, dismiss or otherwise dispose of for the benefit of the Litigation Trust Beneficiaries all Litigation Trust Claims transferred to the Litigation Trust (whether such

suits are brought in the name of the Litigation Trust, the Litigation Trustee or otherwise), and (ii) otherwise perform the functions and take the actions provided for or permitted in this Agreement. In all circumstances, the Litigation Trustee shall act in the best interests of the Litigation Trust Beneficiaries and in furtherance of the purpose of the Litigation Trust.

3.12 Authority of Litigation Trustee

Subject to any limitations set forth in this Agreement (including, without limitation, Article 4 hereof and Section 3.4 of this Agreement) or in the Plan, but in addition to the other powers and authorities granted to the Litigation Trustee and set forth in this Agreement, the Litigation Trustee shall have the following powers and authorities:

- (a) to hold legal title to any and all rights of the holders of Litigation Trust Interests in or arising from the Litigation Trust Assets, including collecting, receiving any and all money and other property belonging to the Litigation Trust (including any Litigation Trust Proceeds) and, in consultation with the Litigation Trust Board, the right, on behalf of the Litigation Trust Beneficiaries, to vote any claim or interest relating to a Litigation Trust Claim in any proceeding and to receive any distribution thereon;
- (b) in consultation with, and subject to the approval of the Litigation Trust Board where required under the terms of this Agreement, to perform the duties, exercise the powers, and assert the rights of a trustee, including commencing, prosecuting or settling causes of action, enforcing contracts or asserting claims, defences, offsets and privileges;
- (c) in consultation with the Litigation Trust Board, to protect and enforce the rights to the Litigation Trust Claims by any method deemed appropriate including by judicial proceedings or pursuant to any applicable bankruptcy, insolvency, moratorium or similar law and general principles of equity;
- (d) in consultation with and subject to the approval of the Litigation Trust Board, to obtain reasonable insurance coverage with respect to the liabilities and obligations of the Litigation Trustee and the Litigation Trust Board under this Agreement (in the form of any errors and omissions policy or otherwise);
- (e) in consultation with the Litigation Trust Board, to obtain insurance coverage with respect to real and personal property that may become assets of the Litigation Trust, if any;
- (f) in consultation with and subject to the approval of the Litigation Trust Board, to retain and pay such counsel and other professionals, including any professionals previously retained by the ad hoc committee of Initial Consenting Noteholders or SFC, as the Litigation Trustee shall select to assist the Litigation Trustee in its duties, on such terms as the Litigation Trustee and the Litigation Trust Board deem reasonable and appropriate, without CCAA Court approval; and subject to the approval of the Litigation Trust Board, the Litigation Trustee may commit the Litigation Trust to and shall pay such counsel and other professionals reasonable

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compensation for services rendered (including on an hourly, contingency, or modified contingency basis) and reasonable and documented out-of-pocket expenses incurred;

- (g) In consultation with and subject to the approval of the Litigation Trust Board, to retain and pay an accounting firm to perform such reviews and/or audits of the financial books and records of the Litigation Trust as may be required by applicable laws (including, if applicable, securities laws) and/or this Agreement, and to prepare and file any tax returns, informational returns or periodic and current reports for the Litigation Trust as required by applicable laws (including, if applicable, securities laws) and/or by this Agreement; subject to the approval of the Litigation Trust Board, the Litigation Trustee may commit the Litigation Trust to and shall pay such accounting firm reasonable compensation for services rendered and reasonable and documented out-of-pocket expenses incurred;
- (h) In consultation with and subject to the approval of the Litigation Trust Board, to retain, enter into fee arrangements with and pay such third parties to assist the Litigation Trustee in carrying out its powers, authorities and duties under this Agreement; subject to the approval of the Litigation Trust Board, the Litigation Trustee may commit the Litigation Trust to and shall pay all such Persons reasonable compensation for services rendered and reasonable and documented out-of-pocket expenses incurred, as well as commit the Litigation Trust to indemnify any such Persons in connection with the performance of services (provided that such indemnity shall not cover any losses, costs, damages, expenses or liabilities that result from the gross negligence, bad faith, willful misconduct or knowing violation of law by such Persons);
- (i) In consultation with and subject to the approval of the Litigation Trust Board, to waive any privilege (including the Privileges) or any defence on behalf of the Litigation Trust or, with respect to the Litigation Trust Claims;
- (j) In consultation with and subject to the approval of the Litigation Trust Board, to investigate, analyze, compromise, adjust, arbitrate, mediate, sue on or defend, pursue, prosecute, abandon, dismiss, exercise rights, powers, and privileges with respect to, or otherwise deal with and settle, in accordance with the terms set forth herein, all causes of action in favour of or against the Litigation Trust;
- (k) at any time from and after the Effective Date, and subject to the approval of the Litigation Trust Board and the prior consent of the Initial Consenting Noteholders, to seek and obtain an order from any court of competent jurisdiction, including an Order of the Court in the CCAA or otherwise, that gives effect to any releases of any Litigation Trust Claims agreed to by the Litigation Trustee in accordance with this Agreement, including a release that fully, finally, irrevocably and forever compromises, releases, discharges, cancels and bars the applicable Litigation Trust Claims as if they were Excluded Litigation Trust Claims released in accordance with Article 7 of the Plan;

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- (l) in consultation with and subject to the approval of the Litigation Trust Board, and solely with respect to Litigation Trust Claims, to avoid and recover transfers of SFC's property as may be permitted by applicable law;
- (m) to invest any moneys held as part of the Litigation Trust in accordance with the terms of Section 3.19 of this Agreement;
- (n) in consultation with the Litigation Trust Board, to request any appropriate tax determination with respect to the Litigation Trust;
- (o) subject to applicable securities and other laws, if any, to establish and maintain a website for the purpose of providing notice of Litigation Trust activities in lieu of sending written notice to the holders of the Litigation Trust Interests and other such Persons entitled thereto; subject to providing notice of such website to such holders and other Persons;
- (p) in consultation with the Litigation Trust Board, to seek the examination of any Person, subject to the provisions of any applicable laws or rules;
- (q) to make distributions in accordance with Article 6 of this Agreement;
- (r) to take or refrain from taking any and all other actions that the Litigation Trustee, upon consultation with the Litigation Trust Board, reasonably deems necessary or convenient for the continuation, protection and maximization of the Litigation Trust Claims or to carry out the purposes hereof; provided, however, that the Litigation Trustee shall not be required to consult with or obtain approval of the Litigation Trust Board to the extent such actions are purely administrative in nature; and
- (s) in consultation with and subject to the approval of the Litigation Trust Board, to incur or receive on any terms that the Litigation Trustee and the Litigation Trust Board may approve, any further amounts to be used as a "Litigation Funding Amount" pursuant to the terms of this Agreement.

