

Court File No. CV-12-9667-00-CL

*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**

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, 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*

**MOTION RECORD OF THE PLAINTIFFS  
SETTLEMENT APPROVAL  
(Returnable May 11, 2015)**

April 13, 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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Court File No. CV-12-9667-00-CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
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**IN THE MATTER OF THE *COMPANIES' CREDITORS*  
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**AND IN THE MATTER OF A PLAN OF COMPROMISE AND  
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  
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Defendants

Proceeding under the *Class Proceedings Act, 1992*

**NOTICE OF MOTION  
SETTLEMENT AND CLAIMS AND DISTRIBUTION PROTOCOL APPROVAL  
(Returnable May 11, 2015)**

The Ad Hoc Purchasers of the Applicant's Securities, including the plaintiffs in the action commenced against Sino-Forest Corporation 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), will make a motion to the Honourable Regional Senior Chief Justice Morawetz on May 11, 2015, at 10:00 a.m., at 330 University Avenue, 8<sup>th</sup> Floor, Toronto, Ontario, or at such other time and place as the Court may direct.

**PROPOSED METHOD OF HEARING:** The motion will be heard orally.

**THE MOTION IS FOR:**

- (a) an order, if necessary, validating and abridging the time for service and filing of this motion and motion record, and dispensing with any further service thereof;
- (b) an order declaring that the dealers settlement is fair and reasonable in all the circumstances and for the purposes of approval under the *Class Proceedings Act, 1992* and the *Companies' Creditors Arrangement Act*;
- (c) an order approving the dealers settlement and the dealers release for all purposes and implementing them in accordance with their terms;
- (d) an order requesting the recognition of the courts and other bodies in Canada or the United States to give effect to the order;
- (e) an order approving the proposed Claims and Distribution Protocol, attached hereto as **Schedule "A"**; and
- (f) such further and other relief as counsel may request and this Honourable Court may deem just.

**THE GROUNDS FOR THE MOTION ARE:**

**Background**

- (a) On July 20, 2011, this action was commenced against 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) (the "Dealers") and other defendants in Ontario under the *Class Proceedings Act, 1992*.
- (b) there were also class actions commenced in Québec, Saskatchewan and New York in respect of Sino-Forest and other defendants.
- (c) the Ontario action and the Québec action advance claims against the Dealers;
- (d) the New York Action only advanced claims against Credit Suisse Securities (USA) LLC and Merrill Lynch, Pierce, Fenner & Smith Incorporated (successor by merger to Banc of America Securities LLC);
- (e) Siskinds Desmeules is counsel in the Québec action and Cohen Milstein Sellers & Toll PLLC is counsel in the New York action;
- (f) all of the class actions arose following allegations against Sino-Forest by a research analyst and short-seller, Muddy Waters, which were made on June 2, 2011;
- (g) following these allegations, Sino-Forest began a steep financial decline;

- (h) by March 2012, Sino-Forest was insolvent and sought protection from its creditors under the *Companies Creditors' Arrangement Act* (the "CCAA");
- (i) This Honourable Court approved Sino-Forest's Plan of Compromise and Reorganization (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;
- (j) The Dealers are a Named Third Party Defendant pursuant to section 11.2 of the Plan;
- (k) A court-ordered mediation amongst certain parties to the Ontario Class Action proceeded in September 2012 but did not result in a settlement at that time;
- (l) The Class Action Plaintiffs and the Dealers continued settlement discussions;
- (m) The Class Action Plaintiffs and the Dealers have reached an agreement and subsequently entered into Minutes of Settlement in order to resolve claims against the Dealers relating to Sino-Forest, its affiliates and subsidiaries;
- (n) The Dealers settlement provides that the Dealers shall pay \$32.5 million (the "Class Settlement Fund") in exchange for, among other things, a comprehensive release of claims against the Dealers in respect of Sino-Forest;
- (o) The Dealers settlement is an excellent settlement and is fair, reasonable and in the best interests of securities claimants, particularly in light of the inherent risks, costs and delay associated with continued litigation;
- (p) The Dealers settlement is fair and reasonable in all of the circumstances of the *CCAA* Proceedings;

- (q) The Class Action Plaintiffs support the approval of the Dealers settlement;
- (r) The mediator, the Honourable Justice Goudge, a retired judge of the Ontario Court of Appeal, confirmed that in his view, the settlement is fair, reasonable and in the best interests of the securities claimants;
- (s) Class counsel recommends the approval of the Dealers settlement;
- (t) The Litigation Trustee has admitted that it has no claim against the Dealers;
- (u) There is no basis in law for the Litigation Trust to withhold its consent to permit the Dealers to obtain the Named Third Party Defendant Release;
- (v) Such consent cannot be withheld unreasonably;
- (w) The proposed Claims and Distribution Protocol fairly allocates the Class Settlement Fund among securities claimants;
- (x) The proposed Claims and Distribution Protocol provides that primary market claimants will receive compensation based on (a) the amount of their losses attributable to the alleged misrepresentations; (b) the strength of their claims against the Dealers; and (c) the total amount of all claims made against the Class Settlement Fund;
- (y) The proposed Claims and Distribution Protocol is recommended by experienced and competent counsel, and is supported by the plaintiffs in the Ontario, Quebec, and US Class Actions, with the exception of Robert Wong, who has an objection regarding late claims.
- (z) *Companies Creditors' Arrangement Act*, R.S.C. 1985, c. C-36;

- (aa) *Class Proceedings Act, 1992*, S.O. 1992, c. 6;
- (bb) *Courts of Justice Act*, R.S.O. 1990, c. C.43; and
- (cc) Such further and other grounds as this Honourable Court may permit.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

- (a) the affidavits of Charles Wright sworn April 13, 2015 (in respect of settlement approval) and April 13, 2015 (in respect of fee approval);
- (b) the affidavit of Justice Stephen Goudge, retired judge of the Ontario court of Appeal, who acted as mediator in this settlement sworn April 1, 2015; and
- (c) the affidavit of Garth Myers sworn April 8, 2015; and
- (d) such further and other material as counsel may advise and this Honourable Court may permit.

April 13, 2015

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**TO: THE ATTACHED SERVICE LIST**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

Proceeding under the *Class Proceedings Act, 1992*

**NOTICE OF MOTION  
SETTLEMENT APPROVAL  
(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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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**

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*

**AFFIDAVIT OF CHARLES M. WRIGHT**

**(Filed in respect of the motion for settlement and plan of allocation and distribution  
approval)  
(Sworn April 13, 2015)**

I, **CHARLES M. WRIGHT**, of the City of London, in the Province of Ontario

AFFIRM:

1. I am a partner at Siskinds LLP, who, along with Koskie Minsky LLP (together, "Class Counsel"), are counsel to the plaintiffs (the "Class Plaintiffs") in the above-captioned class proceeding (the "Ontario Action").

2. For the purposes of the above-captioned proceeding under the CCAA (the "CCAA Proceedings"), Paliare Roland Rosenberg Rothstein LLP ("Paliare Roland") acts together with Class Counsel to represent the Ad Hoc Committee of Purchasers of the Applicant's Securities, including the Class Plaintiffs (together, the "Ontario Plaintiffs").

3. Siskinds Desmeules, sncrl, ("Desmeules") an affiliate of Siskinds LLP, is counsel to the plaintiffs in a parallel class proceeding in the Province of Québec Superior Court styled as *Guining Liu v Sino-Forest Corporation, et al.*, File No. 200-06-000132-111 (the "Québec Action").

4. Cohen Milstein Sellers & Toll PLLC ("Cohen Milstein") is counsel to the plaintiffs in a parallel class proceeding in the District Court of the Southern District of New York (the "US Plaintiffs") styled as *David Leopard, et al v Allen TY Chan, et al*, Case Number 1:12-cv-01726 (AT) (the "US Action").

5. I have knowledge of the matters deposed to below. Where I make statements in this affidavit that are not within my personal knowledge, I have indicated the source of my information and believe such information to be true.

**A. NATURE OF THIS MOTION**

6. The Ontario Plaintiffs, the US Plaintiffs, and 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) (the "Dealers") have entered into Minutes of Settlement in order to resolve all causes of action, claims and/or demands, on all counts howsoever arising and in all jurisdictions, made against the Dealers, including the Class Actions (as defined in Sino-Forest's Plan of Compromise and Reorganization (the "Plan") (the "Dealers Settlement"). The Dealers Settlement is marked and attached hereto as **Exhibit "A"**. Appended as Schedule "A" to the Dealers Settlement is the form of a draft settlement approval order (the "Settlement Order") that was agreed to by the parties and will be sought for approval of the Dealers Settlement. Unless otherwise defined or the context requires otherwise, all capitalized terms in this affidavit have the meanings attributed to them in the Settlement Order.

7. The Ontario Plaintiffs and the US Plaintiffs are also seeking approval of a Claims and Distribution Protocol and approval of Class Counsel fees in respect of the Dealers Settlement.

8. I affirm this affidavit in support of the motion brought by the Ontario Plaintiffs for approval of the Dealers Settlement and the Claims and Distribution Protocol and approval of

Class Counsel fees. An additional affidavit has also been filed in respect of approval of Class Counsel fees.

## **B. OVERVIEW OF THE SETTLEMENT**

### **(i) The Dealers' Roles with Sino-Forest**

9. From the commencement of this action, the allegations, claims, and the very basis for the case against the Dealers, was has been and remains fundamentally distinct in fact and law from the case against Sino-Forest, its officers and directors, and its auditors. The Dealers were various financial institutions that served as underwriters in one or more of Sino-Forest's public offerings of shares and notes during the class period. The Dealers can be broken down into two (2) groups:

- (a) Credit Suisse Securities (Canada), Inc. ("Credit Suisse"), TD Securities Inc. ("TD"), Dundee Securities Corporation ("Dundee"), RBC Dominion Securities Inc. ("RBC"), Scotia Capital Inc. ("Scotia"), CIBC World Markets Inc. ("CIBC"), Merrill Lynch Canada Inc. ("Merrill"), Canaccord Financial Ltd. ("Canaccord"), and Maison Placements Canada Inc. ("Maison") served as underwriters in one or more of Sino-Forest's public offerings of shares during the class period (collectively, the "Share Underwriters"); and
- (b) TD, Credit Suisse Securities (USA) LLC ("Credit Suisse USA"), and Merrill Lynch Pierce, Fenner & Smith Incorporated (successor by merger to Banc of America Securities LLC) ("Banc of America") served as initial purchasers in one or more of Sino-Forest's public offerings of notes during the Class Period (collectively, the "Initial Note Purchasers").

10. During the Class Period, Sino-Forest raised money pursuant to seven offerings of securities (collectively, the "Offerings"):

#### *Note Offerings*

- (a) an offering of notes due 2013 in July 2008 (the "July 2008 Note Offering") pursuant to an Offering Memorandum dated July 17, 2008 (the July 2008 Offering Memorandum). Banc of America and Credit Suisse USA acted as initial purchasers of the July 2008 Note Offering;
- (b) an offer to exchange Sino-Forest's Guaranteed Senior Notes due 2011 for new notes in June 2009 (the "June 2009 Note Offering") offered pursuant to an

Exchange Offer Memorandum dated June 24, 2009 (the "July 2009 Offering Memorandum"). Credit Suisse USA acted as initial purchaser for the June 2009 Note Offering;

- (c) an offering of notes due 2016 in December 2009 (the "December 2009 Note Offering") pursuant to a Final Offering Memorandum, dated December 10, 2009 (the "December 2009 Offering Memorandum"). Banc of America, Credit Suisse USA, and TD acted as initial purchasers for the December 2009 Note Offering; and
- (d) an offering of notes due 2017 in October 2010 (the "October 2010 Note Offering") pursuant to a Final Offering Memorandum dated October 14, 2010 (the "October 2010 Offering Memorandum"). Banc of America and Credit Suisse USA acted as initial purchasers for the October 2010 Note Offering.

***Share Offerings***

- (e) an offering of shares in June 2007 (the "June 2007 Share Offering") pursuant to a Short Form Prospectus, dated June 5, 2007 (the "June 2007 Prospectus"). Dundee, CIBC, Merrill, and Credit Suisse acted as underwriters in the June 2007 Share Offering;
- (f) an offering of shares in June 2009 (the "June 2009 Share Offering") pursuant to a Final Short Form Prospectus, dated June 1, 2009 (the "June 2009 Prospectus"). Dundee, Merrill, Credit Suisse, Scotia, and TD acted as underwriters in the June 2009 Share Offering; and
- (g) an offering of shares in December 2009 (the "December 2009 Share Offering") pursuant to a Final Short Form Prospectus, dated December 10, 2009 (the "December 2009 Prospectus"). Dundee, Merrill, Credit Suisse, Scotia, CIBC, RBC, Maison, Canaccord, and TD acted as underwriters in the December 2009 Share Offering.

(together, the "Offerings")

**C. BACKGROUND OF THE ACTION**

11. On June 2, 2011, Muddy Waters Research ("Muddy Waters") released a research report alleging fraud against Sino-Forest and alleging that it "massively exaggerates its assets." The release of this report was immediately followed by a dramatic decline in Sino-Forest's share price.

12. On June 1, 2011, the day prior to the publication of the Muddy Waters report, Sino-Forest's common shares closed at \$18.21. After the Muddy Waters report became public, Sino-Forest 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-Forest's shares fell to a close of \$5.23 (a decline of 71.3% from June 1).

13. Sino-Forest's notes also fell in value following the Muddy Waters report. On May 9, 2012 an auction was held to settle the credit derivative trades for Sino-Forest credit default swaps ("CDS"). CDS are essentially an insurance contract for debt instruments, and the price set in that auction represents the market's view of the value of the notes as of May 9, 2012. The CDS auction price was 29% of the notes' face values.

14. On August 26, 2011, the Ontario Securities Commission (the "OSC") issued a temporary cease-trade order in respect of Sino's securities, and staff of the Ontario Securities Commission commenced proceedings against Sino-Forest and certain of its officers and directors and Ernst & Young. Staff of the OSC did not commence proceedings against any of the Dealers. The OSC enforcement proceedings against Ernst & Young were settled pursuant to a no-contest settlement whereby Ernst & Young neither admitted nor denied the OSC's allegations. Pursuant to the OSC settlement, Ernst & Young agreed to pay \$8 million in respect of allegations relating to both Sino-Forest and another issuer, Zungui Haixi.

15. On January 10, 2012, Sino-Forest issued a press release stating, among other things, that its historical financial statements and related auditors reports should not be relied upon.

16. On March 30, 2012, Sino-Forest filed for protection from its creditors under the CCAA and obtained a stay of proceedings against it, its subsidiaries and directors and officers, including the Ontario Action.

17. On May 9, 2012, Sino-Forest's shares were delisted from the TSX. Ernst & Young resigned as Sino-Forest's auditors effective April 4, 2012. No new auditors were appointed.

**D. CLASS ACTIONS AGAINST THE DEALERS RELATING TO SINO-FOREST**

18. On July 20, 2011, the Ontario Action was commenced under the *Class Proceedings Act, 1992* (the "CPA") against Sino-Forest, the Dealers, and other defendants on behalf of persons that had purchased Sino-Forest securities in the period from March 19, 2007 to June 2, 2011 (the "Class Period"). The plaintiffs allege that Sino-Forest misstated its financial statements, overstated the value of its assets, and concealed material information about its business and operations from investors in its public filings. With respect to the Dealers, the plaintiffs allege in summary, that the Dealers failed to conduct a reasonable investigation into Sino-Forest in connection with any of the offerings of Sino-Forest's securities. The Dealers assert that they were duly diligent. As a result, Sino-Forest's securities allegedly traded at artificially inflated prices for many years.

19. Before commencing the Ontario Action and since that time, Class Counsel has conducted an extensive investigation into the Muddy Waters allegations and the affairs of Sino-Forest, the Dealers, and the other defendants with the assistance of:

- (a) the Dacheng law firm, one of China's largest law firms ("Dacheng"), who was retained on the day after the Muddy Waters report was issued;
- (b) a Hong-Kong based investigator specializing in financial fraud;

- (c) two separate Toronto-based firms that specialize in forensic accounting, generally accepted accounting principles and generally accepted auditing standards;
  - (d) a lawyer qualified to practice in the Republic of Suriname, where Sino-Forest purported to own, through an affiliate, certain timber assets;
  - (e) a financial economist who specializes in the treatment of damages in securities class actions; and
  - (f) a consultant specializing in regulation of the investment industry.
20. Class Counsel has been working with Desmeules and Cohen Milstein in a coordinated manner:
- (a) on June 9, 2011, Desmeules, a Québec city law firm affiliated with Siskinds, commenced the Québec Action against Sino-Forest, and certain other defendants in the Québec Superior Court. The Dealers are no longer defendants in the Québec Action; and
  - (b) on January 27, 2012, the Washington, DC-based law firm of Cohen Milstein commenced the US Action against Sino-Forest, Banc of America, Credit Suisse (USA), and other defendants in the New York Supreme Court. The US Action was transferred from the New York state court to the federal District Court for the Southern District of New York in March 2012. By way of Order of the United States District Court Southern District of New York dated January 4, 2013, David Leopard, IMF Finance SA and Myong Hyoon Yoo were appointed as the lead plaintiffs and Cohen Milstein as lead counsel to represent the interests of the proposed class.
21. In Ontario, there were also two other proposed class proceedings commenced relating to Sino-Forest: *Smith et al. v. Sino-Forest Corporation et al.*, commenced on June 8, 2011, and *Northwest & Ethical Investments L.P. et al. v. Sino-Forest Corporation et al.*, commenced on September 26, 2011. *Smith et al. v. Sino-Forest Corporation et al.* did not make any claims against Credit Suisse Securities (USA) LLC or Merrill Lynch, Pierce, Fenner & Smith Incorporated (successor by merger to Banc of America Securities LLC), the two primary Initial Note Purchasers.