3.13 Limitation of Litigation Trustee's Authority

- (a) Notwithstanding anything herein to the contrary, the Litigation Trustee shall not (i) be authorized to engage in any trade or business or (ii) take any such actions as would be inconsistent with the purposes of this Agreement, the preservation of the assets of the Litigation Trust and the best interests of the Litigation Trust Beneficiaries.
- (b) The Litigation Trust shall not hold 50% or more of the stock (in either vote or value) of any Person that is treated as a corporation for federal income tax purposes, nor be the sole member of a limited liability company, nor have any interest in a Person that is treated as a partnership for federal income tax purposes, unless such stock, membership interest, or partnership interest was obtained involuntarily or as a matter of practical economic necessity in order to preserve the value of the Litigation Trust Assets.

3.14 Books and Records

- (a) The Litigation Trustee shall maintain books and records relating to the Litigation Trust Assets and the Litigation Trust Proceeds and the payment of expenses of, liabilities of, and claims against or assumed by, the Litigation Trust in such detail and for such period of time as may be necessary to enable it to make full and proper accounting in respect thereof. Such books and records shall be maintained on a modified cash or other comprehensive basis of accounting necessary to facilitate compliance with the tax reporting and securities law requirements, if any, of the Litigation Trust as well as the reporting requirements set forth in Article 8 and elsewhere in this Agreement. Nothing in this Agreement requires the Litigation Trustee to file any accounting or seek approval of any court with respect to the administration of the Litigation Trust, or as a condition for managing any payment or distribution out of the assets of the Litigation Trust.
- (b) Holders of the Litigation Trust Interests and their duly authorized representatives shall have the right, upon reasonable prior written notice to the Litigation Trustee, and in accordance with the reasonable regulations prescribed by the Litigation Trustee, to inspect and, at the sole expense of such holder seeking the same, make copies of the books and records relating to the Litigation Trust on any Business Day and as often as may be reasonably be desired, in each case for a purpose reasonably related to such holder's Litigation Trust Interests and subject to any confidentiality restrictions set forth herein or as the Litigation Trustee or the Litigation Trust Board may deem appropriate.

3.15 Inquiries into Trustee's Authority

Except as otherwise set forth in this Agreement or the Plan, no Person dealing with the Litigation Trust shall be obligated to inquire into the authority of the Litigation Trustee in connection with the protection, conservation or disposition of the Litigation Trust Claims.

3.16 Compliance with Laws

Any and all distributions of assets of the Litigation Trust shall be in compliance with applicable laws, including applicable provincial securities laws.

3.17 Compensation of the Litigation Trustee

Notwithstanding anything to the contrary contained herein, the Litigation Trustee shall be compensated for its services, and reimbursed for its expenses, in accordance with, and pursuant to the terms of, a separate agreement to be negotiated and executed by the Litigation Trust Board, which agreement shall not be subject to any third-party notice or approval.

3.18 Reliance by Litigation Trustee

Except as otherwise provided herein:

- (a) the Litigation Trustee may rely on, and shall be protected in acting upon, any resolution, certificate, statement, instrument, opinion, report, notice, request,

consent, order or other paper or document reasonably believed by the Litigation Trustee to be genuine and to have been signed or presented by the proper party or parties; and

- (b) Persons dealing with the Litigation Trustee shall look only to the assets of the Litigation Trust to satisfy any liability incurred by the Litigation Trustee to such Person in carrying out the terms of this Agreement, and neither the Litigation Trustee nor any member of the Litigation Trust Board shall have any personal obligation to satisfy any such liability.

3.19 Investment and Safekeeping of Litigation Trust Assets

Subject to Section 3.4 of this Agreement, the Litigation Trustee shall invest all Litigation Trust Assets (other than Litigation Trust Claims), all Litigation Trust Proceeds, the Litigation Funding Amount and all income earned by the Litigation Trust (pending distribution in accordance with Article 6 of this Agreement) only in cash and government securities, and the Litigation Trustee may retain any Litigation Trust Proceeds received that are not cash only for so long as may be required for the prompt and orderly liquidation of such assets into cash.

3.20 Standard of Care; Exculpation

Neither the Litigation Trustee nor any of its duly designated agents or representatives or professionals shall be liable for any act or omission taken or omitted to be taken by the Litigation Trustee in good faith, other than (i) acts or omissions resulting from the Litigation Trustee's or any such agent's, representative's or professional's gross negligence, bad faith, willful misconduct or knowing violation of law or (ii) acts or omissions from which the Litigation Trustee or any such agent, representative or professional derived an improper personal benefit. The Litigation Trustee may, in connection with the performance of its functions, and in its sole and absolute discretion, consult with its counsel, accountants, financial advisors and agents, and shall not be liable for any act taken, omitted to be taken, or suffered to be done in accordance with advice or opinions rendered by such Persons. Notwithstanding such authority, the Litigation Trustee shall be under no obligation to consult with its counsel, accountants, financial advisors or agents, and its good faith determination not to do so shall not result in the imposition of liability on the Litigation Trustee, unless such determination is based on gross negligence, bad faith, willful misconduct or knowing violation of law. No amendment, modification or repeal of this Section 3.20 shall adversely affect any right or protection of the Litigation Trustee or any of its agents, representatives or professionals that exists at the time of such amendment, modification or repeal.

ARTICLE 4 LITIGATION TRUST BOARD

4.1 Litigation Trust Board

A. Litigation trust board (the "Litigation Trust Board") shall initially consist of three Persons selected to serve in such capacity prior to the Effective Date by the Initial Consenting Noteholders, as listed on Schedule C hereto. No holder of Litigation Trust Interests (except to

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the extent such holder is a member of the Litigation Trust Board) shall have any consultation or approval rights whatsoever in respect of management and operation of the Litigation Trust.

4.2 Authority of the Litigation Trust Board

The Litigation Trust Board shall have the authority and responsibility to oversee, review, and guide the activities and performance of the Litigation Trustee and shall have the authority to remove the Litigation Trustee in accordance with Section 3.5(c) of this Agreement. The Litigation Trustee shall consult with and provide information to the Litigation Trust Board in accordance with and pursuant to the terms of this Agreement and the Plan. The Litigation Trust Board shall have the authority to select and engage such Persons, and select and engage such professional advisors, including any professional previously retained by the Initial Consenting Noteholders or SRC, in accordance with the terms of this Agreement, as the Litigation Trust Board deems necessary and desirable to assist the Litigation Trust Board in fulfilling its obligations under this Agreement. The Litigation Trustee shall pay the reasonable fees of such Persons and firms (including on an hourly, contingency, or modified contingency basis) and reimburse such Persons for their reasonable and documented out-of-pocket costs and expenses consistent with the terms of this Agreement.

4.3 Regular Meetings of the Litigation Trust Board

Meetings of the Litigation Trust Board are to be held with such frequency and in such manner and at such place and time as the members of the Litigation Trust Board may determine in their reasonable discretion, but in no event shall such meetings be held less frequently than one time during each quarter of each calendar year.

4.4 Special Meetings of the Litigation Trust Board

Special meetings of the Litigation Trust Board may be held whenever, wherever and however called for by the Litigation Trust Board or any two members of the Litigation Trust Board.

4.5 Manner of Acting

- (a) A majority of the total number of members of the Litigation Trust Board then in office shall constitute a quorum for the transaction of business at any meeting of the Litigation Trust Board (whether at a meeting with or without the Litigation Trustee); provided, however, that all decisions or approvals or other actions of the Litigation Trust Board shall require the affirmative vote of a majority of all of the members of the Litigation Trust Board, and such an affirmative vote obtained as to any particular matter, decision, approval or other action at a meeting at which a quorum is present shall be the act of the Litigation Trust Board, except as otherwise required by law or as provided in this Agreement.
- (b) Voting may, if approved by the majority of all of the members of the Litigation Trust Board, be conducted by electronic mail or individual communications by each member of the Litigation Trust Board.
- (c) Any member of the Litigation Trust Board who is present and entitled to vote at a meeting of the Litigation Trust Board (including any meeting of the Litigation

Trustee and the Litigation Trust Board) when action is taken is deemed to have assented to the action taken, subject to the requisite vote of the Litigation Trust Board unless: (i) such member of the Litigation Trust Board objects at the beginning of the meeting (or promptly upon his/her arrival) to holding it or transacting business at the meeting; or (ii) his/her dissent or abstention from the action taken is entered in the minutes of the meeting; or (iii) he/she delivers written notice (including by electronic or facsimile transmission) of his/her dissent or abstention to the Litigation Trust Board before its adjournment. The right of dissent or abstention is not available to any member of the Litigation Trust Board who votes in favour of the action taken.

- (d) Prior to the taking of a vote on any matter or issue or the taking of any action with respect to any matter or issue, each member of the Litigation Trust Board shall report to the Litigation Trust Board any conflict of interest such member has or may have with respect to the matter or issue at hand and fully disclose the nature of such conflict or potential conflict (including disclosing any and all financial or other pecuniary interests that such member might have with respect to or in connection with such matter or issue, other than solely as a holder of a Litigation Trust Interest). A member who has or who may have a conflict of interest shall be deemed to be a "conflicted member" who shall not be entitled to vote or take part in any action with respect to such matter or issue (provided, however, such member shall be counted for purposes of determining the existence of a quorum); the vote or action with respect to such matter or issue shall be undertaken only by members of the Litigation Trust Board who are not "conflicted members" and, notwithstanding anything contained herein to the contrary, the affirmative vote of only a majority of the members of the Litigation Trust Board who are not "conflicted members" shall be required to approve of such matter or issue and the same shall be the act of the Litigation Trust Board.

4.6 Litigation Trust Board's Action Without a Meeting

Any action required or permitted to be taken by the Litigation Trust Board at a meeting of the Litigation Trust Board may be taken without a meeting if the action is taken by unanimous written consent of the Litigation Trust Board as evidenced by one or more written (including by way of email) consents describing the action taken, signed by all members of the Litigation Trust Board and recorded in the minutes or other transcript of proceedings of the Litigation Trust Board.

4.7 Notice of, and Waiver of Notice for Litigation Trust Board Meetings

Notice of the time and place (but not necessarily the purpose or all of the purposes) of any regular or special meeting of the Litigation Trust Board will be given to the members of the Litigation Trust Board in person or by telephone, or via mail, electronic mail, or facsimile transmission. Notice to the members of the Litigation Trust Board of any such special meeting will be deemed given sufficiently in advance when (i) if given by mail, the same is deposited in the mail at least ten calendar days before the meeting date, with postage thereon prepaid, (ii) if given by electronic mail or facsimile transmission, the same is transmitted at least one Business Day prior to the convening of the meeting, or (iii) if personally delivered (including by overnight

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courier) or given by telephone, the same is handed, or the substance thereof is communicated over the telephone to the members of the Litigation Trust Board or to an adult member of his/her office staff or household, at least one Business Day prior to the convening of the meeting. Any member of the Litigation Trust Board may waive notice of any meeting and any adjournment thereof at any time before, during, or after it is held, subject to applicable law. Except as provided in the next sentence below, the waiver must be in writing, signed by the applicable member or members of the Litigation Trust Board entitled to the notice. The attendance of a member of the Litigation Trust Board at a meeting (whether in person or by telephone or videoconference) shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

4.8 Telephonic Communications

Any member of the Litigation Trust Board may participate in a regular or special meeting of the Litigation Trust Board by, or conduct the meeting through the use of, conference telephone, or similar communications equipment by means of which all persons participating in the meeting may hear each other, in which case any required notice of such meeting may generally describe the arrangements (rather than or in addition to the place) for the holding thereof. Any member of the Litigation Trust Board participating in a meeting by this means is deemed to be present in person at the meeting.