22. In December 2011, there was a motion to determine which of the three actions in Ontario should be permitted to proceed and which should be stayed. By order dated January 6, 2012, the Honourable Justice Perell granted carriage to the Ontario Plaintiffs.

23. In February 2015, the Class Plaintiffs filed the Second Fresh as Amended Statement of Claim. The Second Fresh as Amended Statement of Claim was served on the Dealers in May 2013, and the Ontario Plaintiffs subsequently brought a motion for leave to file the amended pleading. The Second Fresh as Amended Statement of Claim included amendments containing additional claims and allegations against the Initial Note Purchasers, including breaches of US federal law and New York State common law, and allegations that the purported private Note Offerings were public offerings. In addition, Davis New York Venture Fund, Inc. and Davis Selected Advisers L.P. were added as proposed representative plaintiffs. These two proposed representative plaintiffs were added in order to bolster the claim against the Initial Note Purchasers because they purchased Sino-Forest notes in the primary market. Attached and marked as **Exhibit "B"** is a copy of the Second Fresh as Amended Statement of Claim.

**E. PLAINTIFFS' MOTIONS FOR CERTIFICATION AND LEAVE**

24. In March and April 2012, the Class Plaintiffs brought (a) a motion for certification of the Ontario Action as a class action under the CPA; and (b) a motion for leave to proceed with statutory claims under Part XXIII.1 of the *OSA*. The Class Plaintiffs filed voluminous motion records in support of their motions, comprising evidence from their investigations and expert reports. The motion records included:

- (a) an affidavit of Steven Chandler, a senior law enforcement official from Hong Kong who was involved in investigating Sino in China;

- (b) 6 affidavits of Alan Mak, an expert in forensic accounting;
- (c) an affidavit of Dennis Deng, a lawyer qualified to practice in the People's Republic of China, and a partner in the Dacheng law firm;
- (d) an affidavit of Carol-Ann Tjon-Pian-Gi, a lawyer qualified to practice in the Republic of Suriname;
- (e) 4 affidavits of Adam Pritchard, an expert in US securities law; and
- (f) 3 affidavits of Patrick Borchers, an expert in New York State law.

25. A settlement in principle was reached between the Ontario Plaintiffs and the Dealers shortly before the hearing of the motions for certification and leave. The certification and leave motions were heard on January 15, 2015. Certification was adjourned as against the Dealers. Leave and certification were granted by Justice Perell as against the remaining defendants.

#### **F. SINO-FOREST'S INSOLVENCY**

26. On March 30, 2012, Sino-Forest commenced the CCAA Proceedings and obtained an order for an interim stay of proceedings against the company, its subsidiaries, and its directors and officers. Pursuant to an order on May 8, 2012, the stay of proceedings was extended to all other defendants in the action, including the Dealers.

27. From the outset, it was apparent to counsel to the Ontario Plaintiffs that the CCAA Proceedings presented a material risk to the Ontario Plaintiffs; namely, that in order to effect a restructuring that generated as much value as possible for Sino-Forest's creditors, there could be a plan of arrangement that had the effect of imposing an unfavourable settlement on the Ontario Plaintiffs or releases for third parties, including the Dealers.

28. Consequently, Class Counsel immediately entered into negotiations with other stakeholders in the CCAA Proceedings, and took a number of steps to vigorously represent the

interests of the purchasers of Sino-Forest's securities. The following were among Class Counsel's main objectives:

- (a) reserving the Ontario Plaintiffs' rights to object to various features of the CCAA Proceedings, so as to generate and/or preserve momentum for the Ontario Plaintiffs' claims and positions;
- (b) ensuring that a Claims Process was established that identified the universe of stakeholders having an interest in the CCAA Proceedings while ensuring the recognition of the totality of the representative claim advanced by the Ontario Plaintiffs;
- (c) establishing a process for the mediation in the CCAA Proceeding through which the positions of the various stakeholders would be defined; and
- (d) obtaining access to information that would permit Class Counsel to make informed recommendations to the Ontario Plaintiffs and the court in connection with the terms of any Plan.

29. To further these objectives, Class Counsel took a number of steps in the CCAA Proceedings. Attached hereto as **Exhibit "C"** is a list of steps taken by Class Counsel, including bringing and appearing in response to twenty-five (25) motions, engaging in extensive and protracted negotiations with respect to the terms of the Plan of Reorganization, obtaining the right to file a representative claim so as to protect the interests of the putative Class, obtaining a data room of confidential non-public documents from Sino-Forest, and engaging in multiple formal and informal, group and individual mediation and negotiation sessions with other stakeholders regarding the Class Members' claims. As a result of the Ontario Plaintiffs' efforts, their claims against the Dealers emerged from Sino-Forest's CCAA proceedings relatively unscathed.

30. As part of the negotiation of the Plan, the Dealers compromised rights of indemnification against subsidiaries of Sino-Forest - entities outside the CCAA proceeding - in exchange for (a) a release of claims in respect of the Litigation Trust; and (b) a cap on noteholder-related damages

of \$150 million. Obtaining these protections were essential aspects of the Dealers non-opposition to the CCAA Plan.

#### **G. SETTLEMENT WITH PÖYRY (BEIJING)**

31. The Ontario Plaintiffs engaged in settlement discussions with Pöyry (Beijing) Consulting Company Limited ("Pöyry (Beijing)"), a defendant in these proceedings, starting in January 2012. Following arm's-length negotiations, the Ontario Plaintiffs entered into a settlement with Pöyry (Beijing) in March 2012. On September 25, 2012, the Ontario Action was certified as a class proceeding as against Pöyry (Beijing) for the purposes of settlement and the settlement was approved between the class and Pöyry (Beijing).

#### **H. COURT-ORDERED MEDIATION**

32. On July 25, 2012, this Court ordered the various constituencies in the CCAA Proceedings to attend a mediation. On September 4 and 5, 2012, the Ontario Plaintiffs attended an all-parties mediation, which included the Dealers. The mediation was conducted with the assistance of the Honourable Justice Newbould, acting as mediator. Extensive mediation briefs were filed by all parties. The mediation did not result in a settlement with any of the parties, including Dealers, at that time.

#### **I. SETTLEMENT WITH ERNST & YOUNG**

33. In November 2012, the Ontario Plaintiffs engaged in a further mediation with Ernst & Young, which resulted in the Ernst & Young Settlement and the Ernst & Young Release (all as defined in the Plan). Pursuant to the Ernst & Young Settlement, Ernst & Young was required to pay \$117 million. The Ernst & Young Settlement was conditional upon obtaining orders in the

CCAA proceedings and in the United States Bankruptcy Court resolving all claims against Ernst & Young in relation to Sino.

34. The framework of the Ernst & Young Settlement is contained at Article 11.1 of the Plan and was the template for a similar framework for Named Third Party Defendants contained at Article 11.2 of the Plan (discussed below).

35. Pursuant to a motion brought by the Ontario Plaintiffs, the Ernst & Young Settlement was approved by this Court on March 20, 2013. The Ontario Plaintiffs then brought a motion for approval of the method of distribution of the Ernst & Young Settlement funds and a claims filing procedure. The motion was granted on December 27, 2013.

36. In connection with both of these hearings, extensive notice was given of these proceedings. To date, over 47,000 claims have been filed in connection with the Ernst & Young Settlement.

#### **J. SETTLEMENT WITH DAVID HORSLEY**

37. In July 2014, the Ontario Superior Court approved a settlement between David Horsley, Sino-Forest's former CEO, the Ontario Plaintiffs, and the Litigation Trust (the "Horsley Settlement"). The Horsley Settlement also utilized the framework contained in Article 11.2 of the Plan. The Horsley Settlement provided for payment of \$4.2 million in respect of the claims advanced in the Class Actions.

#### **K. SETTLEMENT FRAMEWORK IN ARTICLE 11.2 OF THE PLAN**

38. Article 11.2 of the Plan provides the Ontario Plaintiffs with the ability to complete further settlements within the context of the CCAA proceedings, subject to further court approval. The

Dealers Settlement contemplates that the settlement will be effected through Article 11.2 of the Plan. Pursuant to the Plan, the Dealers are a Named Third Party Defendant under the Plan. In order to effect a Named Third Party Defendant Settlement through Article 11.2 of the Plan, the settlement must be approved by the court and the court must issue a Named Third Party Defendant Settlement Order. The proposed draft Settlement Order, appended as Schedule "A" to the Minutes of Settlement, is such an order.

#### **L. SETTLEMENT WITH THE DEALERS**

39. The negotiations leading to the Dealers Settlement were conducted on an adversarial, arm's-length basis. Following the failed court-ordered mediation in September 2012, Class Counsel continued settlement discussions with counsel to the Dealers:

- (a) the Dealers and Class Counsel engaged in ongoing settlement discussions and exchanged settlement offers in September 2012 and October 2012;
- (b) the parties appeared before Justice Stephen Goudge on August 26, 2014 for a full-day mediation, and both sides provided extensive mediation briefs; and
- (c) the parties again appeared before Justice Goudge on November 10, 2014 for a full-day mediation.

40. After extensive negotiation, an agreement in principle was reached on November 10, 2014. The key terms of the Dealers Settlement are as follows:

- (a) the Dealers have paid CDN\$32.5 million (less \$250,000 allocated to notice costs) into an interest bearing trust account with a Canadian Schedule 1 bank in Ontario to be administered in accordance with orders of the court;
- (b) the Dealers Settlement is conditional on, among other things, no part of the \$32.5 million settlement fund being allocated to the Litigation Trustee, and the issuance of the Settlement Order and the US Recognition Order;
- (c) the Dealers Settlement will become effective ("Effective Date") when:

- (i) 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
  - (ii) the US Recognition Order has been obtained and either (i) all appeal rights have expired; or (ii) the applicable final appellate court has upheld the US Recognition Order;
- (d) the Class Settlement Fund will be paid into the Settlement Trust within fifteen (15) days following the Effective Date. Upon payment of the Class Settlement Fund, the Ontario Action and the Québec Action will be dismissed against the Dealers, and the representative plaintiffs in the US Action shall cause the US Action to be dismissed against the Dealers;
- (e) after the close of pleadings in the Ontario Action, Credit Suisse, TD, Dundee, and Merrill will provide the Class Plaintiffs with non-privileged documents and information relevant to certified common issues relating to BDO Limited and agree to preserve relevant non-privileged documents relating to BDO Limited until the conclusion of the action;
- (f) following the Effective Date,
  - (i) no further proceedings shall be commenced by anyone against the Dealers in respect of any Causes of Action (as defined in the Plan), other than as necessary to complete the Dealers Settlement;
  - (ii) The plaintiffs in the Ontario Action, Québec Action, and US Action agree not to claim from the non-settling defendants in any of the actions that portion of damages that corresponds to the proportionate share of liability of the Dealers; and
  - (iii) the plaintiffs in the Ontario Action, Québec Action, and US Action and their counsel agree not to cooperate with any other party in advancing claims against the Dealers. However, such plaintiffs reserve all rights with respect to the prosecution of the claims remaining against the non-settling defendants.

## **M. THE ONTARIO PLAINTIFFS SUPPORT THE SETTLEMENT**

### **41. The Ontario Plaintiffs are:**

- (a) the trustees of the Labourers' Pension Fund of Central and Eastern Canada ("Labourers Fund"). The Labourers Fund is a multi-employer pension plan providing benefits for employees working in the construction industry. The trustees of the Labourers Fund manage more than \$2.5 billion of assets. During the period from March 19, 2007 to June 2, 2011 the Labourers Fund purchased Sino-Forest common shares. Most of those shares were purchased in the secondary market over the TSX. The Labourers Fund also purchased Sino-Forest

common shares pursuant to a prospectus that Sino-Forest issued. As at the day before the issuance of the Muddy Waters report, the Labourers Fund held a total of approximately 128,700 Sino-Forest shares.

- (b) the trustees of the International Union of Operating Engineers ("OE Fund"). The OE Fund is a multi-employer pension plan providing pension benefits for operating engineers in Ontario. The trustees of the OE Fund manage approximately \$1.5 billion of assets. During the period from March 19, 2007 to June 2, 2011, the OE Fund purchased Sino-Forest common shares over the TSX and held approximately 324,100 such shares at the day before the issuance of the Muddy Waters report.
- (c) Sjunde AP-Fonden ("AP7"), the Swedish National Pension Fund. AP7 manages billions of dollars in assets. During the period from March 19, 2007 to June 2, 2011, AP7 purchased common shares over the TSX and held 139,398 shares as at the day before the issuance of the Muddy Waters report;
- (d) David Grant is an individual resident in Calgary, Alberta. During the period from March 19, 2007 to June 2, 2011, he purchased 100 of the Sino-Forest 6.25% Guaranteed Senior Notes due 2017 pursuant to an offering memorandum. Mr. Grant continued to hold these notes as at the day before the issuance of the Muddy Waters report;
- (e) Robert Wong is an individual residing in Kincardine, Ontario. Mr. Wong purchased hundreds of thousands Sino-Forest shares from 2002 (when he first became a Sino shareholder) through June 2011. During the period from March 19, 2007 to June 2, 2011, he purchased Sino-Forest common shares in the secondary market over the TSX and 30,000 shares pursuant to a prospectus that Sino issued. Mr. Wong continued to hold 508,700 Sino common shares at the day before the issuance of the Muddy Waters report;
- (f) Davis Selected Advisers, L.P. is an asset management firm. Davis New York Venture Fund, Inc. is a fund managed by Davis Selected Advisers L.P. (together with Davis Selected Advisers, L.P., "Davis") Davis was the second-largest shareholder of Sino-Forest, holding approximately 12.6% of Sino's outstanding common shares prior to the issuance of the Muddy Waters report.

42. Collectively, the Ontario Plaintiffs owned in excess of 22.7 million common shares at the day before the issuance of the Muddy Waters report, and those shares had a market value immediately prior to the issuance of the Muddy Waters report of over \$413 million. The Ontario Plaintiffs also owed Sino-Forest notes that had a market value immediately prior to the issuance of the Muddy Waters report of over \$31.1 million.

43. I am advised by Jonathan Ptak of Koskie Minsky that the trustees of the Labourers Fund and the OE Fund support the Dealers Settlement and have instructed Class Counsel to seek approval of it. I am advised by Daniel Bach and Serge Kalloghlian of Siskinds LLP that Robert Wong, David Grant, AP7, and Davis also support the settlement and have instructed Class Counsel to seek approval of it.

**N. FACTORS CONSIDERED IN ASSESSING THE FAIRNESS AND REASONABLENESS OF THE SETTLEMENT**

**(i) Experience of Class Counsel**

44. Siskinds LLP and Koskie Minsky LLP both have extensive experience litigating and resolving complex class action litigation similar to this case. In addition, Kessler Topaz Meltzer and Check LLP, counsel to AP7, are one of the leading US class action firms with particular expertise in securities class actions.

45. Siskinds has been lead or co-lead counsel to the plaintiffs in well over 100 class proceedings and has successfully resolved over 60 such proceedings, in areas such as securities, competition (price-fixing), product liability (particularly with respect to pharmaceuticals and medical products), the environment and consumer claims. To the date of this affidavit, Siskinds has had approximately 20 securities class actions and 2 derivative proceeding settlements approved by courts.

46. Koskie Minsky has prosecuted class actions at all levels of court in Ontario as well as before the Supreme Court of Canada, and has been responsible for shaping class actions law through leading cases including *Cloud v The Attorney General of Canada*, *Pearson v Inco Ltd*, *Caputo v Imperial Tobacco*, and *Markson v MBNA Canada Bank*. Koskie Minsky has prosecuted

actions for securities fraud, pension fund and investment claims, intellectual property violations, environmental damage and residential school abuse, among others.

47. Koskie Minsky has acted for shareholders in securities class actions, including *Lawrence v Atlas Cold Storage Holdings Inc*, *Toevs v Yorkton*, *Frohlinger v Nortel Networks Corp*, *Millwright Regional Council of Ontario Pension Trust Fund (Trustees of) v. Celestica Inc*, *Bayens v. Kinross Gold Corporation*, and *Coffin v Atlantic Power Corporation*.

48. Paliare Roland has appeared as counsel in many CCAA restructuring proceedings, and has acted for a variety of stakeholders in those proceedings, including stakeholders acting in representative capacities. Past engagements include, among others, advising and appearing on behalf of a number of institutional and other investors including various dissident noteholders in connection with the restructuring of Canada's non-bank asset backed commercial paper market, advising and appearing on behalf of the Superintendent of Financial Services in his capacity as administrator of Ontario's Pension Benefits Guarantee Fund in connection with the restructuring of Nortel Networks Corporation and its global subsidiaries, advising and appearing on behalf of the United Steelworkers in connection with the Stelco restructuring, as well as in connection with the restructuring of a variety of other steel mills, pulp mills, and manufacturing facilities across Ontario, and advising and appearing on behalf of the Air Line Pilots Association in connection with the restructuring of Air Canada. Paliare Roland also appeared as counsel to the committee of non-unionized Québec employees in the restructuring of Fraser Papers, as counsel to a committee of former employees in the Cinram restructuring, and, most recently, as class counsel in the CCAA proceedings relating to the Lac Megantic train derailment.