4.9 Tenure, Removal and Replacement of the Members of the Litigation Trust Board

The authority of the members of the Litigation Trust Board will be effective as of the Effective Date and will remain and continue in full force and effect until the Litigation Trust is terminated in accordance with Section 8.1 hereof. The service of the members of the Litigation Trust Board will be subject to the following:

- (a) The members of the Litigation Trust Board will serve until death or resignation pursuant to Section 4.9(b) of this Agreement, or removal pursuant to Section 4.9(c) of this Agreement.
- (b) A member of the Litigation Trust Board may resign at any time by providing a written notice of resignation to the remaining members of the Litigation Trust Board. Such resignation will be effective upon the date received by the Litigation Trust Board or such later date specified in the written notice.
- (c) A member of the Litigation Trust Board may be removed by the majority vote of the other members of the Litigation Trust Board, written resolution of which shall be delivered to the removed Litigation Trust Board member; provided, however, that such removal may only be made for Cause. For purposes of this Section 4.9(c), "Cause" shall be defined as: (i) such Litigation Trust Board member's theft or embezzlement or attempted theft or embezzlement of money or tangible or intangible assets or property; (ii) such Litigation Trust Board member's violation of any law (whether foreign or domestic), which results in an indictable offense or similar judicial proceedings; (iii) such Litigation Trust Board member's gross negligence, bad faith, willful misconduct or knowing violation of law, in the

performance of his or her duties as a member of the Litigation Trust Board; or (iv) such Litigation Trust Board member's failure to perform any of his or her other material duties under this Agreement (including the regular attendance at meetings of the Litigation Trust Board and of the Litigation Trustee and the Litigation Trust Board); provided, however, that such Litigation Trust Board member shall have been given a reasonable period to cure any alleged Cause under clauses (iii) (other than bad faith, willful misconduct or knowing violation of law) and (iv).

- (d) In the event of a vacancy on the Litigation Trust Board (whether by removal, death or resignation), the remaining members of the Litigation Trust Board shall appoint a new member to fill such position. In the event that there are no members of the Litigation Trust Board selected or appointed in accordance with the preceding sentence, appointments to fill such vacancies that would have been made in accordance with the preceding sentence shall be made by the Litigation Trustee, following consultation with the Monitor (if available in such capacity). Upon any such appointment of a successor member of the Litigation Trust Board, the Litigation Trustee shall provide the holders of the Litigation Trust Interests with notice of the name of the new member of the Litigation Trust Board, provided, however, that the provision of such notice shall not be a condition precedent to the rights and power of the new member of the Litigation Trust Board to act in such capacity.
- (e) Immediately upon the appointment of any successor member of the Litigation Trust Board all rights, powers, duties, authority, and privileges of the predecessor member of the Litigation Trust Board hereunder will be vested in and undertaken by the successor member of the Litigation Trust Board without any further act; and the successor member of the Litigation Trust Board will not be liable personally for any act or omission of the predecessor member of the Litigation Trust Board.

4.10 Compensation of the Litigation Trust Board

Each member of the Litigation Trust Board shall be paid an annual amount as compensation for his or her services hereunder as a member of the Litigation Trust Board, which amount shall be determined by the Board of Newco (as defined in the Plan) from time to time. In addition, each member of the Litigation Trust Board shall be entitled to be reimbursed from the Litigation Trust for his or her reasonable and documented out-of-pocket expenses incurred in connection with the performance of his or her duties hereunder by the Litigation Trust upon demand for payment thereof.

4.11 Standard of Care; Exculpation

None of the Litigation Trust Board, its respective members, designees, professionals, or duly designated agents, counsel or representatives, shall be liable for the act or omission of any other member, designee, professional, agent, or representative of the Litigation Trust Board; nor shall any member of the Litigation Trust Board be liable for any act or omission taken or omitted to be taken by the Litigation Trust Board in good faith, other than for (i) acts or omissions resulting

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from the Litigation Trust Board's or any such member's, designee's, professional's, agent's or representative's gross negligence, bad faith, willful misconduct or knowing violation of law or (ii) acts or omissions from which the Litigation Trust Board or such member, designee, professional, agent or representative derived an improper personal benefit. The Litigation Trust Board may, in connection with the performance of its functions, and in its sole and absolute discretion, consult with the Litigation Trust Board's counsel, accountants, financial advisors and agents, and shall not be liable for any act taken, omitted to be taken, or suffered to be done in good faith in accordance with advice or opinions rendered by such Persons. Notwithstanding such authority, none of the Litigation Trust Board or any of its members shall be under any obligation to consult with the Litigation Trust Board's counsel, accountants, financial advisors or agents, and their good faith determination not to do so shall not result in the imposition of liability on the Litigation Trust Board or, as applicable, any of its members, designees, professionals, agents or representatives, unless such determination is based on gross negligence, bad faith, willful misconduct or knowing violation of law. No amendment, modification or repeal of this Section 4.11 shall adversely affect any right or protection of the Litigation Trust Board, its members, designees, professional agents or representatives that exists at the time of such amendment, modification or repeal.

ARTICLE 5 TAX MATTERS

5.1 U.S. Federal Income Tax Treatment of the Litigation Trust

- (a) For all U.S. federal income tax purposes, all parties (including SFC and the other Litigation Trust Claims Transferors, the Litigation Trustee, the Litigation Trust Board and the Litigation Trust Beneficiaries) shall treat the transfer of the Litigation Trust Assets to the Litigation Trustee for the benefit of the Litigation Trust Beneficiaries as (a) a transfer of the Litigation Trust Assets directly to those Litigation Trust Beneficiaries receiving Litigation Trust Interests (other than to the extent allocable to Unresolved Claims), followed by (b) the transfer by such Litigation Trust Beneficiaries to the Litigation Trustee of the Litigation Trust Assets in exchange for the Litigation Trust Interests (and in respect of the Litigation Trust Assets allocable to the Unresolved Claims, as a transfer to the Unresolved Claims Reserve by the Litigation Trust Claim Transferors). Accordingly, those Litigation Trust Beneficiaries receiving Litigation Trust Interests shall be treated for U.S. federal income tax purposes as the grantors and owners of their respective shares of the Litigation Trust Assets. The foregoing treatment also shall apply, to the extent permitted by applicable law, for U.S. state and local income tax purposes.
- (b) Subject to definitive guidance from the I.R.S. or a court of competent jurisdiction to the contrary, the Litigation Trustee shall file returns for the Litigation Trust as a grantor trust pursuant to Treasury Regulation section 1.671-4(a) and in accordance with this Article 5. The Litigation Trustee shall also annually send to each holder of a Litigation Trust Interest a separate statement setting forth such holder's share of items of income, gain, loss, deduction, or credit and will instruct all such holders and parties to report such items on their federal income tax returns. The Litigation Trustee also shall file (or cause to be filed) any other

statements, returns or disclosures relating to the Litigation Trust that are required by any governmental unit.

- (c) The Litigation Trust Board shall inform, in writing, the Litigation Trustee of the fair market value of the Litigation Trust Assets transferred to the Litigation Trust based on the good faith determination of the Litigation Trust Board, and the Litigation Trustee shall apprise, in writing, the Litigation Trust Beneficiaries of such valuation. In such circumstances, the valuation shall be used consistently by all parties (including SPC and the other Litigation Trust Claim Transferors, the Litigation Trustee, the Litigation Trust Board and the Litigation Trust Beneficiaries) for all federal income tax purposes, as applicable. As applicable or necessary, the Litigation Trustee shall make such valuation prepared by the Litigation Trust Board available from time to time, to the extent relevant or reasonably necessary, and such valuation shall be used consistently by all parties (including SPC and the other Litigation Trust Claim Transferors, the Litigation Trustee, the Litigation Trust Board and the Litigation Trust Beneficiaries) for all federal income tax purposes. In connection with the preparation of any such valuation, the Litigation Trust Board shall be entitled to retain such professionals and advisors as the Litigation Trust Board shall determine to be appropriate or necessary, and the Litigation Trust Board shall take such other actions in connection therewith as it determines to be appropriate or necessary in connection therewith. The Litigation Trust shall bear all of the reasonable costs and expenses incurred in connection with determining such value, including the fees and expenses of any Persons retained by the Litigation Trust Board in connection therewith.
- (d) If applicable, the Litigation Trustee may request an expedited determination of taxes of the Litigation Trust for all returns filed for, or on behalf of, the Litigation Trust for all taxable periods through the dissolution of the Litigation Trust.
- (e) The Litigation Trustee shall be responsible for payments, out of the Litigation Trust Assets and Litigation Trust Proceeds, of any taxes imposed on the Litigation Trust or the Litigation Trust Assets.
- (f) The Litigation Trustee may require any of the Litigation Trust Beneficiaries to furnish to the Litigation Trustee its Employer or Taxpayer Identification Number and the Litigation Trustee may condition any distribution or payment to any of them upon receipt of such identification number.

5.2 Allocations of Litigation Trust Taxable Income For U.S. Federal Income Tax Purposes

Allocations of Litigation Trust taxable income among the holders of the Litigation Trust Interests shall be determined by reference to the manner in which an amount of cash equal to such taxable income would be distributed (without regard to any restrictions on distributions described herein) if, immediately prior to such deemed distribution, the Litigation Trust had distributed all of its other assets (valued at their tax book value) to the holders of the Litigation Trust Interests, in each case up to the tax book value of the assets treated as contributed by such holders, adjusted

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for prior taxable income and loss and taking into account all prior and concurrent distributions from the Litigation Trust (including all distributions held in escrow pending the resolution of Unresolved Claims). Similarly, taxable loss of the Litigation Trust shall be allocated by reference to the manner in which an economic loss would be borne immediately after a liquidating distribution of the remaining Litigation Trust Assets. The tax book value of the Litigation Trust Assets for this purpose shall equal their fair market value on the Effective Date (or otherwise, as applicable) as determined under Section 5.1(c) above, adjusted in either case in accordance with tax accounting principles prescribed by the Internal Revenue Code, and applicable tax regulations, and other applicable administrative and judicial authorities and pronouncements.

5.3 Canadian Tax Treatment of Distributions by Litigation Trustee

Amounts distributed by the Litigation Trustee shall be treated as distributions of income or capital for Canadian federal income tax purposes, as determined by the Litigation Trustee. The Litigation Trustee shall be entitled to file any election for tax purposes which it considers desirable or appropriate. The Litigation Trustee may create a legally enforceable right of Litigation Trust Beneficiaries in respect of any particular distribution to enforce payment of that distribution on or before December 31 of the relevant taxation year of the Litigation Trust.

ARTICLE 6 DISTRIBUTIONS

6.1 Distributions; Withholding

Subject to Section 3.4 of this Agreement, the Litigation Trustee shall distribute, in accordance with this Article 6, to the holders of the Litigation Trust Interests the Litigation Trust Proceeds (including, without limitation, all net cash income plus all net cash proceeds from the liquidation of Litigation Trust Assets (including as cash, for this purpose, all cash equivalents), but excluding, for greater certainty, the Litigation Funding Amount or any remaining portion thereof); provided, however, that the Litigation Trustee may retain and not distribute to holders of the Litigation Trust Interests such amounts as determined by the Litigation Trust Board (i) as are reasonably necessary to meet contingent liabilities of the Litigation Trust during liquidation and (ii) to pay reasonable and necessary administrative expenses incurred in connection with liquidation and any taxes imposed on the Litigation Trust or in respect of the Litigation Trust Assets, and provided further that prior to any distribution of Litigation Trust Proceeds to the holders of the Litigation Trust Interests, the Litigation Trustee shall first pay to Newco an amount in cash equivalent to the Litigation Funding Amount (together with any other amounts that may have been advanced by Newco as Litigation Funding Amounts). All distributions and/or payments to be made to the holders of the Litigation Trust Interests pursuant to this Agreement shall be made to the holders of the Litigation Trust Interests pro rata based on the amount of Litigation Trust Interests held by a holder compared with the aggregate amount of the Litigation Trust Interests outstanding, subject, in each case, to the terms of the Plan and this Agreement. The Litigation Trustee may withhold from amounts distributable to any Person any and all amounts, determined in the Litigation Trustee's reasonable sole discretion, to be required by any law, regulation, rule, ruling, directive or other governmental requirement.