49. As a result of Class Counsel's involvement in other cases, we have gained considerable experience in the settlement mechanics and imperatives, damages methodologies, and risks associated with this type of litigation.

50. Class Counsel recommend the approval of the Dealers Settlement. In our view, its terms, including the consideration available to securities claimants, are fair and reasonable in the circumstances. The Dealers Settlement will deliver an immediate benefit to securities claimants on claims that faced risks. I explain below our rationale for recommending to the Ontario Plaintiffs, and to this Court, the compromise of the claims advanced against the Dealers in this action.

**(ii) Information Supporting Settlement**

51. In assessing our clients' position and the proposed settlement, we had access to and considered the following sources of information:

- (a) all of Sino-Forest's public disclosure documents and other publicly available information with respect to Sino-Forest, including:
  - (i) Sino-Forest's prospectuses;
  - (ii) Sino-Forest's offering memoranda;
- (b) the available trading data for Sino-Forest's securities, including significant production by the Dealers of the location of primary market purchasers of Sino-Forest's securities;
- (c) non-public documents uploaded by Sino-Forest into the data-room established in the CCAA Proceedings for purposes of the global mediation, which included the documents listed at Schedule "A" to the July 30, 2012 Order of Justice Morawetz, which is marked and attached hereto as **Exhibit "D"**;
- (d) the responsive insurance policies of TD, Dundee, RBC and Merrill Lynch, Pierce, Fenner & Smith Incorporated (successor by merger to Banc of America Securities LLC);

- (e) the input and opinions of our insolvency law experts and insurance coverage experts;
- (f) the input and opinion of Frank C. Torchio, the President of Forensic Economics, Inc., who has consulted or given independent damage opinions in securities fraud lawsuits for over 20 years.
- (g) the input of an expert in the obligations and duties of underwriters;
- (h) the input of Professor Adam C. Pritchard, an expert in U.S. Federal securities law;
- (i) the input of Professor Patrick Borchers, an expert in New York State law;
- (j) the mediation briefs provided by the parties, including the Dealers, at the global mediation in September, 2012 and in the mediation in September 2014;
- (k) input from experienced U.S. securities counsel, Kessler Topaz Meltzer & Check, LLP; and
- (l) input from experienced U.S. securities counsel Cohen Milstein, U.S. Plaintiffs' Counsel.

52. In our view, Class Counsel had more than adequate information available from which to make an appropriate recommendation concerning the resolution of the claims as against the Dealers.

**(iii) Claims advanced against the Dealers**

53. The Ontario Action advances claims against all of the Dealers and covers all of the Offerings. The Ontario Action is advanced on behalf of the following class defined as:

- (a) all persons and entities, wherever they may reside, who acquired Sino's Securities during the Class Period 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: those persons resident or domiciled in the Province of Québec at the time they acquired Sino's Securities, and who are not precluded from participating in a class action by virtue of Article 999 of the *Québec Code of Civil Procedure*, RSQ, c C-25, and except the Excluded Persons; and

- (b) all persons and entities, wherever they may reside, who acquired Sino's Securities during the Class Period by distribution in Canada in an Offering, or are resident of Canada or were resident of Canada at the time of acquisition and acquired Sino's Securities by offering outside of Canada, except the Excluded Persons.

54. The Ontario Action asserts the following claims against the Dealers:

***Claims against Share Underwriters***

- (a) s. 130 of the Ontario *Securities Act* for liability in a prospectus;
- (b) negligence; and
- (c) unjust enrichment.

***Claims against Initial Note Purchasers***

- (d) negligence;
- (e) New York State common law negligent misrepresentation;
- (f) breach of s. 12(a)(2) of the US Securities Act of 1933; and
- (g) unjust enrichment.

55. The US Action only advances claims against Banc of America and Credit Suisse (USA).

The US Action does not advance claims against the balance of the Dealers, including any of the Share Underwriters. The US Action is advanced on behalf of the following class defined as:

- (a) all persons or entities who, from March 19, 2007 through August 26, 2011 purchased the common stock of Sino-Forest on the Over-the-Counter market and who were damaged thereby; and
- (b) 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.

**(iv) Risks and Limitations to the Success of Claims against the Dealers**

56. It has always been Class Counsel's view that the primary market claims against the Dealers had merit. However, a number of factors in this case presented a significant risk to the ultimate success and recovery from the Dealers. These risks weighed in favour of settlement with the Dealers. It is Class Counsel's view that the Dealers Settlement is an excellent settlement and

is fair and reasonable and in the best interests of securities claimants. Class Counsel's assessment of the Dealers Settlement and our recommendation of it rest primarily on the following factors, in addition to the general risks of proceeding with complex litigation.

**(a) Only primary market purchasers have valid claims against the Dealers**

57. Although the claims asserted against all other defendants in the Class Actions are for primary and secondary market transactions, the valid claims against the Dealers are for primary market purchases only in respect of Sino-Forest's offerings by way of prospectus and offering memoranda. Claims are not asserted on behalf of secondary market purchasers of Sino-Forest's securities who did not purchase their securities from the Dealers.

**(b) Purchasers of securities on the primary market must hold their securities until the end of the class period**

58. The only security holders who have valid claims against the Dealers are those who acquired their securities in the primary market and held those notes until the end of the class period. Securities holders who purchased Sino-Forest securities on the primary market and sold their securities before the end of the class period did not suffer any damages since the artificial inflation remained in the price. As a result, the valid claims against the Dealers are further limited to class members with primary market claims who purchased Sino-Forest securities and held such securities until the end of the class period. The plaintiffs' damages expert Frank C. Torchio has opined that if liability is established with respect to all offerings, damages for such claims are as low as \$77.3 million for shares and US\$366 million for notes as against all of the Defendants (not just the Dealers). In addition, as discussed below, the Plan contains a \$150 million damages cap for note claims against the Initial Note Purchasers. Therefore, given the settlements already accomplished and the payments made thereunder, and the Pierrenger terms

of the other settlements (which include that the plaintiffs could only pursue the portion of the damages that reflect the remaining defendants' several liability), the damages which could be obtained from the Dealers could be far less than the total damages as calculated by Mr. Torchio.

**(c) Certain primary market claims may not be covered in any class action**

59. The Ontario Action advances primary market claims on behalf of all persons and entities who:

- (a) acquired securities during the class period by distribution in Canada;
- (b) are resident in Canada or were resident of Canada at the time of acquisition and acquired securities by offering outside of Canada;
- (c) acquired securities during the class period on the TSX or other secondary market in Canada; or
- (d) are resident in Canada or were resident of Canada at the time of acquisition and who acquired securities outside of Canada.

60. The class is defined by reference to individuals and entities, not by transactions. It has always been the position of Class Counsel that as long as an individual or entity falls within any one category of the Ontario Action class definition, all of the individual or entity's transactions would be subject to recovery in the Ontario Action, provided the claims can be proven. However, there is a risk that a court may interpret the class definition in the Ontario Action to exclude all individuals and entities residing outside of Canada that purchased Sino-Forest's securities on the primary market outside of Canada.

61. The Dealers have provided documentation that under 10% of the July 2008, December 2009 and October 2010 Note Offerings were sold in Canada. The Dealers have also provided documentation that under 50% of the June 2007, June 2009 and December 2009 Share Offerings

were sold in Canada. There is a risk that non-residents may not be captured by the Ontario Action class definition. Finally, the US Action class definition does not capture primary market share purchasers, and does not name as a defendant TD, who was an Initial Note Purchaser in the December 2009 Note Offering.

**(d) Liability limited by Ernst & Young, Pöyry (Beijing), and Horsley settlements:**

62. Pursuant to the Pöyry (Beijing), Ernst & Young and Horsley settlements, the remaining defendants in the Class Proceedings may not be liable for any of the proportionate liability of Pöyry (Beijing), Ernst & Young and Horsley, as may be found by a court at trial. It is likely that the Dealers would argue that they relied on Ernst & Young and Horsley, and Sino-Forest's senior management, who may be assigned a significant proportion of liability, thereby limiting any amount that could be collected from the Dealers at trial.

**(e) Unjust enrichment claims may face significant challenges**

63. The plaintiffs in the Ontario Action claim for unjust enrichment in respect of the fees earned by the Dealers pursuant to the primary market offerings. However, the Dealers have asserted that such fees were paid by Sino-Forest, and not by primary market purchasers. In addition, the Dealers have asserted that such fees were paid pursuant to a valid contract, which may be found to be a juridical reason for the alleged enrichment. As a result, there is risk associated with such claims.

64. The Ontario Action also claims for unjust enrichment in respect of the fees earned by the Dealers when such Dealers sold Sino-Forest securities to their clients on the secondary market. There is very significant risk associated with these claims. For example, the entities that sold securities to class members on the secondary market may have been separate corporate entities

from those that participated in the primary market offerings, and such entities may not be named defendants in the Ontario and US Actions. In addition, the securities were purchased from financial institutions pursuant to valid contracts of purchase and sale, which may constitute a juristic reason for the payment of fees associated with each purchase. The degree of risk associated with such claims against the Dealers on behalf of secondary market purchasers is so high that the proposed Claims and Distribution Protocol does not contemplate any distribution to secondary market purchasers from the Dealers Settlement Fund.

**(f) Some noteholders may have received consideration pursuant to Sino-Forest's restructuring**

65. The subset of noteholders who satisfy the criteria identified above for a primary market claim will likely include some who were noteholders when Sino-Forest's CCAA restructuring occurred. Pursuant to that restructuring, they may have been distributed some value for their notes. Whatever distribution was received by Sino-Forest's noteholders pursuant to the CCAA proceedings would further reduce any damages sustained by noteholders.

**(g) The CCAA Plan caps the value of note claims against the Initial Note Purchasers at \$150 million**

66. Pursuant to the Plan, the maximum liability of all note claims (both secondary and primary) is capped at \$150 million. The \$150 million cap was agreed to by the Ontario Plaintiffs as part of a negotiation whereby the Dealers did not oppose the Plan. A portion of that capped amount will likely be paid out of the Ernst & Young and Horsley settlement funds. Therefore, the potential recovery in respect of primary market claims may be even further reduced.

**(h) Only common law claims against Initial Note Purchasers**

67. The Ontario *Securities Act* does not contain any statutory claims against underwriters on behalf of primary market note purchasers. Only Canadian common law claims can be asserted on

behalf of noteholders against the Initial Note Purchasers. Such claims may pose significant challenges, including:

- (a) The court may have concluded that based on concerns over indeterminate liability or for other reasons, the Initial Note Purchasers did not owe a duty of care to Note purchasers.
- (b) The Note offering memoranda explicitly state that the Dealers made no representations concerning the quality of Sino-Forest's securities.
- (c) In order for the Canadian common law claims against the Initial Note Purchasers, each class member may be required to individually prove reliance or causation.

68. As a result, there was a risk that the common law note claims may not have been certified, and if certified, may not have been successful on the merits.

**(i) Challenges for US law claims**

69. The Ontario Action also asserts claims against the Initial Note Purchasers pursuant to the common law of New York State and US Federal law. Both of these claims would have faced significant challenges by the Initial Note Purchasers. In response to the US law claims asserted in the Ontario Action, the Dealers filed five (5) affidavits from Michael Chepiga, a retired senior partner of the New York law firm Simpson Thatcher & Bartlett, LLP. Mr. Chepiga opined that the Second Fresh as Amended Statement of Claim does not allege facts that establish the elements of the claim for breach of section 12(a)(2) of the *Securities Act* or negligent misrepresentation under New York law. Mr. Chepiga opined that a claim pursuant to section 12(a)(2) was only available in respect of a public offering of securities, and Sino-Forest's notes were distributed pursuant to private offerings. The Dealers also filed an affidavit from Edward Greene, Senior Counsel from Cleary Gottlieb Steen and Hamilton and the former Director of the Division of Corporation Finance of the US Securities and Exchange Commission. Mr. Greene

opined that the claim for section 12(a)(2) was not applicable to the facts alleged by the Second Fresh as Amended Statement of Claim.

70. The Ontario Plaintiffs relied on affidavits from Professor Adam C. Pritchard and Professor Patrick Borchers to support their claims pursuant to US law. Professor Pritchard opined that notwithstanding that a note offering memoranda may purport to distribute notes privately, the determination of whether an offering is public or private turns on whether the class of persons who purchase the securities are a class of persons that need the protections of the *Securities Act*, including their level of sophistication. In the circumstances, the Ontario Plaintiffs have pleaded that notwithstanding the purported characterization of Sino-Forest's note distributions as private, they were distributed to unsophisticated individuals such that they were rendered public offerings. Professor Borchers opined that the Ontario Plaintiffs' Statement of Claim disclosed the cause of action of negligent misrepresentation pursuant to New York State common law against the Initial Note Purchasers writers.

71. Although the Ontario Plaintiffs relied on affidavits from Professor Adam C. Pritchard and Professor Patrick Borchers to support their claims pursuant to US law, there was a risk that such claims would not be certified or successful at trial.

**(j) Challenges in establishing Dealers liability**

72. We had insight into the Underwriting process and due diligence as a result of documents and cooperation flowing from the Horsley settlement. It is likely that the Dealers would have asserted that they met the standard of care for the Share and Note Offerings. The Share Underwriters would likely have claimed that they had experience dealing with forestry issuers and Chinese issuers, and that they completed comprehensive due diligence for each prospectus

offering. The Dealers would likely have claimed that they hired and relied upon legal counsel for each offering, and relied upon forestry expertise and valuation reports prepared on behalf of Sino-Forest as well as the financial statements audited by Ernst & Young and BDO Limited. In addition, the Initial Note Purchasers would likely have argued that they had no due diligence obligation at all, given that they made explicit statements in the offering memoranda that they made no representations concerning the quality of Sino-Forest's securities. These due diligence defences added additional risk, particularly with respect to the Note claims where the Dealers made explicit statements that the Dealers made no representations concerning the quality of Sino-Forest's securities.

**(k) Alternative damages analyses would have been considered**

73. If entirely successful, the claims asserted against the Dealers could result in an award for significant damages. I have reviewed various expert reports by Mr. Torchio regarding damages in this action. Mr. Torchio is the president of Forensic Economics, Inc., and has consulted or given independent opinions on damages in securities fraud lawsuits for over 20 years. In this course of this litigation, Mr. Torchio provided his opinion that total estimated damages to primary market claimants, from all defendants, runs into the hundreds of millions of dollars.

74. We were guided by the advice of Mr. Torchio, but were also cognizant that it is common and expected for defendants to produce opinions that make different assumptions and put forth lower damages figures. Indeed, in the course of settlement discussions in this case, certain defendants insisted that far more conservative damages figures were appropriate.

75. It is also important to recognize that Mr. Torchio opines on total estimated damages from all defendants, and that damages attributable to the Dealers could only be a subset of this figure.

His opinions are based in large part on trading models and various assumptions, the results of which could vary from the actual trading patterns of securities claimants.

76. Moreover, the actual damages to be paid may only be for claims filed. For a variety of reasons, less than 100% of class members generally file claims. Although claims rates vary from case to case, it is almost never the case in a matter of this nature that all class members file claims. Therefore, actual payable damages could be some portion of Mr. Torchio's figures if the matter proceeded to trial and the defendants succeeded in establishing that damages should be based only on claims filed.

#### **O. CONCLUSION ON SETTLEMENT APPROVAL**

77. The \$32.5 million settlement represents a significant component of the total estimated damages associated with primary market share claimants (being \$77.3 million), which reflects the availability of statutory claims under the *Securities Act*, and thus, fewer challenges in respect of establishing these claims. Although claims on behalf of primary market noteholders are significantly discounted, these claims suffer from significantly greater risk. The quantum of the settlement also represents approximately 40% of the commissions received by the Dealers in respect of the offerings of Sino-Forest securities as estimated by the plaintiffs based on the plaintiffs' review of publically available material, a very significant percentage.

78. Finally, we believe the Dealers settlement is the largest underwriter settlement in Canadian history. It is worth noting that such settlements are rare. I am aware of only five (5) underwriter settlements in Canadian history:

- (a) *Zaniewicz v. Zungui Haixi Corporation*: \$750,000 from underwriters;

- (b) *McKenna v. Gammon Gold*: \$13.25 million from the issuer, officers and underwriters combined;
- (c) *Lawrence v. Atlas Cold Storage*: \$40 million from the issuer, accountant, officers and underwriters combined;
- (d) *Gould v. BMO*: \$3,750,000 from underwriters; and
- (e) *CC&L Dedicated Enterprise Fund (Trustee of) v. Fisherman*: \$85 million from issuer, officers, underwriters, and auditors.

79. In light of all the above considerations, it is Class Counsel's opinion that the Dealers Settlement is fair and reasonable to securities claimants. Class Counsel recommends that the Court approve the settlement.

**P. PROPOSED CLAIMS AND DISTRIBUTION PROTOCOL**

80. The proposed Claims and Distribution Protocol attached at **Exhibit "E"** creates a claims-based process for securities claimants to seek compensation from the Dealers Settlement fund. The proposed Claims and Distribution Protocol is designed to provide compensation based on the strength of each category of claims as against the Dealers. Therefore, a claim for purchases with fewer litigation challenges would receive more on a per dollar-of-loss basis than a claim for purchases with a greater litigation challenges.