6.2 Manner of Payment or Distribution

All distributions to be made by the Litigation Trustee hereunder to the holders of the Litigation Trust Interests shall be made to a disbursing agent acceptable to the Litigation Trust Board for further distribution to the holders of the Litigation Trust Interests and shall be payable to the holders of Litigation Trust Interests of record as of the 20th day prior to the date scheduled for the distribution, unless such day is not a Business Day, then such day shall be the following Business Day. If the distribution shall be in cash, the Litigation Trustee shall distribute such cash by wire, check, or such other method as the Litigation Trustee deems appropriate under the circumstances.

6.3 Cash Distributions

No cash distributions shall be required to be made to any holders of a Litigation Trust Interest in an amount less than \$100.00. Any funds so withheld and not distributed shall be held in reserve and distributed in subsequent distributions. Notwithstanding the foregoing, all cash shall be distributed in the final distribution of the Litigation Trust.

ARTICLE 7 INDEMNIFICATION

7.1 Indemnification of Litigation Trustee and the Litigation Trust Board

- (a) To the fullest extent permitted by law, the Litigation Trust, to the extent of its assets legally available for that purpose, shall indemnify and hold harmless the Litigation Trustee, each of the members of the Litigation Trust Board and each of their respective directors, members, shareholders, partners, officers, agents, employees, counsel and other professionals (collectively, the "Indemnified Persons") from and against any and all losses, costs, damages, reasonable and documented out-of-pocket expenses (including reasonable fees and expenses of counsel and other advisors and any court costs incurred by any Indemnified Person) or liability by reason of anything any Indemnified Person did, does, or refrains from doing for the business or affairs of the Litigation Trust, except to the extent that the loss, cost, damage, expense or liability resulted (i) from the Indemnified Person's gross negligence, bad faith, willful misconduct or knowing violation of law or (ii) from an act or omission from which the Indemnified Person derived an improper personal benefit. To the extent reasonable, the Litigation Trust shall pay in advance or reimburse reasonable and documented out-of-pocket expenses (including advancing reasonable costs of defense) incurred by the Indemnified Person who is or is threatened to be named or made a defendant or a respondent in a proceeding concerning the business and affairs of the Litigation Trust. The indemnification provided under this Section 7.1 shall survive the death, dissolution, resignation or removal, as may be applicable, of the Litigation Trustee, the Litigation Trust Board, any Litigation Trust Board member and/or any other Indemnified Person, and shall inure to the benefit of the Litigation Trustee's, each Litigation Trust Board member's and each other Indemnified Person's heirs, successors and assigns.

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- (b) Any Indemnified Person may waive the benefits of indemnification under this Section 7.1, but only by an instrument in writing executed by such Indemnified Person.
- (c) The rights to indemnification under this Section 7.1 are not exclusive of other rights which any Indemnified Person may otherwise have at law or in equity, including without limitation common law rights to indemnification or contribution. Nothing in this Section 7.1 will affect the rights or obligations of any Person (or the limitations on those rights or obligations) under this Agreement, or any other agreement or instrument to which that Person is a party.

ARTICLE 8 REPORTING OBLIGATIONS OF LITIGATION TRUSTEE

8.1 Reports

- (a) The Litigation Trustee shall prepare such reports as the Litigation Trust Board shall request from time to time, which reports may be marked privileged and confidential at the discretion of the Litigation Trust Board or the Litigation Trustee, and shall distribute such reports to the Litigation Trust Board and, if directed by the Litigation Trust Board, to all holders of the Litigation Trust Interests as provided in this Article 8. For the avoidance of doubt, the holders of the Litigation Trust Interests shall not be entitled to any report, financial or otherwise, unless determined by the Litigation Trust Board in its sole discretion.
- (b) Without limiting the foregoing, the Litigation Trustee shall timely (i) prepare, file and distribute such statements, reports, tax returns and forms, and submissions as may be necessary to cause the Litigation Trust and the Litigation Trustee to be in compliance with all applicable laws (including any quarterly and annual reports to the extent required by applicable law or in order to gain an exemption from compliance with applicable law) and (ii) prepare and file with the CCAA Court such reports and submissions as may be required by the CCAA Court.
- (c) The Litigation Trustee may post any report required to be provided under this Section 8.1 on a web site maintained by the Litigation Trustee in lieu of actual notice, subject to also filing such reports with the CCAA Court when required to do so.

ARTICLE 9 TERM; TERMINATION OF THE LITIGATION TRUST

9.1 Term; Termination of the Litigation Trust

- (a) The Litigation Trust shall commence on the date hereof and terminate no later than the fifth anniversary of the Effective Date; provided, however, that, on or prior to the date that is 90 days prior to such termination, the Litigation Trust Board may extend the term of the Litigation Trust if it is necessary to the efficient and proper administration of the Litigation Trust Assets in accordance with the

purposes and terms of this Agreement. Notwithstanding the foregoing, multiple extensions can be obtained so long as each extension is obtained not less than 90 days prior to the expiration of each extended term; and provided, further, that neither this Agreement nor the continued existence of the Litigation Trust shall prevent SFC from terminating the CCAA Proceeding.

- (b) The Litigation Trust may be terminated earlier than its scheduled termination if: (i) the Litigation Trustee has administered all Litigation Trust Assets and performed all other duties required by this Agreement and the Litigation Trust; or (ii) if the Litigation Trustee, in consultation with and subject to the approval of the Litigation Trust Board, determines that it is not in the best interests of the Litigation Trust Beneficiaries to continue pursuing the Litigation Trust Claims. Upon termination of the Litigation Trust pursuant to subsection (ii) hereof, any and all remaining portion of the Litigation Funding Amount shall be paid to Newco in cash by wire, check, or such other method as agreed to by the Litigation Trustee and Newco.

9.2 Continuance of Trust for Winding Up

After the termination of the Litigation Trust and for the purpose of liquidating and winding up the affairs of the Litigation Trust, the Litigation Trustee shall continue to act as such until its duties have been fully performed. Prior to the final distribution of all of the remaining assets of the Litigation Trust and upon approval of the Litigation Trust Board, the Litigation Trustee shall be entitled to reserve from such assets any and all amounts required to provide for its own reasonable costs and expenses, in accordance with Section 3.17, until such time as the winding up of the Litigation Trust is completed. Upon termination of the Litigation Trust, the Litigation Trustee shall retain for a period of two years the books, records and other documents and files that have been delivered to or created by the Litigation Trustee. At the Litigation Trustee's discretion, all of such records and documents may, but need not, be destroyed at any time after two years from the completion and winding up of the affairs of the Litigation Trust. Except as otherwise specifically provided herein, upon the termination of the Litigation Trust, the Litigation Trustee shall have no further duties or obligations hereunder.