81. Under the proposed Claims and Distribution Protocol, each claimant would file a claim with the details of their trading in Sino-Forest securities. Securities claimants who had previously participated in the Ernst & Young settlement will receive a notice of settlement with a prepopulated data set requiring their consent to participate in the Dealers Settlement. The claims administrator would use this information to first determine the different categories of purchases made and then, for each category, determine the claimant's losses.

82. Only claims on behalf of individuals who purchased notes and shares in the following offerings and held such notes and shares until June 2, 2011 are eligible for compensation pursuant from the Dealers Settlement Fund:

- (a) distribution of common shares pursuant to the Final Short-Form Prospectus dated June 5, 2007;
- (b) distribution of common shares pursuant to the Final Short-Form Prospectus dated June 1, 2009;
- (c) distribution of common shares pursuant to the Final Short-Form Prospectus dated December 10, 2009;
- (d) distribution of the 5.00% Convertible Senior Notes due 2013 (the "2013 Notes") pursuant to the Offering Memorandum dated July 17, 2008;
- (e) distribution of the 10.25% Guaranteed Senior Notes due 2014 (the "2014 Notes") pursuant to the Exchange Offer Memorandum dated June 24, 2009;
- (f) distribution of the 4.25% Convertible Senior Notes due 2016 (the "2016" Notes") pursuant to the Offering Memorandum dated December 10, 2009; and
- (g) Distribution of the 6.25% Guaranteed Senior Notes due 2017 (the "2017 Notes") pursuant to the Offering Memorandum dated October 14, 2010.

(the "Securities Claimants")

83. Any amounts remaining after the initial distribution to Securities Claimants would be held in trust for the purposes of future disbursements in the Ontario, Quebec or US Class Actions. If there are further monetary settlements, further distributions to Securities Claimants would be determined by motion.

**Q. CALCULATION OF LOSSES<sup>1</sup>**

84. In order to distribute the funds fairly, the losses of individual Claimants must be determined. Experts in securities cases employ various techniques to measure damages suffered by individual Claimants. In this litigation, Class Counsel retained Frank Torchio of Forensic Economics. Mr. Torchio is an economist and has advised plaintiffs and defendants in financial valuations, financial-economic analysis and analysis of the response of stock prices to public information in securities fraud lawsuits for over 20 years. Mr. Torchio has testified in trials, arbitrations and out of court examinations in U.S. and Canadian securities litigation matters.

85. In developing the Ernst & Young Claims and Distribution Protocol, we received advice from Mr. Torchio, including how to determine which shares are deemed sold when securities are sold in a given period and the use of netting, whereby losses are offset by profits of sales of securities during the period when such securities were inflated. Such information is equally applicable with respect to claims made to the Dealers Settlement Fund.

86. Class Counsel believe that the methods to be employed under the Claims and Distribution Protocol are fair, well-recognized methods.

87. To determine the Claimant's losses, the adjusted cost base ("ACB") of the Claimant's securities must first be determined. This is done by applying the "first-in-first-out" methodology ("FIFO") to the securities on a per-security, per account basis.

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<sup>1</sup> The Dealers have no knowledge of, involvement in and take no position regarding the allocation of settlement funds paid by the Dealers.

88. The securities will then be divided into the different categories set out at paragraph 9 of the Claims and Distribution Protocol (and discussed in the section below). For each category of securities held by a Claimant, the losses for those purchases are calculated as follows:

<b>Time of Sale of Securities<sup>2</sup></b>	<b>Damages</b>
Sold before June 2, 2011	No damages
Sold from June 3 to August 25, 2011	(#of Securities sold) X (ACB - Sale Price)
Sold or held after August 25, 2011	
<i>Shares</i>	(#of shares sold or held) X (ACB per share - CAD\$1.40)
<i>2013 Notes</i>	(#of notes sold or held) X (ACB per note - USD\$283)
<i>2014 Notes</i>	(#of notes sold or held) X (ACB per note - USD\$276.20)
<i>2016 Notes</i>	(#of notes sold or held) X (ACB per note - USD\$283)
<i>2017 Notes</i>	(#of notes sold or held) X (ACB per note - USD\$289.80)

89. For securities sold or held after August 25, 2011, the loss per security is calculated by subtracting the holding price of the securities as of August 26, 2011 (as estimated by Forensic Economics) from the ACB of the security.

90. If a Claimant sold Sino-Forest securities before June 2, 2011, that claimant may have inadvertently profited from the alleged misconduct at Sino-Forest. In order to remove the impact of these sales, profits attributable to the artificial inflation of such securities (to be determined by Forensic Economics in consultation with Class Counsel) will be offset by subtracting them from the Claimant's losses.

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<sup>2</sup> For the purposes of these calculations, in respect of the Notes, each US\$1,000 principal amount of the Notes shall be deemed 1 (one) note.

**R. PRIMA FACIE DIVISION BETWEEN SHARES AND NOTES**

91. As a result of the greater risk associated with the primary market note claims as compared to primary market share claims, Class Counsel believes that it is fair and reasonable to allocate the Dealers Settlement Fund in the manner contemplated in the following proportions:

- (a) 69.23% of the aggregate amount available for distribution in the Dealers Settlement Fund shall be allocated to claims made in respect of purchases of shares; and
- (b) 30.769% of the aggregate amount available for distribution in the Dealers Settlement Fund shall be allocated to claims made in respect of purchases of the notes.

92. Some of the risks considered were the following:

- (a) unlike the claims of persons who purchased Sino-Forest shares under a prospectus, there is no statutory claim in Ontario against an underwriter for purchases of securities by offering memoranda, and these claims are therefore dependent on Ontario common law claims or claims under U.S. law;<sup>3</sup>
- (b) there is a risk that a significant proportion of primary market note claims may be found to be excluded from the Ontario Action, the Quebec Action, and the US Action class definitions;
- (c) some primary market note claimants likely received a distribution pursuant to Sino-Forest's insolvency;
- (d) the Plan capped all Note claims (primary and secondary market) at \$150 million whereas there is no such cap for Share claims; and
- (e) the Dealers made explicit statements in the offering memoranda that they made no representations concerning the quality of Sino-Forest's securities.

**S. RISK ADJUSTMENT FACTORS**

93. There are 6 categories of securities purchases in the Claims and Distribution Protocol:

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<sup>3</sup> Section 130.1 of the *Securities Act* provides a statutory claim against Sino-Forest only.

***Primary Market Share Claimant Categories:***

- (a) primary market share purchases (pursuant to a prospectus) in June 2009 and December 2009;
- (b) primary market share purchases (pursuant to a prospectus) in June 2007;

***Primary Market Note Claimant Categories:***

- (c) Canadian primary market note purchases (pursuant to an offering memorandum) for the 2013, 2014, 2016 and 2017 notes;
- (d) non-Canadian primary market note purchases (pursuant to an offering memorandum) for the 2017 notes;
- (e) non-Canadian primary market note purchases (pursuant to an offering memorandum) for the 2013, 2014, and 2016 notes if CCAA claim was filed; and
- (f) non-Canadian primary market note purchases (pursuant to an offering memorandum) for the 2013, 2014, and 2016 notes if no CCAA claim was filed.

***1. Primary market share purchases (June 2009 and December 2009 offering)***

94. Claims for purchases of shares in the June 2009 and December 2009 prospectus offering have a risk factor of 1.0, which means that no discount is being applied to those claims relative to other primary market share claims. The absence of a discount reflects that among the primary market share claims, these claims face the fewest challenges and are the strongest share claims against the Dealers. In particular, claimants who purchased in these two offerings have a claim under section 130 of the *Securities Act* and therefore would have succeeded on their claims if they had established that there was a misrepresentation in the relevant part of the prospectus at issue, and that the Dealers did not act diligently in connection with the offering. There were no liability limits for these claims, no leave requirement, no limitation period issues and no requirement to establish a duty of care or reliance.

2. *Primary market share purchases (June 2007 offering)*

95. Claims for purchases of shares in the June 2007 prospectus offering have a risk factor of 0.30. This discount reflects the absence of a statutory claim for purchasers of shares in the June 2007 offering. Section 138 of the *Securities Act* states that statutory claims for prospectus offerings may not be commenced after the earlier of 180 days after the plaintiff first had knowledge of the facts giving rise to the cause of action, or three years after the date of the transaction giving rise to the cause of action. In this case, the applicable limitation period would be three years after the date of the transaction giving rise to the cause of action, which would have been in 2010, a year before this action was commenced.

96. The only claims asserted on behalf of primary market purchases in June 2007 offering are common law claims for negligence and unjust enrichment. The negligence and unjust enrichment claims against the Share Underwriters would have faced additional challenges as compared to the statutory claims. For example, the common law negligence claims require proof of causation, which could be difficult for each Class Member to prove, and some courts have refused to certify common law claims for securities class actions. With respect to the claim for unjust enrichment, the Share Underwriters may assert that any fees paid to them were paid by Sino-Forest, and not by primary market share purchasers. In addition, the Dealers may assert that such fees were paid pursuant to a contract, which may be found to be a juridical reason for the alleged enrichment. As a result, there is additional risk associated with such claims.

**3. Canadian primary market note purchases (2013, 2014, 2016 and 2017 Notes)**

97. Claims for purchases by notes in the 2013, 2014, 2016 and 2017 Note Offerings by Canadians or in a distribution in Canada have a risk factor of 1.0, which means that no discount is being applied to those claims relative to other primary market Note claims.

98. The absence of a discount reflects that these Note claims face the fewest challenges and are the strongest claims against the Dealers among the Note claims. In particular, Canadians or purchasers of these Notes in a distribution in Canada squarely fit within the Ontario and Quebec Actions' class definitions, and a CCAA claim was filed for these claims.

**4. Non-Canadian primary market note purchases (2017 Notes)**

99. Claims for purchases by notes in the 2017 Note Offering by non-Canadians and individuals or entities who purchased in a distribution outside of Canada have a risk factor of 1.0. These claims are covered in the class definition in the US Action, and a CCAA claim was filed for these claims.

**5. Non-Canadian primary market note purchases (2013, 2014, and 2016 Notes) if CCAA claim filed**

100. Claims for purchases by notes in the 2013, 2014, 2016 Note Offerings by non-Canadians and individuals or entities who purchased in a distribution outside of Canada have a risk factor of 0.50. This risk factor reflects the risk that these claimants may not be included in the Ontario, Quebec or US Class Actions class definitions.

**6. *Non-Canadian primary market note purchases (2013, 2014, and 2016 Notes) if no CCAA claim filed***

101. Claims for purchases by notes in the 2013, 2014, and 2016 Note Offerings by non-Canadians and individuals or entities who purchased in a distribution outside of Canada have a risk factor of 0.01. These claims may be found to be outside of the Ontario, Quebec or US Class Actions class definitions, and a claimant may face the claims bar unless there was an individual CCAA proof of claim filed. These claims are assigned a risk adjustment factor of 0.01.

**T. SUPPORT OF THE CLAIMS AND DISTRIBUTION PROTOCOL**

102. I am advised by Jonathan Ptak of Koskie Minsky that the trustees of the Labourers Fund and the OE Fund support the Dealers Settlement and have instructed Class Counsel to seek approval of the Claims and Distribution Protocol.

103. I am advised by Daniel Bach and Serge Kalloghlian of Siskinds LLP that David Grant, AP7 and Davis support the proposed Claims and Distribution Protocol and have instructed Class Counsel to seek approval of it. Robert Wong has indicated that he has the following objection to the proposed Claims and Distribution Protocol: "With respect to claims in the underwriter settlement, the Administrator should not have the discretion to accept late claims. Instead, Court approval should be required."

**U. SCOPE OF CLAIMS PROCESS**

104. The claims administrator will review claims pursuant to the above protocol and determine a claimant's share of the net settlement fund. Claims assessed at less than \$5 will not be paid out as it will likely cost more than \$5 to process and pay such claims.

## V. ADMINISTRATION PROPOSAL

105. Class Counsel proposes to appoint NPT RicePoint ("NPT") as the Administrator of the Settlement Trust. NPT provides notice and administrative services for class actions and was appointed the administrator of the Ernst & Young Settlement Trust by Court order. For the purposes of this settlement and providing the Notice to US investors, NPT has affiliated with Gilardi & Co., an experienced notice and administrative services firm in the US, to provide Notice to those Securities Claimants who are US investors as described above.

106. NPT is a privately held Canadian firm affiliated with NPT LLP, one of the largest independent Chartered Accountants firms in Southwestern Ontario with over 60 full time employees. NPT has administered or been appointed claims administrator on over 25 class action settlements and distributed over 100 million dollars over the past nine years. I am advised by David Weir, president of NPT, and believe that NPT has acted or is acting as claims administrator in the following securities class actions:

- (a) *Zaniewicz v Zungui Haixi Corp et al*: Settlement Fund: CAD \$10,850,000;
- (b) *Sorensen v easyhome Ltd et al*: Settlement Fund: CAD \$2,250,000;
- (c) *McKenna v Gammon Gold Inc. et al*: Settlement Fund: CAD \$13,250,000;
- (d) *Dobbie v Arctic Glacier Income Fund et al*: Settlement Fund: CAD \$13,750,000;
- (e) *Nor-Dor Developments Limited v Redline Communications Group Inc et al*: Settlement Fund: CAD \$3,600,000;
- (f) *Devlin v Canadian Superior Energy Inc. et al*: Settlement Fund: CAD \$5,200,000;
- (g) *Metzler v Gildan Activewear Inc. et al*: Settlement Fund: CAD \$22,500,000;
- (h) *O'Neil v SunOpta et al*: Settlement Fund: CAD \$11,250,000;
- (i) *Wheeler v China National Petroleum Corp. et al*: Settlement Fund: CAD \$9,900,000;

- (j) *McCann v CP Ships et al: Settlement Fund: CAD \$12,800,000; and*
- (k) *Marcontonio & Audette v TV Pacific Inc.: Settlement Fund: CAD \$2,100,000.*

107. NPT has provided Class Counsel with an administration proposal, attached hereto as **Exhibit "F"**. The proposal provides for payment to NPT of:

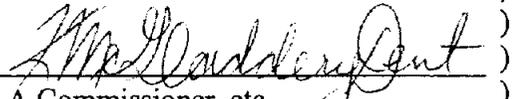
- (a) a setup fee of \$32,350;
- (b) existing claimants:
  - (i) payment of \$6.50 per claim in respect of non-disputed claims;
  - (ii) payment of \$25 per claim in respect of disputed claims;
- (c) new claimants: payment of \$23 per claim; and
- (d) any additional case specific disbursements, including printing, postage, and bank fees. plus applicable taxes.

108. We believe that the proposed fees are:

- (a) proportionate to the size of the settlement;
- (b) competitive with market rates;
- (c) reflective of a realistic amount of time to be spent administering this settlement, and using the appropriate level of person at a reasonable hourly rate;
- (d) consistent with the fees for the administration of other class action settlements we have been involved in; and
- (e) consistent with the work required in the proposed administration program.

109. I believe that NPT has the requisite expertise and capability to effectively execute its duties as Administrator. I also believe that the fees are fair and reasonable in all the circumstances.

SWORN before me at the City of )  
Toronto, in the Province of Ontario, )  
this 13<sup>th</sup> day of April, 2015. )

  
A Commissioner, etc. )

  
\_\_\_\_\_  
Charles M. Wright

***THIS IS EXHIBIT "A" REFERRED TO IN THE  
AFFIDAVIT OF CHARLES M. WRIGHT  
SWORN BEFORE ME, THIS 13<sup>TH</sup> DAY OF APRIL, 2015***

---

***A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.***

**IN THE MATTER OF  
SINO-FOREST CORPORATION**

**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, ROBERT WONG, AND ANY OTHER PROPOSED REPRESENTATIVE PLAINTIFFS IN ONTARIO SUPERIOR COURT ACTION NO. CV-11-431153-00CP (the "Ontario Action"), GUINING LIU, DAVID LEAPARD, IMF FINANCE SA (the "US Action"),**

In their personal and representative capacities (the "Class Action Plaintiffs")

- and -

**CREDIT SUISSE SECURITIES (CANADA) INC., TD SECURITIES INC., DUNDEE SECURITIES LTD., 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.**

(the "Dealers", which term shall include all parent, affiliate and subsidiary corporations or business organizations in whatever form and all their predecessors and successor corporations or business organizations in whatever form)

**MINUTES OF SETTLEMENT**

**A. The Dealers Settlement**

1. These Minutes of Settlement represent the agreement between the Class Action Plaintiffs and the Dealers (the "Parties") reached on December 22, 2014 (the "Dealers Settlement"), to resolve in accordance with the terms more particularly set out herein any actions, causes of action, claims and/or demands, howsoever or whenever arising and in all jurisdictions (including Canada and the United States), made against the Dealers or which could have been made against the Dealers based upon, arising out of, in relation to, in connection with or in any way related to Sino-Forest Corporation ("Sino-Forest",

which term includes all affiliate and subsidiary corporations or business organizations in whatever form and all of their predecessor and successor corporations or business organizations in whatever form), whether or not captured by the "Class" or the "Class Period", as variously defined in the Action or in the other Class Actions (as defined in the Plan of Compromise and Reorganization of Sino-Forest dated December 3, 2012 under the *Companies' Creditors Arrangement Act* ("CCAA") (the "Plan")) (all, collectively, the "Claims") and all Causes of Action (as defined in the Plan) relating to Sino-Forest.

2. The Dealers make no admissions of liability and deny any liability in respect of the Claims and do not waive any defences available to them with respect to the Claims or otherwise.
3. Subject to the conditions herein, the terms of the Dealers Settlement are binding on the Parties.
4. 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 approval and implementation of the Notice Program and for the purpose of having the Dealers 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 for the purposes of approving the Notice Program in accordance with paragraph 7, these Minutes of Settlement shall cease to be confidential.

**B. Approval of the Dealers Settlement and Notice Program**

5. It is the agreement of the Parties that the Dealers 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.
6. Pursuant to the Plan, the Dealers Settlement is a Named Third Party Defendant Settlement under the Plan.
7. The Class Action Plaintiffs will bring motions to the Court and the United States Bankruptcy Court, supported by the Dealers, for orders approving a notice program

regarding the hearing to approve the Dealers 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;
  - (b) direct distribution of a notice by email (if email addresses were provided by individuals or entities) or by mail 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 or other Class Actions (as that term is defined in the Plan) and who have indicated on their claim form that they are making a claim in respect of Sino-Forest securities purchased on the primary market;
  - (c) the Office of the United States Trustee for Region 2; and
  - (d) direct mailing of a notice to all individuals and entities who purchased Sino-Forest securities in the primary market from the Dealers during the class period, with distribution list to be provided by the Dealers to class counsel and the administrator.
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 Dealers Settlement.
  9. The costs of the Notice Program, to a maximum of \$200,000, will be paid by the Dealers from the Class Settlement Fund within fifteen (15) days of the costs being incurred irrespective of whether the Dealers Settlement is approved by the Court. If the settlement is not approved, these costs will be non-refundable to the Dealers.
  10. Following the approval of the Notice Program, the Class Action Plaintiffs shall bring a motion to the Court seeking an order which in all material respects reflects the form attached hereto as Schedule "A" (the "Dealers Settlement Order"), which reflects the terms and agreement set out in these Minutes of Settlement. The releases and other provisions of the Dealers Settlement Order that are for the benefit of the Dealers shall be in a form satisfactory to counsel to the Dealers, acting reasonably. The Class Action Plaintiffs shall be free to file these Minutes of Settlement with the Court in support of the

motion for the approval of the Notice Program in accordance with paragraph 7, and the motion for settlement approval, as well as the related motion for approval of the Minutes of Settlement before the United States Bankruptcy Court.

11. The Dealers agree to take reasonable steps to ensure that the Litigation Trust supports the Class Action Plaintiffs' motion for approval of the Dealers Settlement, provided that the Dealers shall not pay anything more than CDN \$32,500,000 in respect of the settlement of the Claims.
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:
  - (a) obtaining any requirements necessary to constitute the Dealers Settlement as a Named Third Party Defendant Settlement and to obtain a Named Third Party Defendant Release in favour of the Dealers under the Plan;
  - (b) obtaining the consent of FTI Consulting Canada Inc., in its capacity as Court-appointed Monitor of Sino-Forest, to have the Dealers 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 the Dealers Settlement in the Dealers Settlement Order, including notification as required by the *Rules of Civil Procedure* and/or by the Notice Program.
13. Concurrently with the motion seeking the Dealers Settlement Order, in a joint hearing with the United States Bankruptcy Court a recognition order will be sought from the United States Bankruptcy Court granting recognition and enforcement of the Settlement Order in the United States which in all material respects reflects the terms set out in the form set out in Schedule "B" (the "U.S. Recognition Order").

**C. Implementation of the Dealers Settlement**

14. The Dealers Settlement will become effective (the "Effective Date") when:

- (a) the Dealers 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. The settlement amount of CDN \$32,500,000 shall be paid by the Dealers into an interest bearing trust account with a Canadian Schedule 1 bank in Ontario by no later than 21 days after the date of this agreement. In the event that the Dealers Settlement is not implemented for any reason (for example, because the conditions for implementation are not satisfied), then CDN \$32,500,000, together with accrued interest (the "Class Settlement Fund") shall be returned to the Dealers (inclusive of accrued interest).
16. The Class Settlement Fund shall be paid to the Class Action Plaintiffs by the Dealers as directed by counsel for the Class Action Plaintiffs 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.
17. Upon payment of the Class Settlement Fund to the Class Action Plaintiffs, the Action shall be dismissed as against the Dealers but without prejudice to the Class Action Plaintiffs' right to proceed with the Action or the other Class Actions (as defined in the Plan) against the non-settling Defendants in accordance with paragraph 19, below.
18. The Class Settlement Fund represents the full consideration, including monetary contribution or payment of any kind, to be paid by the Dealers in full, final and complete settlement of the Claims and all Causes of Action (as defined in the Plan) against the Dealers, 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 Dealers Settlement and any other monetary costs or amounts associated with the Dealers Settlement or otherwise.

- 19. No further proceedings shall be commenced or continued by the Class Action Plaintiffs or by their legal counsel on behalf of any other parties or the plaintiffs in the other Class Actions (as defined in the Plan) or by anyone else (or their respective legal counsel) against the Dealers in respect of any Claims or Causes of Action (as defined in the Plan), other than as necessary to complete the Dealers Settlement.
- 20. The Class Settlement Fund shall be allocated to the Class in accordance with a Plan of Allocation to be proposed by the Class Action Plaintiffs and approved by the Court. No allocation from the Class Settlement Fund is to be made to the Litigation Trust.
- 21. No person shall claim from the non-settling Defendants in the Action or the other Class Actions (as defined in the Plan) that portion of any damages that corresponds to the proportionate share of liability of the Dealers, proven at trial, such that the Dealers are not further exposed to the Claims or Causes of Action (as defined in the Plan), by any person or entity.
- 22. The Class Action Plaintiffs and the plaintiffs in the other Class Actions (as defined in the Plan) and their counsel agree not to cooperate with any other party in the Action or in the other Class Actions Action against the Dealers. However, irrespective of this provision, the Class Action Plaintiffs and the plaintiffs in the other Class Actions (as defined in the Plan) reserve all rights with respect to the prosecution of the claims remaining against the non-settling Defendants.
- 23. After the close of pleadings in the Action, but prior to the commencement of examinations for discovery, Credit Suisse Securities (Canada) Inc., TD Securities Inc., Dundee Securities Ltd. and Merrill Lynch Canada Inc. agree to provide the Class Action plaintiffs with non-privileged documents and information relevant to certified common issues relating to BDO Limited and agree to preserve relevant non-privileged documents relating to BDO Limited until the conclusion of the Action.

**D. Conditions to Implementation of the Terms of the Dealers Settlement**

- 24. The implementation of the Dealers Settlement is conditional upon:
  - (a) Court approval of the Dealers Settlement as a Named Third Party Defendant Settlement under the Plan, with no right to opt-out;

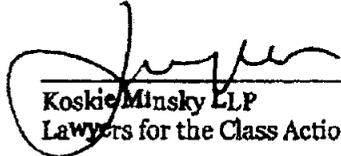
- (b) Court approval of a release, in a form reasonably satisfactory to counsel for the Dealers, which bars and releases the Dealers from all liability from any and all Causes of Action (as defined in the Plan) with respect to the Dealers involvement with Sino-Forest, and which constitutes a Named Third Party Defendant Release under the Plan.
25. 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.

[INTENTIONALLY LEFT BLANK]

Date: 30/12/14

  
Siskinds LLP  
Lawyers for the Class Action Plaintiffs

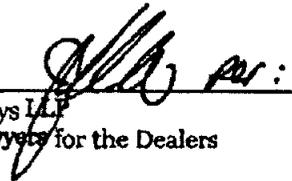
Date: 29/12/14

  
Koski Minsky LLP  
Lawyers for the Class Action Plaintiffs

Date: \_\_\_\_\_

\_\_\_\_\_  
Cohen Milstein Sellers & Toll PLLC  
Lawyers for the Class Action Plaintiffs

Date: 22/12/14

  
Torys LLP  
Lawyers for the Dealers

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## SCHEDULE "A"

Court File No.: CV-12-9667-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE ) ■, THE ■ DAY OF  
MR. JUSTICE MORAWETZ ) ■ 2015  
)

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, POYRY  
(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)

Proceeding under the *Class Proceedings Act, 1992*

Defendants

**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 (the "Applicant" or "Sino-Forest", which term shall include all affiliate and subsidiary corporations or business organizations in whatever form and all their predecessor and successor corporations or business organizations in whatever form) in the Ontario Superior Court of Justice, bearing (Toronto) Court File No, CV-11-431153-00CP (the "Ontario Plaintiffs" and the "Action", respectively) in their own and proposed representative capacities, for an order giving effect to the Dealers Release and the Dealers 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 ■, 2015, at the Court House, 393 University Avenue, Toronto, Ontario;

**WHEREAS** the Ontario Plaintiffs and Credit Suisse Securities (Canada) Inc., TD Securities Inc., Dundee Securities Ltd., 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 (the "Dealers", as more particularly defined in Appendix "A") entered into Minutes of Settlement dated December 22, 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 Dealers are Named Third Party Defendants pursuant to the Plan;

**AND WHEREAS** the Ontario Plaintiffs and the Dealers wish to effect a settlement pursuant to section 11.2 of the Plan;

**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 ■, 2015 (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 Dealers Settlement and the Dealers 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 Action, including for the purposes of and as contemplated by section 11.2 of the Plan, and more particularly the Dealers Settlement and the Dealers 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 Dealers Settlement and the Dealers 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 Dealers Settlement, to bring this motion before this Honourable Court to approve the Dealers Settlement and the Dealers Release and to take any other necessary steps to effectuate and implement the Dealers Settlement and the Dealers 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 this Order (the "the Dealers Settlement Order") is a Named Third Party Defendant Settlement Order for the purpose of and as contemplated by Section 11.2 of the Plan.
7. **THIS COURT ORDERS** that the Dealers Settlement is a Named Third Party Defendant Settlement for the purpose of and as contemplated by Section 11.2 of the Plan.
8. **THIS COURT ORDERS** that the Dealers 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**

9. **THIS COURT ORDERS** that the Dealers Settlement and the Dealers 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*.
10. **THIS COURT ORDERS** that the Dealers Settlement and the Dealers 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.
11. **THIS COURT ORDERS** that this Order, the Dealers Settlement and the Dealers Release are binding upon each and every Person or entity having a Dealers Claim against the Dealers, 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* are dispensed with.

**Release and Discharge**

12. **THIS COURT ORDERS** that upon satisfaction of all the conditions specified in section 11.2(b) of the Plan, the Monitor shall deliver to the Dealers the Monitor's Dealers Settlement Certificate substantially in the form attached hereto as Appendix "B". The Monitor shall thereafter file the Monitor's Dealers Settlement Certificate with the Court.
13. **THIS COURT ORDERS** that pursuant to the provisions of section 11.2(c) of the Plan, on the Dealers Settlement Date:
- (a) any and all of the Dealers Claims shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled, barred and deemed satisfied and extinguished as against the Dealers in accordance with section 11.2(c) of the Plan;
  - (b) the Dealers Release shall be binding according to its terms on any Person;
  - (c) section 7.3 of the Plan shall apply to the Dealers and the Dealers Claims *mutatis mutandis*;
  - (d) none of the parties in the Action or other Class Actions or any other actions in which the Dealers 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 the Dealers proven at trial or otherwise as may be agreed, that is subject of the Dealers Settlement ("the Dealers Proportionate Liability"); and
  - (e) the Action shall be dismissed against the Dealers.
14. **THIS COURT ORDERS** that nothing in this order shall fetter the discretion of any court to determine the Dealers Proportionate Liability at the trial or other disposition of an action (including the Action or the other Class Actions), whether or not the Dealers appears at the trial or other disposition and the Dealers Proportionate Liability shall be determined as if the Dealers were a party to the action and any determination by a court in respect of the Dealers 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 the Dealers for any purpose whatsoever and shall not constitute a finding against the Dealers for any purpose in any other proceeding.

### **Use of the Settlement Fund**

15. **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 and approved by further order of this Court (the "Claims and Distribution Protocol"). The Plan of Allocation shall allocate CDN \$22,500,000 of the Class Settlement Fund to share purchasers and CDN \$10,000,000 to note purchasers, with accrued interest divided among share and note purchasers on a pro rata basis.
  
16. **THIS COURT ORDERS** that notwithstanding paragraph 15 above, the following Securities Claimants shall not be entitled to any allocation or distribution of the Class Settlement Fund: the Litigation Trust, 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 Sirnon Yeung. For greater certainty, the Dealers Release shall apply to the Securities Claimants described above.

### **Recognition, Enforcement and Further Assistance**

17. **THIS COURT ORDERS** that this Court shall retain an ongoing supervisory role for the purposes of implementing, administering and enforcing the Dealers Settlement and the Dealers 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 Dealers Settlement and the Dealers 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 Dealers Settlement and the Dealers Release.

18. **THIS COURT ORDERS** that each of the Applicant, the Monitor, CCAA Representative Counsel and the Dealers 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 or assistance in carrying out the terms of such orders. Any actions previously taken in accordance with this paragraph 18 are hereby ratified by this Court.
  
  19. **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 the Dealers 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 the Dealers 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 the Dealers in any foreign proceeding, or to assist the Applicant, the Monitor, the CCAA Representative Counsel and the Dealers and their respective agents in carrying out the terms of this Order.
-

**APPENDIX "A"**  
**DEFINED TERMS**

**"Action"** means the Ontario Superior Court of Justice action bearing Toronto court file number CV-11-431153-00CP.

**"Causes of Action"** has the meaning ascribed to it in the Plan.

**"CCAA"** means the *Companies' Creditors Arrangement Act*, RSC, 1985, c. C-36.

**"Claims"** has the meaning ascribed to it in the Minutes of Settlement.

**"Class Actions"** has the meaning ascribed to it in the Plan.

**"Class Settlement Fund"** has the meaning ascribed to it in the Dealers Settlement.

**"Dealers"** means Credit Suisse Securities (Canada) Inc., TD Securities Inc., Dundee Securities Ltd., 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. "Dealers" includes all parent, affiliate and subsidiary corporations or business organizations in whatever form and all their predecessor and successor corporations or business organizations in whatever form.

**"Dealers 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., 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 the Dealers, and each and every present and former partner, director, officer, associate, employee, servant, agent, advisor, consultant contractor, insurer, heir and/or assign of each of Dealers, 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) and any and all other acts and omissions of the Dealers relating to the SFC Companies (as defined by the Plan) or the SFC Business (as defined by the Plan). Dealers Claims include, without limitation:

1. All Claims or Causes of Action (as defined in the Plan) arising from any acts or omissions of the Dealers, including in respect of, but not limited to any statutory or common law duties they may have owed, in connection with any share offering, debt offering or other offering, or any secondary market or other sale or trading of Securities and any statement in any of Sino-Forest's disclosure, 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 Sino-Forest or the SFC Companies (as defined in the Plan) or present, former or future holders of Securities of Sino-Forest regardless of who asserts such claims; and
5. All Claims or Causes of Action (as defined by the Plan) advanced or which could have been advanced by all present and former directors, officers or employees of Sino-Forest, and any and all agents, representatives, consultants, advisors, auditors or counsel to Sino-Forest, including for contribution, indemnity, damages, equitable relief or other monetary recovery.

**"Dealers Release"** means the Named Third Party Defendant Release described at section 11.2(c) of the Plan as applied to the Dealers Claims.

**"Dealers Settlement"** means the settlement as reflected in the Minutes of Settlement executed on December 22, 2014 between the Dealers and the Ontario Plaintiffs.

**"Dealers Settlement Date"** means the date that the Monitor's Dealers Settlement Certificate is delivered to the Dealers.

**"Eligible Third Party Defendant"** has the meaning ascribed to it in the Plan.

**"Monitor's Dealers 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 Dealers Settlement.

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**"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.

**"Securities"** means common shares, notes or other securities defined in the *Securities Act*, RSO 1990, c. S.5, as amended, or that are securities at law.

**"Securities Claimants"** means all Person and entities, wherever they may reside, who acquired any Securities of Sino-Forest including Securities acquired in the primary, secondary, and over-the-counter markets.

**"Settlement Trust"** has the meaning ascribed to it in the Dealers Settlement.

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**APPENDIX "B"**  
**MONITOR'S DEALERS 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 TRUSTÉES 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. THE DEALERS, WILLIAM E. ARDELL, JAMES P. BOWLAND, JAMES M.E.  
 HYDE, EDMUND MAK, SIMON MURRAY, PETER WANG, GARRY J. WEST, POYRY  
 (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)

Proceeding under the *Class Proceedings Act*, 1992

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 "Dealers Settlement Order") which, among other things, approved the Dealers Settlement and the Dealers Release.

Pursuant to section 11.2 of the Plan and paragraph ■ of the Dealers Settlement Order, FTI Consulting Canada Inc. (the "Monitor") in its capacity as Court-appointed Monitor of SFC delivers to the Dealers this certificate and hereby certifies that:

- (a) each of the parties to the Dealers Settlement has confirmed that all conditions precedent thereto have been satisfied or waived;
- (b) all settlement funds have been paid and received; and
- (c) immediately upon the delivery of this Monitor's Dealers Settlement Certificate, the Dealers Release will be in full force and effect in accordance with the Plan.