ARTICLE 10 AMENDMENT AND WAIVER

10.1 Amendment and Waiver

The Litigation Trustee, with the prior approval of the majority of the members of the Litigation Trust Board, may amend, supplement or waive any provision of, this Agreement, without notice to or the consent of the holders of the Litigation Trust Interests or the approval of the CCAA Court to (or on behalf or for the account of) any of the holders of the Litigation Trust Interests: (i) to cure any ambiguity, omission, defect or inconsistency in this Agreement; (ii) to comply with any requirements in connection with the tax status of the Litigation Trust; (iii) to comply with any requirements in connection with maintaining that the Litigation Trust is not subject to registration or reporting requirements; (iv) to make the Litigation Trust a reporting entity and, in such event, to comply with any requirements in connection with satisfying any applicable registration or reporting requirements; (v) to evidence and provide for the acceptance of

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appointment hereunder by a successor trustee in accordance with the terms of this Agreement; and (vi) to achieve any other purpose that is not inconsistent with the purpose and intention of this Agreement; provided, that, no such amendment, supplement or waiver shall adversely affect the payments and/or distributions to be made under this Agreement.

ARTICLE 11 MISCELLANEOUS PROVISIONS

11.1 Intention of Parties to Establish the Litigation Trust

This Agreement is intended to create a liquidating trust for U.S. federal income tax purposes and, to the extent provided by law, shall be governed and construed in all respects as such a trust and any ambiguity herein shall be construed consistent herewith and, if necessary, this Agreement may be amended in accordance with Section 10.1 to comply with such federal income tax laws, which amendments may apply retroactively.

11.2 Laws as to Construction

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to whether any conflicts of law would require the application of the law of another jurisdiction.

11.3 Jurisdiction

Without limiting any Person's right to appeal any order of the CCAA Court with regard to any matter, (i) the CCAA Court shall retain exclusive jurisdiction to enforce the terms of this Agreement and to decide any claims or disputes which may arise or result from, or be connected with, this Agreement, any breach or default hereunder, or the transactions contemplated hereby, and (ii) any and all actions related to the foregoing shall be filed and maintained only in the CCAA Court, and the parties, including the holders of the Litigation Trust Interests, and holders of Claims, hereby consent to and submit to the jurisdiction and venue of the CCAA Court.

11.4 Severability

If any provision of this Agreement or the application thereof to any Person or circumstance shall be finally determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Agreement, or the application of such provision to Persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and such provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

11.8 Notices

All notices, requests or other communications to the parties hereto shall be in writing and shall be sufficiently given only if: (i) delivered in person; (ii) sent by electronic mail or facsimile communication (as evidenced by a confirmed fax transmission report); (iii) sent by registered or certified mail, return receipt requested; or (iv) sent by commercial delivery service or courier. Until a change of address is communicated, as provided below, all notices, requests and other communications shall be sent to the parties at the following addresses or facsimile numbers:

If to the Litigation Trustee:	Cosimo Borrelli c/o Borrelli Walsh Level 17, Tower 1, Admiralty Centre 18 Harecourt Road Hong Kong Telephone: 852.3761.3800 Facsimile: 852.3761.3889 Email: cb@borrelliwalsh.com
If to the Litigation Trust Board Members:	Paul Brough c/o Blue Willow Limited 11th Floor, Waga Commercial Centre 99 Wellington Street Central, Hong Kong Telephone: 852.9109.6469 Facsimile: 852.2319.1001 Email: paulbrough@btuwillowhk.com
And to:	Eugene Davis 5 Canoe Brook Dr. Livingston, NJ 07039-6121, USA Telephone: 1.973.464.9333 Facsimile: 1.973.535.1843 Email: genedavis@privateconsulting.com
And to:	Barry Field 140 The Street, Rushmere St Andrew, Ipswich IP5 1DH, UK Telephone: 44. 14. 7348.4437 Email: barry.field2@gmail.com

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(with a copy to)

Hogan Lovells LLP
 11th Floor, One Pacific Place
 88 Queensway
 Hong Kong
 Telephone: 852,2840,5002
 Facsimile: 852,2219,0222
 Email: nell.mcdonald@hoganlovells.com
 Attn: Neil McDonald

All notices shall be effective and shall be deemed delivered (I) if by personal delivery, delivery service or courier, on the date of delivery; (II) if by electronic mail or facsimile communication, on the date of receipt or confirmed transmission of the communication; and (III) if by mail, on the date of receipt. Any Person from time to time may change his, her or its address, facsimile number, or other information for the purpose of notices to that Person by giving notice specifying such change to the Litigation Trustee and the Persons who are at the time of such notice members of the Litigation Trust Board.

11.6 Fiscal Year

The fiscal year of the Litigation Trust will begin on the first day of January and end on the last day of December of each calendar year.

11.7 Construction; Usage

- (a) Interpretation. In this Agreement, unless a clear contrary intention appears:
- (i) the singular number includes the plural number and vice versa;
 - (ii) reference to any Person includes such Person's successors and assigns but, if applicable, only if such successors and assigns are not prohibited by this Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity or individually;
 - (iii) reference to any gender includes each other gender;
 - (iv) reference to any agreement, document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof;
 - (v) reference to any applicable law means such applicable law as amended, modified, codified, replaced or re-enacted, in whole or in part, and in effect from time to time, including rules and regulations promulgated thereunder, and reference to any section or other provision of any applicable law means that provision of such applicable law from time to time in effect and constituting the substantive amendment, modification, codification, replacement or re-enactment of such section or other provision;

- (vi) "hereunder," "hereof," "hereto," and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Article, Section or other provision hereof;
 - (vii) reference to Articles, Sections, Schedules or Exhibits herein shall be deemed to be references to the Articles, Sections, Schedules and Exhibits to this Agreement unless otherwise specified;
 - (viii) "including" means including without limiting the generality of any description preceding such term; and
 - (ix) references to documents, instruments or agreements shall be deemed to refer as well to all addenda, exhibits, schedules or amendments thereto,
- (b) Legal Representation of the Parties. This Agreement was negotiated by the parties and beneficiaries hereto with the benefit of legal representation and any rule of construction or interpretation otherwise requiring this Agreement to be construed or interpreted against any party hereto shall not apply to any construction or interpretation hereof.
- (c) Headings. The headings contained in this Agreement are for the convenience of reference only, shall not be deemed to be a part of this Agreement and shall not be referred to in connection with the construction or interpretation of this Agreement.