DATED at Toronto this ■ day of ■ 2015

**FTI CONSULTING CANADA INC., solely in its capacity as  
Monitor of Sino-Forest Corporation and not in its personal  
capacity**

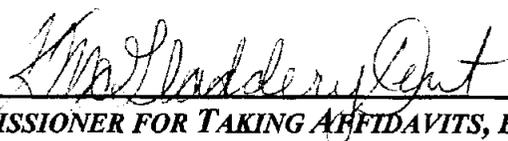
---

Name:  
Title:

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**SCHEDULE "B"**  
[form of U.S. Recognition Order]

***THIS IS EXHIBIT "B" REFERRED TO IN THE  
AFFIDAVIT OF CHARLES M. WRIGHT  
SWORN BEFORE ME, THIS 13<sup>TH</sup> DAY OF APRIL, 2015***

A handwritten signature in cursive script, appearing to read "M. Laddery", is written over a horizontal line.

***A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.***

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, DAVIS NEW YORK  
VENTURE FUND, INC. and DAVIS SELECTED ADVISERS, L.P.

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*

**SECOND FRESH AS AMENDED STATEMENT OF CLAIM**

**(NOTICE OF ACTION ISSUED JULY 20, 2011)**

**TO: Sino-Forest Corporation**  
1208-90 Burnhamthorpe Rd W  
Mississauga, ON L5B 3C3

**AND TO: David Horsley**  
Sino-Forest Corporation  
1208-90 Burnhamthorpe Rd W  
Mississauga, ON L5B 3C3

**AND TO: Allen Chan**  
Sino-Forest Corporation  
1208-90 Burnhamthorpe Rd W  
Mississauga, ON L5B 3C3

**AND TO: William Ardell**  
Sino-Forest Corporation  
1208-90 Burnhamthorpe Rd W  
Mississauga, ON L5B 3C3

**AND TO: James Bowland**  
Sino-Forest Corporation  
1208-90 Burnhamthorpe Rd W  
Mississauga, ON L5B 3C3

**AND TO: James Hyde**  
Sino-Forest Corporation  
1208-90 Burnhamthorpe Rd W  
Mississauga, ON L5B 3C3

**AND TO: Edmund Mak**  
Sino-Forest Corporation  
1208-90 Burnhamthorpe Rd W  
Mississauga, ON L5B 3C3

**AND TO: W. Judson Martin**  
Sino-Forest Corporation  
1208-90 Burnhamthorpe Rd W  
Mississauga, ON L5B 3C3

**AND TO: Simon Murray**  
Sino-Forest Corporation  
1208-90 Burnhamthorpe Rd W  
Mississauga, ON L5B 3C3

- AND TO: Kai Kit Poon**  
Sino-Forest Corporation  
1208-90 Burnhamthorpe Rd W  
Mississauga, ON L5B 3C3
- AND TO: Peter Wang**  
Sino-Forest Corporation  
1208-90 Burnhamthorpe Rd W  
Mississauga, ON L5B 3C3
- AND TO: Garry West**  
Sino-Forest Corporation  
1208-90 Burnhamthorpe Rd W  
Mississauga, ON L5B 3C3
- AND TO: Ernst & Young LLP**  
222 Bay Street  
Toronto, ON M5K 1J7
- AND TO: BDO Limited**  
25th Floor, Wing On Centre  
111 Connaught Road Central  
Hong Kong, China
- ~~AND TO: Pöyry (Beijing) Consulting Company Limited~~**  
~~2208-2210 Cloud 9 Plaza~~  
~~No. 1118 West Yan'an Road~~  
~~Shanghai 200052~~  
~~PR-CHINA~~
- AND TO: Credit Suisse Securities (Canada), Inc.**  
1 First Canadian Place  
100 King Street West, Suite 2900  
Toronto, Ontario M5X 1C9
- AND TO: TD Securities Inc.**  
66 Wellington Street West  
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, 17<sup>th</sup> Floor  
Toronto, Ontario M5V 3K7
- AND TO: Scotia Capital Inc.**  
40 King Street West, Scotia Plaza  
P.O. Box 4085, Station A  
Toronto, Ontario M5W 2X6
- AND TO: CIBC World Markets Inc.**  
161 Bay Street, Brookfield Place  
P.O. Box 500  
Toronto, Ontario M5J 2S8
- AND TO: Merrill Lynch Canada Inc.**  
BCE Place, Wellington Tower  
181 Bay Street, 4<sup>th</sup> and 5<sup>th</sup> Floors  
Toronto, Ontario M5J 2V8
- AND TO: Canaccord Financial Ltd.**  
161 Bay Street, Suite 2900  
P.O. Box 516  
Toronto, Ontario M5J 2S1
- AND TO: Maison Placements Canada Inc.**  
130 Adelaide Street West, Suite 906  
Toronto, Ontario M5H 3P5
- AND TO: Credit Suisse Securities (USA) LLC**  
Eleven Madison Avenue  
New York, NY 10010
- AND TO: Merrill Lynch, Pierce, Fenner & Smith Incorporated**  
100 N. Tryon St., Ste. 220  
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” means:
  - (i) 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: those persons resident or domiciled in the Province of Quebec at the time they acquired Sino’s Securities, and who are not precluded from participating in a class action by virtue of Article 999 of the Quebec Code of Civil Procedure, RSO, c C-25, and except the Excluded Persons; and
  - (ii) all persons and entities, wherever they may reside, who acquired Sino’s Securities during the Class Period by distribution in Canada in an Offering, or are resident of Canada or were resident of Canada at the time

of acquisition and acquired Sino's Securities by offering 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) “**DSA**” means DNYVF and DSALP;
- (w) “**Dundee**” means the defendant Dundee Securities Corporation;
- (x) “**E&Y**” means the defendant Ernst and Young LLP;
- (y) “**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**;

- (z) **"Final Report"** means the report of the IC, as that term is defined in paragraph 10 hereof;
- (aa) **"GAAP"** means Canadian generally accepted accounting principles;
- (bb) **"GAAS"** means Canadian generally accepted auditing standards;
- (cc) **"Horsley"** means the defendant David J. Horsley;
- (dd) **"Hyde"** means the defendant James M.E. Hyde;
- (ee) **"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);

- (ff) **“Individual Defendants”** means **Chan, Martin, Poon, Horsley, Ardell, Bowland, Hyde, Mak, Murray, Wang, and West**, collectively;
- (gg) **“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;

- (hh) “**June 2007 Prospectus**” means Sino’s Short Form Prospectus, dated June 5, 2007, which Sino filed on SEDAR on June 5, 2007;
- (ii) “**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;
- (jj) “**June 2009 Prospectus**” means Sino’s Final Short Form Prospectus, dated June 1, 2009, which Sino filed on SEDAR on June 1, 2009;
- (kk) “**Maison**” means the defendant Maison Placements Canada Inc.;
- (ll) “**Martin**” means the defendant W. Judson Martin;
- (mm) “**Mak**” means the defendant Edmund Mak;
- (nn) “**MD&A**” means Management’s Discussion and Analysis;
- (oo) “**Merrill**” means the defendant Merrill Lynch Canada Inc.;
- (pp) “**Muddy Waters**” means Muddy Waters LLC;
- (qq) “**Murray**” means the defendant Simon Murray;
- (rr) “**Notes**” means, collectively, Sino’s 5% Convertible Senior Notes due 2013, 10.25% Guaranteed Senior Notes due 2014, 4.25% Convertible Senior Notes due 2016 and 6.25% Guaranteed Senior Notes due 2017;
- (ss) “**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;
- (tt) “**Offering**” or “**Offerings**” means the primary distributions 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;

- (uu) "**OSA**" means the *Securities Act*, RSO 1990 c S.5, as amended;
- (vv) "**OSC**" means the Ontario Securities Commission;
- (ww) "**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**"), Davis New York Venture Fund, Inc. ("**DNYVF**") and Davis Selected Advisers, L.P. ("**DSALP**"), collectively;
- (xx) "**Poon**" means the defendant Kai Kit Poon;
- ~~(yy) "**Pöyry**" means the defendant, Pöyry (Beijing) Consulting Company Limited;~~
- (zz) "**PRC**" means the People's Republic of China;
- (aaa) "**Representation**" means the statement that Sino's financial statements complied with **GAAP**;
- (bbb) "**RBC**" means the defendant RBC Dominion Securities Inc.;
- (ccc) "**Scotia**" means the defendant Scotia Capital Inc.;
- (ddd) "**Second Report**" means the Second Interim Report of the IC, as that term is defined in paragraph 10 hereof;
- (eee) "**Securities**" means Sino's common shares, notes Notes or other securities, as defined in the *OSA*;

- (fff) “**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;
- (ggg) “**SEDAR**” means the system for electronic document analysis and retrieval of the Canadian Securities Administrators;
- (hhh) “**Sino**” means, as the context requires, either the defendant Sino-Forest Corporation, or Sino-Forest Corporation and its affiliates and subsidiaries, collectively;
- (iii) “**TD**” means the defendant TD Securities Inc.;
- (jjj) “**TSX**” means the Toronto Stock Exchange;
- (kkk) “**Underwriters**” means **Banc of America, Canaccord, CIBC, Credit Suisse, Credit Suisse USA, Dundee, Maison, Merrill, RBC, Scotia, and TD**, collectively;
- (lll) “**Wang**” means the defendant Peter Wang;
- (mmm) “**West**” means the defendant Garry J. West; and
- (nnn) “**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.

## 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 and 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;

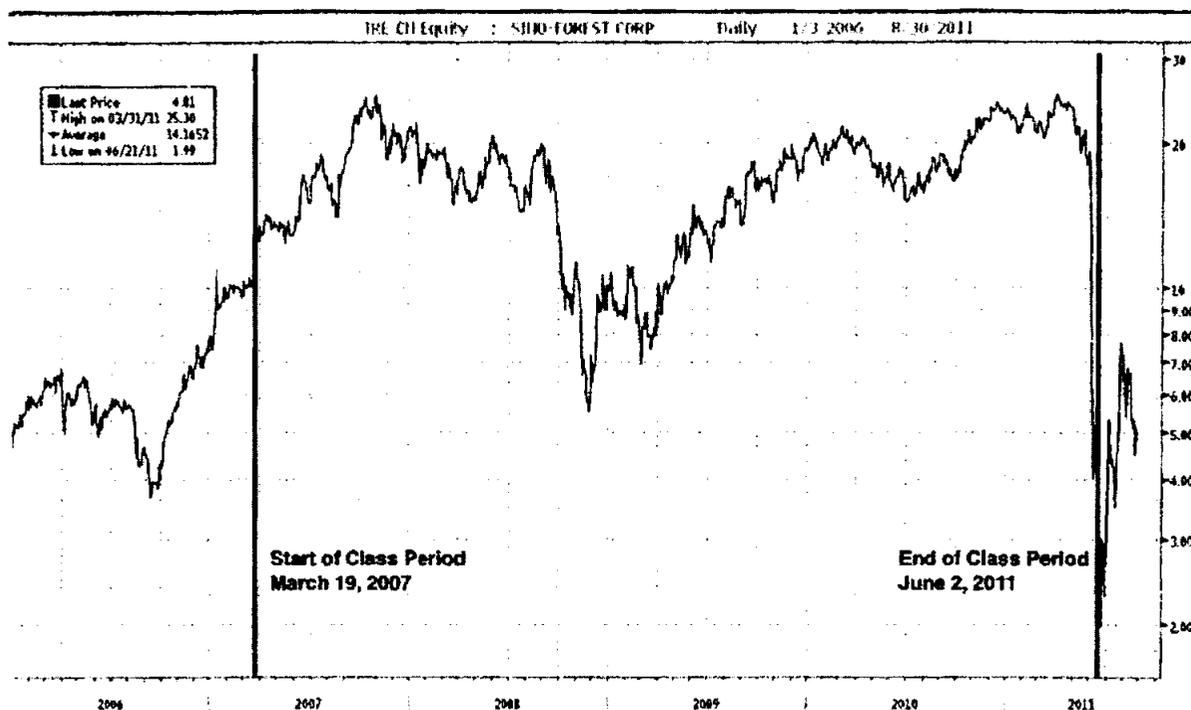
- (i) On behalf of all of the Class Members who purchased Sino common shares in the distribution to which the December 2009 Prospectus related, and as against Sino, Chan, Poon, Horsley, Wang, Martin, Mak, Murray, Hyde, Pöyry, BDO, E&Y, Dundee, Merrill, Credit Suisse, Scotia, CIBC, RBC, Maison, Canaccord 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, E&Y, Credit Suisse USA and Banc of America, general damages in the sum of US\$600 million;

- (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 billion<sup>1</sup> in the capital markets during this period. Meanwhile, the Underwriters were paid lucrative underwriting commissions, and BDO and 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

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<sup>1</sup> 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<sup>2</sup> 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.

20. DSALP is an asset management firm. DSALP purchased Sino's common shares over the TSX during the Class Period and allocated these shares to funds managed by DSALP, including DNYVF, who continued to hold those common shares at the end of the Class Period. DSALP purchased Sino's Notes pursuant to the July 2008 Offering Memorandum and in the distribution to which that Offering Memorandum related, and allocated these Notes to funds, including DNYVF, who continued to hold those notes at the end of the Class Period. DSALP purchased Sino's common shares pursuant to the December 2009 Prospectus and in the distribution to which that Prospectus related, and allocated these common shares to funds managed by DSALP, including DNYVF, who continued to hold those common shares at the end of the Class Period.

**B. *The Defendants***

21. Sino purports to be a commercial forest plantation operator in the PRC and elsewhere.

Sino is a corporation formed under the *CBCA*.

22. 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.

23. 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.

24. 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.

25. 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.

26. 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.

27. 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.

28. 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.

29. 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.

30. 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.

31. At all material times, Horsley ~~is~~ was 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.

32. 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.

33. ~~Since becoming~~ As 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.

34. Horsley resigned as Sino's CFO, at the company's request, in April 2012 following the receipt of Enforcement Notices from Staff of the OSC. On September 27, 2012, Sino announced by way of a press release that Horsley had ceased to be employed by, and no longer had a position, with Sino.

35. Poon is a co-founder of Sino, and ~~has been the~~ at all material times since 1994, was the President of the company since 1994. He was also 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.

36. 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.

37. 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.

38. On October 9, 2012, Sino announced by way of a press release that Poon had ceased to be Sino's President, and had ceased to hold positions in Sino and certain of its subsidiaries.

39. At all material times, Wang ~~is~~ was 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.

40. At all material times since 2006, Martin ~~has been~~ was 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.

41. At all material times, Mak ~~is~~ was 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.

42. ~~At all material times~~, Murray ~~is~~ was a director of Sino, and 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.

43. 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.

44. At all material times, Hyde is was a director of Sino, and ~~has~~ held this position since 2004. Hyde was previously a partner of E&Y. Hyde is was 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 was also a 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.

45. Ardell is was a director of Sino, and ~~has~~ held this position since January 2010. Ardell is was 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.

46. 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.

47. West is was a director of Sino, and ~~has~~ held this position since February 2011. West was previously a partner at E&Y. West is was 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.

48. As officers 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.

49. 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.

50. ~~E&Y has been engaged as~~ was Sino's auditor since from August 13, 2007 until it resigned effective April 4, 2012. Prior to that, 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.

51. 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.

52. 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, and such audit reports were in fact included or incorporated by reference in those Prospectuses and Offering Memoranda.

53. 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~~ it resigned at Sino's request, and ~~were~~ was replaced by E&Y. BDO is an expert of Sino within the meaning of the Securities Legislation.

54. 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.

55. 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, and such audit reports were in fact included or incorporated by reference in those Prospectuses and Offering Memoranda.

56. E&Y's and BDO's annual Auditors' Reports ~~was~~ were 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].

57. 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.

58. 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.

59. 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, 2005, 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.

~~60. 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.~~

~~61. 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.~~

~~62. 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 62.~~

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

64. 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 US\$6 million. Those commissions were paid in substantial part as consideration for the Underwriters' purported due diligence examination of Sino's business and affairs.

65. 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

66. 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~~ the Audited Consolidated Financial Statements for the years ended December 31, 2008 and 2007; (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; (8) Sino’s material change reports dated May 22, 2009 and June 8, 2009, each of which included an offering document which incorporated by reference Sino’s audited consolidated financial statements for the years ended December 31, 2005, 2006 and 2007, the auditors’ report of BDO dated March 19, 2007 with respect to Sino’s consolidated financial statements for the years ended December 31, 2006 and 2005, and the auditors’ report of E&Y dated March 12, 2008, except as to notes 2, 18 and 23, with respect to Sino’s consolidated financial statement for the year ended December 31, 2007; and (9) Sino’s Material Change Report dated June 25, 2009, which included the June 2009 Offering Memorandum, and documents referenced therein.
- (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.

67. 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.

68. All of the Offerings were public in nature. The share offerings were made to the public pursuant to the June 2007, June 2009 and December 2009 Prospectuses. Each of these Prospectuses indicated that they constituted a public offering of securities.

69. The July 2008, December 2009 and October 2010 note offerings were made pursuant to offering memoranda. Notwithstanding that these offering memoranda stated that the offerings were made by way of private placement, the offerings were in fact public in nature. The Notes were sold to or exchanged with class members who required the protection of the *Securities Act of 1933*. In particular, the Notes were sold to or exchanged with class members who lacked the requisite investment sophistication and there was insufficient information available to them to assess the investment and which would be comparable to that found in a registration statement under s. 5 of the *Securities Act of 1933*. The offerings were not registered under s. 5 of the *Securities Act of 1933* and did not meet the requisite exemptions under the *Securities Act of*

1933. Furthermore, class members who purchased or exchanged Notes did not satisfy accredited investor standards. For example, the 6.25% Guaranteed Senior Notes due 2017 (October 2010 notes) were sold to Grant even though Grant was not an accredited investor, since he did not meet the accredited investor exemption pursuant to NI-106, and the distribution did not otherwise fall within a prospectus exemption. This failure to comply with the restrictions on distribution made the Note Offerings public offerings.

70. 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.

71. 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.

72. 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.

73. 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. All such audit reports were in fact included or incorporated by reference into those Prospectuses and Offering Memoranda.

74. 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. All such audit reports were in fact included or incorporated by reference into those Prospectuses and Offering Memoranda.

75. In connection with the offering of Sino's Securities pursuant to the June 2007 Prospectus, BDO entered into an engagement letter with Sino, which reads:

In order to consent to the use of our audit report in the Prospectus, our professional standards require that we carry out certain procedures including a review of the Company's interim financial statements for the three months ended March 31, 2007 and 2006 and any other interim financial statements that may be issued, and a review of subsequent events and transactions, up to the date the Company files the final prospectus with regulatory authorities. We are also required to update our communications with the Company's legal counsel and obtain representations from management similar to those we customarily receive as part of our annual audit.

In connection with the proposed offering of securities, we understand that the underwriting agreement will provide that we perform certain procedures for the purpose of issuing a comfort letter to Dundee Securities Corporation, CIBC World Markets Inc., Merrill Lynch Canada, Inc., UBS Securities Canada Inc., Credit Suisse Securities (Canada) Inc., and Haywood Securities Inc. (collectively, the "Underwriters"). The comfort letter would make reference to our audit report and our review of the unaudited interim financial statements issued up to the date of the Prospectus, and set out the procedures performed at the Underwriters' request and the results of performing those procedures. In addition, we understand that the Underwriters have requested that we attend a meeting (the "due diligence meeting") at which the Underwriters and the Underwriters' legal counsel wish to ask us certain questions in connection with our audits referred to above, and that you have agreed to grant such request.

In connection with that offering, BDO received professional fees based on its regular billing rates, plus direct, out-of-pocket, expenses and applicable Goods and Services Tax.

76. In connection with the offering of Sino's Securities pursuant to the July 2008 Offering Memorandum, BDO entered into an engagement letter with Sino, which reads:

In order to consent to the use of our audit report in the Offering Memorandum, our professional standards require that we carry out certain procedures including a review of the Company's consolidated financial statements for the three months ended March 31, 2007 and review of subsequent events and transactions, up to the date the Company files the final prospectus with regulatory authorities. We are also required to update our communications with the Company's legal counsel and obtain representations from management similar to those we customarily receive as part of our annual audit.

In connection with the proposed offering of securities, we understand we will perform certain procedures for the purpose of issuing a comfort letter to Merrill Lynch, Pierce, Fenner & Smith Incorporated (the "Underwriter"). The comfort letter would make reference to our audit report and our review of the unaudited interim consolidated financial statements, and set out the procedures performed at

the Underwriter's request and the results of performing those procedures. In addition, we understand that the Underwriter has requested that we attend a meeting (the "due diligence meeting") at which the Underwriter and its legal counsel wish to ask us certain questions in connection with our audits referred to above, and that you have agreed to grant such request.

In connection with that offering, BDO received professional fees based on its regular billing rates, plus direct, out-of-pocket, expenses and applicable Goods and Services Tax.

77. In connection with the offering of Sino's Securities in June 2009, BDO entered into an engagement letter with Sino, which reads:

In order to consent to the use of our audit report in the Offering Memorandum, our professional standards require that we update our communications with the Company's legal counsels and present auditors and obtain representations from management similar to those we customarily receive as part of an annual audit.

In connection with the proposed offering of securities, we understand we will perform certain procedures for the purpose of issuing a comfort letter to the Underwriters. The comfort letter will make reference to our audit report, and set out the procedures performed at the Underwriters' request and the results of performing those procedures. In addition, we understand that the Underwriters request that we attend a meeting (the "due diligence meeting") at which the Underwriters and the Underwriters' legal counsels wish to ask us certain questions in connection with our audit referred to above, and that you have agreed to grant such request.

In connection with that offering, BDO received professional fees in the amount that was stated in the engagement letter to be US\$60,000.

78. In connection with the offering of Sino's Securities pursuant to the December 2009 Offering Memorandum, BDO entered into an engagement letter with Sino, which reads:

In order to consent to the use of our audit report in the Offering Memorandum, our professional standards require that we update our communications with the Company's legal counsels and present auditors, and obtain representations from management similar to those we customarily receive as part of our annual audit.

In connection with the proposed offering of securities, we understand we will perform certain procedures for the purpose of issuing a comfort letter to Credit Suisse Securities (USA) LLC as a representative (the "Representative") of several

initial purchasers to be determined later. The comfort letter would make reference to our audit report and set out the procedures performed at the Representative's request and the results of performing those procedures. In addition, we understand that the Representative has requested that we attend a meeting (the "due diligence meeting") at which the Representative and its legal counsels wish to ask us certain questions in connection with our audit referred to above, and that you have agreed to grant such request.

In connection with that offering, BDO received professional fees in the amount that was stated in the engagement letter to be US\$48,000.

79. In connection with the offering of Sino's Securities pursuant to the December 2009

Prospectus, BDO entered into an engagement letter with Sino, which reads:

In order to consent to the use of our audit report in the Prospectus and the Offering Memorandum, our professional standards require that we update our communications with the Company's legal counsels and present auditors and obtain representations from management similar to those we customarily receive as part of an annual audit.

In connection with the proposed offering of securities, we understand we will perform certain procedures for the purpose of issuing a comfort letter to the Underwriters. The comfort letter will make reference to our audit report, and set out the procedures performed at the Underwriters' request and the results of performing those procedures. In addition, we understand that the Underwriters request that we attend a meeting (the "due diligence meeting") at which the Underwriters and the Underwriters' legal counsels wish to ask us certain questions in connection with our audit referred to above, and that you have agreed to grant such request.

In connection with that offering, BDO received professional fees in the amount that was stated in the engagement letter to be US\$48,000.

## VI. THE MISREPRESENTATIONS

80. 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;
  - 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*

81. 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 m<sup>3</sup> 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 m<sup>3</sup>.

82. 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.

83. 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.

84. 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.

85. 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.

86. 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 28<sup>th</sup> 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 29<sup>th</sup> 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 20<sup>th</sup> 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 16<sup>th</sup> 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 30<sup>th</sup> January 1996. In accordance with the notice, the foreign party then on 10<sup>th</sup> April sent a letter to your commission, requesting for postponing the deadline for capital contribution to 20<sup>th</sup> December the same year. On 14<sup>th</sup> 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 14<sup>th</sup> 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 11<sup>th</sup> 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 30<sup>th</sup> 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 (29<sup>th</sup> January 1996), and more than one year beyond the date prescribed by the Notice on Time for Capital Contribution issued by your commission (30<sup>th</sup> 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.]

87. 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.

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

89. 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*

90. 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.

91. 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.

92. 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.

93. In October 1998, Sino announced an Agency Agreement with SJXT. At that time, Sino stated that it would provide 130,000 m<sup>3</sup> 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.

94. 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 SXJT investment was again shown as an asset of US\$1.0 million.

95. 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.

96. 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.]

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

98. 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.]

99. 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.]

100. 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).

101. 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.]

102. 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.

103. 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.

104. 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.

105. 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.

106. 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.

107. 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*

108. 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.

109. Accordingly, the statements particularized in paragraphs 100-110 to 104-114 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.

110. 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.

111. 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.

112. 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.

113. 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.

114. 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***

115. 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.

*(i) Sino Overstates its Yunnan Forestry Assets*

116. 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.

117. 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.~~

118. 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.

119. 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 and 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*

120. 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**”).

121. 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.

122. 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.

123. 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.

124. 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.

125. 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.]

126. 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.]

127. 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.

128. 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.

129. 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*

130. 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 (m<sup>3</sup>) of wood fibre located in plantations in Jiangxi Province over a three-year period with a price not to exceed RMB300 per m<sup>3</sup>, 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 m<sup>3</sup> 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.]

131. 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).

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

~~(iv) — Pöyry makes Misrepresentations in relation to Sino's Forestry Assets~~

~~133. — 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.~~

~~134. 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~~

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*

135. 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.

136. 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.

137. 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*

138. 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.

139. 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*

140. 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."

141. 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.

142. 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")

143. 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]

144. 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*

145. 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.

146. 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.

147. 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*

148. 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.

149. 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.]

150. 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*

151. 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.

152. 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.

153. 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***

154. 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.

155. 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.

156. 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.

157. 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.

158. 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.

159. 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].

160. 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.

161. 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].

162. 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.

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

164. 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.

165. 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”;

- (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.”

166. 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].

167. On the contrary, during the Class Period, Sino made the following misrepresentation in each of the 2005, 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]

168. 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 2005 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];
- (b) 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
- (c) 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***

169. 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***

170. On March 31, 2006, Sino issued and filed on SEDAR its 2005 AIF. In that AIF, Sino stated that "We intend to reduce our reliance on authorized intermediaries going forward."

171. 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.]

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

173. 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.

174. Throughout the Class Period, Sino continued to depend heavily upon AIs for its purported sales of standing timber. ~~In fact, contrary~~ 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*

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

176. 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.

177. 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.

178. 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.

179. 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.

180. 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.

181. 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.

182. 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 2005 Annual Financial Statements, note 12 [b] “Provision for tax related liabilities” and associated text;
- (b) In the 2006 Annual Financial Statements, note 11 [b] “Provision for tax related liabilities” and associated text;
- (c) In the 2006 Annual MD&A, the subsection “Provision for Tax Related Liabilities” in the section “Critical Accounting Estimates,” and associated text;
- (d) In the AIF dated March 30, 2007, the section “Estimation of the Company’s provision for income and related taxes,” and associated text;
- (e) In the Q1 and Q2 2007 Financial Statements, note 5 “Provision for Tax Related Liabilities,” and associated text;
- (f) In the Q3 2007 Financial Statements, note 6 “Provision for Tax Related Liabilities,” and associated text;
- (g) In the 2007 Annual Financial Statements, note 13 [b] “Provision for tax related liabilities,” and associated text;
- (h) 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;
- (i) In the AIF dated March 28, 2008, the section “Estimation of the Corporation’s provision for income and related taxes,” and associated text;
- (j) In the Q1, Q2 and Q3 2008 Financial Statements, note 12 “Provision for Tax Related Liabilities,” and associated text;

- (k) 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;
- (l) 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;
- (m) In the 2008 Annual Financial Statements, note 13 [d] "Provision for tax related liabilities," and associated text;
- (n) 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;
- (o) 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;
- (p) In the Q1, Q2 and Q3 2009 Financial Statements, note 13 "Provision for Tax Related Liabilities," and associated text;
- (q) 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;
- (r) In the 2009 Annual Financial Statements, note 15 [d] "Provision for tax related liabilities," and associated text;
- (s) In the 2009 Annual MD&A, the subsection "Provision for Tax Related Liabilities" in the section "Critical Accounting Estimates," and associated text;
- (t) 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;

- (u) In the Q1 and Q2 2010 Financial Statements, note 14 "Provision for Tax Related Liabilities," and associated text;
- (v) In the Q1 and Q2 2010 MD&As, the subsection "Provision for Tax Related Liabilities" in the section "Critical Accounting Estimates," and associated text;
- (w) In the Q3 2010 Financial Statements, note 14 "Provision and Contingencies for Tax Related Liabilities," and associated text; and
- (x) In the Q3 2010 MD&As, the subsection "Provision and Contingencies for Tax Related Liabilities" in the section "Critical Accounting Estimates," and associated text;
- (y) In the October 2010 Offering Memorandum, the subsection "Taxation" in the section "Selected Financial Information," and associated text;
- (z) In the 2010 Annual Financial Statements, note 18 "Provision and Contingencies for Tax Related Liabilities," and associated text;
- (aa) 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
- (bb) 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.

183. 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.

184. 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*

185. 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.]

186. 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.]

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

188. Following the issuance of Muddy Waters' report on ~~the last day of the Class Period~~ June 2, 2011, however, Sino declared publicly that Muddy Waters was "wrong" in its assertion that, for accounting purposes, Sino treated its AIs as being both suppliers and customers 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***

189. 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.

190. 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.

191. 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.

192. 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.

193. 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.

194. 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.

195. 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***

196. 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.

197. 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.

198. 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*

199. 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]

200. 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*

201. 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.

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

- (a) In the annual financial statements filed on March 31, 2006, 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";
- (b) In the annual financial 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";
- (c) 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";
- (d) 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";
- (e) 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

- (f) 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”.

203. 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.

204. 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)";
- (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”).”

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

206. 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-month periods ended June 30, 2009 and 2010 have been prepared in accordance with Canadian GAAP.”

207. 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.

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

- (a) In respect of the annual financial statements filed on March 19, 2007 31, 2006, Chan and Horsley stated in the 2005 Annual Report: "The consolidated financial statements contained in this Annual Report have been prepared by management in accordance with Canadian generally accepted accounting principles";
- (b) In respect of the annual financial statements filed on March 18, 2008 19, 2007, Chan and Horsley stated in the 2006 Annual Report: "The consolidated financial statements contained in this Annual Report have been prepared by management in accordance with Canadian generally accepted accounting principles";
- (c) In respect of the annual financial statements filed on March 18, 2008, Chan and Horsley stated in the 2007 Annual Report: "The consolidated financial statements contained in this Annual Report have been prepared by management in accordance with Canadian generally accepted accounting principles";
- (d) In respect of the annual financial statements filed on March 16, 2009, Chan and Horsley stated in the 2008 Annual Report: "The consolidated financial statements contained in this Annual Report have been prepared by management in accordance with Canadian generally accepted accounting principles";
- (e) In respect of the annual financial statements filed on March 16, 2010, Chan and Horsley stated in the 2009 Annual Report: "The consolidated financial statements contained in this Annual Report have been prepared by management in accordance with Canadian generally accepted accounting principles"; and

(f) In respect of the annual financial statements filed on March 15, 2011, Chan and Horsley stated in the 2010 Annual Report: “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*

209. 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.

210. 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 31, 2006, 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, 2005 and the results of its operations and its cash flows for the year then ended in accordance with Canadian generally accepted accounting principles”;

(b) 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”;

- (c) In the June 2007 Prospectus, BDO stated: “We have complied with Canadian generally accepted standards for an auditor’s involvement with offering documents”;
- (d) 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”;
- (e) 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”;
- (f) 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”;

- (g) 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
- (h) 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*

211. 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.

212. 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.

213. 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

214. 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."

215. 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

216. 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.

217. 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.

218. 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).

219. 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]

220. 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

221. 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.

222. 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.

223. 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.

~~224. 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.~~

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

#### X. THE DEFENDANTS' RELATIONSHIP TO THE CLASS

226. 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.

227. 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.

228. 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.

229. 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.

230. 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.

231. 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.

232. 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. Further, Credit Suisse USA, TD and Banc of America had unique and specialized experience in respect of the note Offerings in which they were involved, in contrast to the Class Members. Credit Suisse USA, TD and Banc of America had access to and reviewed non-public information from Sino and they in fact conducted purported due diligence for these Offerings, albeit insufficient due diligence. These defendants expected the ultimate purchasers to rely on the Offering Memoranda.

233. Banc of America, TD, and Credit Suisse USA sold or exchanged the Notes as part of the distributions to Class Members who were not qualified to purchase the Notes as part of a private offering. Credit Suisse USA, TD and Banc of America had a direct or indirect relationship with the Class Members, who were the ultimate purchasers of the Notes, including Grant and DSA. Credit Suisse USA, TD and Banc of America sold Notes directly to some Class Members and had a client relationship with some Class Members. Credit Suisse USA, TD and Banc of America sold Notes to other Class Members, including DSA, through agents controlled by and authorized to act on behalf of Credit Suisse USA, TD and Banc of America. For other Class Members, Credit Suisse USA, TD and Banc of America sold indirectly to the Class Members through other investment dealers who were agents of Credit Suisse USA, TD and Banc of America. Credit Suisse USA, TD and Banc of America made arrangements with these

investment dealers, such that these dealers would purchase the Notes from Credit Suisse USA, TD and Banc of America and those dealers would within hours or days resell the Notes to the ultimate purchasers, including Grant. The entire chain of transactions constituted a distribution under Securities Legislation and under United States securities legislation and it was well within Credit Suisse USA, TD and Banc of America's contemplation – and it was their expectation – that the Notes would be distributed to others, including the Class Members who were not accredited investors or who otherwise were not entitled to purchase the Notes in accordance with the Securities Legislation and under U.S. securities legislation. Credit Suisse USA, TD and Banc of America actively solicited investors to purchase the Notes. They did so directly by contacting Class Members to purchase the Notes or through other investment dealers who directly contacted Class Members, including Grant, to recommend they purchase the Notes. Furthermore, Banc of America, TD, and Credit Suisse USA sold the Notes to investment dealers and other similar institutions with the expectation that these entities would transfer the Notes to others as part of the distributions, but they failed to take adequate and reasonable steps to ensure that the Notes would not be sold to Class Members who were not qualified to purchase the Notes.