11.8 Counterparts; Facsimile; PDF

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument. Any facsimile or portable document format copies hereof or signature hereon shall, for all purposes, be deemed originals.

11.9 Confidentiality

The Litigation Trustee and each successor trustee and each member of the Litigation Trust Board and each successor member of the Litigation Trust Board (each a "Covered Person") shall, during the period that they serve in such capacity under this Agreement and following either the termination of this Agreement or such individual's removal, incapacity, or resignation hereunder, hold strictly confidential and not use for personal gain any material, non-public information of or pertaining to any Person to which any of the assets of the Litigation Trust relates or of which it has become aware in its capacity (the "Information"), including without limitation, the identity of any Holder of Litigation Trust Interests and the extent of their holdings thereof, except to the extent disclosure of any such information is required by applicable law, order, regulation or legal process. In the event that any Covered Person is requested or required (by oral questions, interrogatories, requests for information or documents, subpoena, civil investigation, demand or similar legal process) to disclose any Information, such Covered Person shall notify the Litigation Trust Board reasonably promptly (unless prohibited by law) so that the Litigation Trust Board may seek an appropriate protective order or other appropriate remedy or, in its discretion, waive compliance with the terms of this Section 11.9 (and if the Litigation Trust

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Board seeks such an order, the relevant Covered Person will provide cooperation as the Litigation Trust Board shall reasonably request). In the event that no such protective order or other remedy is obtained, or that the Litigation Trust Board waives compliance with the terms of this Section 11.9 and that any Covered Person is nonetheless legally compelled to disclose the Information, the Covered Person will furnish only that portion of the Information, which the Covered Person, advised by counsel, is legally required and will give the Litigation Trust Board written notice (unless prohibited by law) of the Information to be disclosed as far in advance as practicable and exercise all reasonable efforts to obtain reliable assurance that confidential treatment will be accorded the Information.

11.10 Entire Agreement

This Agreement (including the Recitals), the Plan, and the Plan Sanction Order constitute the entire agreement by and among the parties hereto and there are no representations, warranties, covenants or obligations except as set forth herein or therein. This Agreement, the Plan and the Plan Sanction Order supersede all prior and contemporaneous agreements, understandings, negotiations, discussions, written or oral, of the parties hereto, relating to any transaction contemplated hereunder. Except as otherwise specifically provided herein, in the Plan or in the Plan Sanction Order, nothing in this Agreement is intended or shall be construed to confer upon or to give any Entity or Person other than the parties hereto and their respective heirs, administrators, executors, permitted successors, or permitted assigns any right to remedies under or by reason of this Agreement, except that (i) the Persons identified in Article 7 hereof are intended third party beneficiaries of Article 7 hereof and shall be entitled to enforce the provisions thereof as if they were parties hereto and (ii) the members (and former members) of the Litigation Trust Board are intended third party beneficiaries of Article 4 hereof and shall be entitled to enforce the provisions thereof as if they were parties hereto.

11.11 No Bond

Notwithstanding any state or federal law to the contrary, the Litigation Trustee (including any successor trustee) shall be exempt from giving any bond or other security in any jurisdiction.

11.12 Effectiveness

This Agreement shall become effective on the Effective Date.

11.13 Successor and Assigns

This Agreement shall inure to the benefit of the parties hereto and the intended third party beneficiaries identified in Section 11.10 hereof (to the extent specified therein), and shall be binding upon the parties hereto, and each of their respective successors and assigns to the extent permitted by this Agreement and applicable law.

11.14 No Execution

All funds in the Litigation Trust shall be deemed in *custodia legis* until such times as the funds have actually been paid to or for the benefit of a holder of a Litigation Trust Interest, and no holder of a Litigation Trust Interest or any other Person can execute upon, garnish or attach the assets of the Litigation Trust in any manner or compel payment from the Litigation Trust except

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by an order of the CCAA Court. Distributions from the Litigation Trust will be governed solely by the Plan and this Agreement.

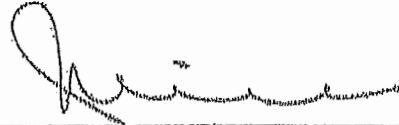
11.15 Irrevocability

The Litigation Trust is irrevocable, but is subject to amendment and waiver as provided for in this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have either executed and acknowledged this Agreement, or caused it to be executed and acknowledged on their behalf by their duly authorized officers all as of the date first above written.

SINO-FOREST CORPORATION:



By:

Name: W. Wilson Mackin,
Title: Executive Vice Chairman and
Chief Executive Officer

LITIGATION TRUSTEE:

Name: Cosmo Borrelli, solely in his
capacity as the Litigation Trustee and not in
his personal capacity

6148079

SCHEDULE A

Index of Defined Terms

Term	Location
Agreement	Introduction
Cause	Section 4.9(o)
Causes of Action	Preliminary Statement
CCAA	Preliminary Statement
CCAA Court	Preliminary Statement
Covered Person	Section 1.1.9
Effective Date	Section 1.2(b)
Excluded Litigation Trust Claims	Section 1.3(b)
Filing Date	Preliminary Statement
Indemnified Persons	Section 7.1(a)
Information	Section 1.1.9
Interim Trustee	Section 3.5(g)
Litigation Trust Assets	Preliminary Statement
Litigation Trust Beneficiary	Preliminary Statement
Litigation Trust Board	Section 4.1
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Transfer	Section 2.5(a)
Trust Register	Section 2.5(e)

SCHEDULE B

Form of Promissory Note for Litigation Trust Funding Amount

SCHEDULE C

Initial Members of the Litigation Trust Board

Paul Brough

Gene Davis

Barry Field