## **XI. THE PLAINTIFFS' CAUSES OF ACTION**

### **A. *Negligent Misrepresentation***

234. 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.

235. Labourers, DSA 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.

236. Grant and DSA, 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.

237. 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.

238. 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.

239. 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.

240. 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.

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

242. 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. The Plaintiffs and other Class Members relied on the defendants' obligation to make timely disclosure of all material facts, to comply with securities law and to prepare quarterly and annual reports in accordance with generally accepted accounting principles. The defendants violated these obligations.

243. The Labourers and the Operating Engineers retained the services of professional investment managers for the purposes of providing professional investment services, including, but not limited to, purchasing, acquiring and managing investments on their behalf. As agents, these investment managers invested in Sino shares relying on the Representation in the Impugned Documents. They reviewed Sino's public disclosure and relied on the Representation.

244. DSA and Wong also invested in Sino shares relying on the Representation in the Impugned Documents. They reviewed Sino's public disclosure and relied on the Representation.

245. Grant retained the services of an investment advisor for the purposes of providing investment services on his behalf. As agent, Grant's investment advisor invested in Sino notes relying on the Representation in the October 2010 Offering Memorandum and the documents incorporated by reference. He reviewed these documents and relied on the Representation.

246. 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.

247. The Plaintiffs relied upon the Representation to their detriment, resulting in damages to the Plaintiffs and other class members.

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

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

248. 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. For greater clarity, the Plaintiffs plead the claim found in Part XXIII.1 of the OSA in respect of all of Sino's Securities that traded in the secondary market during the Class Period, including Sino's common shares and the Notes.

249. 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.

250. 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.

251. 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.

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

253. 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.

254. 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.

~~255. 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.~~

256. 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*

257. 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 and DSA assert the cause right of action set forth in s. 130 of the *OSA* and, if necessary, the equivalent provisions of the Securities Legislation other than the *OSA*.

258. 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*

259. 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 and DSA asserts the cause right 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*.

260. 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.

261. The Individual Defendants, other than Bowland and West, were directors and/or officers of Sino at the time one or more of the Offering Memoranda were issued.

262. BDO is an expert of Sino, and its opinions, containing one or more misrepresentations, appeared with its consent in the July 2008, July 2009 and December 2009 Offering Memoranda.

263. E&Y is an expert of Sino, and its opinions, containing one or more misrepresentations, appeared with its consent in the July 2008, June 2009, December 2009 and October 2010 Offering Memoranda.

264. Credit Suisse USA acted as a dealer/underwriter in the offering of Sino's Notes to which the July 2008, June 2009, December 2009 and October 2010 Offering Memoranda related.

265. Banc of America acted as a dealer/underwriter in the offering to which the October 2010 Offering Memorandum related.

266. TD acted as a dealer/underwriter in the offering to which the December 2009 Offering Memorandum related.

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

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

268. 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~~ the Prospectuses related, Labourers, DSA and Wong assert negligence simpliciter.

269. 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 Notes in one of the distributions to which the Offering Memoranda related, Grant and DSA asserts negligence simpliciter.

270. In the alternative, 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 Notes in one of the distributions to which the Offering Memoranda related, Grant and DSA assert these defendants are liable for the false or misleading statements and omissions in the Offering Memoranda in negligent misrepresentation under the common law of the State of New York or in the further alternative pursuant to section 12(a)(2) of the United States Securities Act of 1933.

271. To state a claim for negligent misrepresentation under the common law of the State of New York, a plaintiff must allege (1) a special relationship (which exists as to defendants who possess unique or specialized expertise, or who are in a special position of confidence and trust with the injured party) that creates a duty to exercise reasonable care toward the plaintiff (2) the transmittal of false information; and (3) justifiable, detrimental reliance on the false information.

272. Section 12(a)(2) states:

(a) In general

Any person who—

(2) offers or sells a security (whether or not exempted by the provisions of section 77c of this title, other than paragraphs (2) and (14) of subsection (a) of said section), by the use of any means or instruments of transportation or communication in interstate commerce or of the mails, by means of a prospectus or oral communication, which includes an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements, in the light of the circumstances under which they were made, not misleading (the purchaser not knowing of such untruth or omission), and who shall not sustain the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of such untruth or omission.

shall be liable, subject to subsection (b) of this section, to the person purchasing such security from him, who may sue either at law or in equity in any court of competent jurisdiction, to recover the consideration paid for such security with interest thereon, less the amount of any income received thereon, upon the tender of such security, or for damages if he no longer owns the security.

273. To state a claim under Section 12(a)(2) of the United States *Securities Act of 1933*, a plaintiff must allege that the defendant (1) sold or offered the sale of a security; (2) by the use of any means of communication in interstate commerce; (3) through a prospectus or oral communication that contained a material misstatement or omission; and (4) that the plaintiff is entitled to rescission or damages. "Prospectus" means "any prospectus, notice, circular, advertisement, letter or communication, written or by radio or television, which offers any security for sale or confirms the sale of security..."

274. These defendants were in a special relationship with Grant, DSA and the Class Members and failed to make a reasonable and diligent investigation of the statements in the Offering Memoranda to ensure that the statements were true and correct and there were no omissions of material facts required to be stated in order to make the statements not misleading. The Class Members who purchased Sino's Notes in one of the distributions to which the Offering Memoranda related suffered losses and are entitled to damages in accordance with the common law of the State of New York or under section 12 of the *Securities Act of 1933*. Grant, DSA and

these Class Members obtained these Notes without knowledge of the facts concerning the misstatements or omissions. These Defendants are jointly and severally liable.

275. 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.

276. 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.

277. 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.

278. 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.

279. 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.

~~280. 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.~~

281. 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.

282. 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.

283. 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.

284. 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.

285. 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.

286. 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.

287. The Primary Market Defendants' negligence in relation to the Prospectuses and the Offering Memoranda resulted in damage to Labourers, Grant, DSA 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*

288. 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.

289. 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.

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

291. 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*

292. 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.

293. 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.

294. 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.

295. 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*

296. 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.

297. 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.

298. 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.

299. 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.

300. 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.

301. 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~~

~~302. 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;~~
- ~~(e) — 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.~~

~~303. — 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;~~
- ~~(e) — 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.~~

~~304. — 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.~~

~~305. — 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.~~

*(vii) Conspiracy*

306. 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.

307. 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.

308. 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.

309. 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.

310. 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.

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

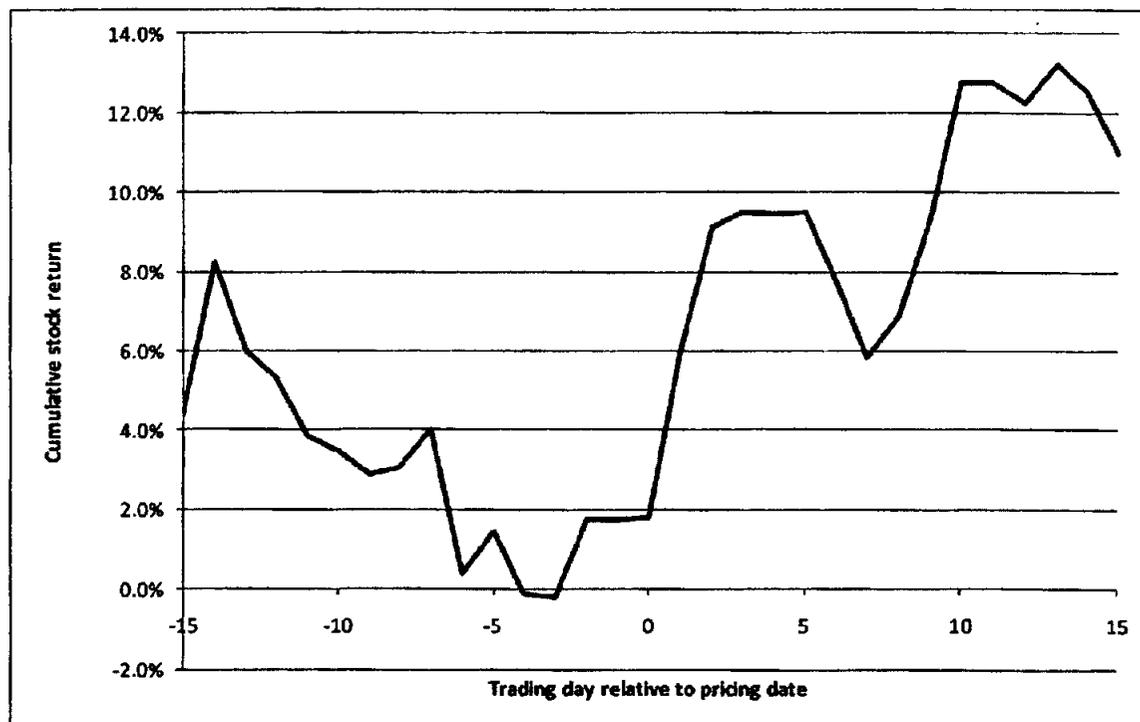
312. The purpose of both at-the-money and out-of-the-money options is to create incentives for option recipients to work to raise the share price of the company. Such options have limited value at the time of the grant, because they entitle the recipient to acquire the company's shares at or above the 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.

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

314. 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.

315. 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.

316. 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.



317. 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.

318. 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**

319. 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.

320. 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.

321. 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.

322. 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.

323. 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.

324. At all material times during the Class Period, 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***

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

326. 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.

327. 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**

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

329. 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**

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

331. 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~~**

~~332. Pöyry is vicariously liable for the acts and omissions of each of its officers, directors, partners, agents and employees as set out above.~~

~~333. 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**

334. 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.

335. 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**

336. 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**

337. 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**

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

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

340. The Plaintiffs will serve a jury notice.

341. 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~~ Date: January 20, 2015

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*et al.*  
Plaintiffs

and

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*

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

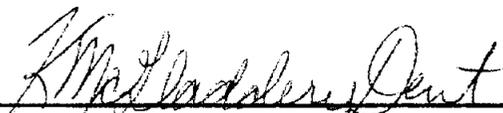
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***THIS IS EXHIBIT "C" REFERRED TO IN THE  
AFFIDAVIT OF CHARLES M. WRIGHT  
SWORN BEFORE ME, THIS 13<sup>TH</sup> DAY OF APRIL, 2015***

  
\_\_\_\_\_  
***A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.***

Steps taken by Class Counsel in Sino-Forest's insolvency:

1. Bringing or appearing in response to the following motions:
  - (i) March 30, 2012 – Attending at the initial application regarding *CCAA* protection and sales process for Sino and its subsidiaries, including a stay of proceedings against Sino, its subsidiaries and directors and officers;
  - (ii) April 13, 2012 – Attending at the Company's motion regarding stay extension;
  - (iii) April 20, 2012 – Bringing a motion regarding advice and direction on the *CCAA* stay and its impact on the pending motions in the Ontario Action;
  - (iv) April 20, 2012 – Attending at the Company's motion regarding expansion of the powers of the Monitor;
  - (v) May 8, 2012 – Attending and participating actively in the motion regarding a third party stay;
  - (vi) May 8, 2012 – Bringing a motion regarding Pöyry settlement leave;
  - (vii) May 14, 2012 – Attending and participating in a motion regarding Claims Procedure Order, including granting of leave to the Ontario Plaintiffs to file a Claim in respect of the substance of the matters set out in the Ontario Action on behalf of the proposed Class and the same leave to the plaintiffs in the Québec Action;
  - (viii) May 14, 2012 – Attending a motion brought by Contrarian, one of Sino's noteholders;
  - (ix) May 17, 2012 – Bringing a motion in the Ontario Action regarding a third-party funding agreement;
  - (x) May 17, 2012 – Bringing a motion in the Ontario Action regarding Pöyry settlement approval;
  - (xi) May 31, 2012 – Attending at the Company's motion regarding stay extension;
  - (xii) June 26, 2012 – Attending at the Company's motion regarding the status of Shareholder Claims and Related Indemnity Claims under the *CCAA*;
  - (xiii) July 25, 2012 – Precipitating and attending at a motion regarding mediation in the *CCAA* proceedings, which included an order that the Ontario Plaintiffs were a party to the mediation;
  - (xiv) July 27, 2012 – Attending at the Company's motion regarding the status of Shareholder Claims and Related Indemnity Claims under the *CCAA*;

- (xv) July 30, 2012 – Bringing a motion regarding document production and a data room;
  - (xvi) August 31, 2012 – Attending at the Company’s motion regarding plan filing and meeting Order;
  - (xvii) August 31, 2012 – Attending at the Company’s motion regarding adjournment of Ad Hoc Committee’s motion (regarding appointment of Representative Plaintiff and leave to vote on Plan of Compromise);
  - (xviii) September 28, 2012 – Attending at the Company’s motion regarding stay extension;
  - (xix) October 9, 2012 – Attending and participating in the Company’s motion regarding adjournment of the Ad Hoc Committee’s motion (regarding lifting of the stay against the Third Parties);
  - (xx) October 9, 2012 – Attending at the Company’s motion regarding stay extension;
  - (xxi) October 28, 2012 – Bringing a motion to limit the scope of stay to exclude the Third Party Defendants and others;
  - (xxii) October 29, 2012 – Attending at the Company’s motion regarding revised noteholder noticing process;
  - (xxiii) November 13, 2012 – Attending an appeal regarding Equity Claims decision; and
  - (xxiv) November 23, 2012 – Attending at the Company’s motion regarding stay extension;
  - (xxv) December 7, 2012 – Attending and participating in the motion to sanction the Plan;
2. almost from the inception of the CCAA Proceedings, engaging in extensive and protracted negotiations with the Ad Hoc Noteholder Group and with Sino with respect to the terms of the Plan of Reorganization;
3. bringing a motion early in the proceeding seeking various relief challenging the framework of the CCAA Proceedings, such as the appointment of a receiver and providing for representation on behalf of the Class Members, and reserving all rights with respect to those issues throughout the CCAA Proceedings;

4. supporting a motion for an order increasing the powers of the Monitor to administer Sino which took away powers from entrenched management and the then-existing board, protecting the assets of the company for all stakeholders and ensuring greater transparency and balance in the proceeding;
5. negotiating the claims procedure in the CCAA Proceedings and obtaining the right to file a representative claim so as to protect the interests of the putative Class;
6. obtaining a data room of confidential non-public documents from Sino, which related principally to the audits of Sino's financial statements so as to permit the Ontario Plaintiffs to negotiate with other stakeholders at the Mediation and respond to any plan of arrangement in an informed manner;
7. examining all applicable insurance policies and indemnity agreements and assessed the capacity to pay of various defendants, including Horsley;
8. compelling the attendance of Sino's CEO at a cross-examination and testing his evidence in the CCAA Proceedings;
9. engaging in multiple formal and informal, group and individual mediation and negotiation sessions with other stakeholders regarding the Class Members' claims, including a court-ordered, 2-day Mediation in September presided over by the Honourable Justice Newbould; and
10. bringing a motion, in response to the form of the restructuring plan initially filed with the court, which the Ontario Plaintiffs deemed to be contrary to their interests, challenging various features of the Plan, and seeking the right to vote on the Plan, and expressly reserving all of the Ontario Plaintiffs' rights in connection with that motion pending the

presentation of the plan for sanction by the court, to ensure that the plan was in the best interests of the Class Members.

1572122v1

*THIS IS EXHIBIT "D" REFERRED TO IN THE  
AFFIDAVIT OF CHARLES M. WRIGHT  
SWORN BEFORE ME, THIS 13<sup>TH</sup> DAY OF APRIL, 2015*



---

*A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.*

Court File No. CV-12-9667-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR.	)	MONDAY, THE 30th
	)	
JUSTICE MORAWETZ	)	DAY OF JULY, 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**

**ORDER**

THIS MOTION made by the Ad Hoc Committee of Purchasers of the Applicant's Securities (the "**Moving Party**"), for the production of certain documents in the possession, control and power of the Applicant, was heard this day, at the courthouse at 330 University Avenue, Toronto, Ontario,

ON READING the Motion Record and factum of the Moving Party, and on hearing the submissions of counsel for the Moving Party, Sino-Forest Corporation, the Monitor, an ad hoc Committee of Bondholders, Ernst & Young, BDO, and certain underwriters named as defendants in the Ontario Class Action,

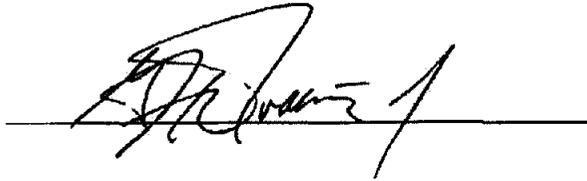
AND ON BEING ADVISED that the Applicant consents to the relief contained herein and that the Monitor supports the granting of relief contained herein;

1. **THIS COURT ORDERS** that further service of the Notice of Motion and Motion Record on any party not already served is hereby dispensed with, such that this motion is properly returnable today.

2. **THIS COURT ORDERS** the Applicant to make the documents listed in Schedule "A" hereto (the "Documents") available to the Moving Party and the other Mediation Parties (as defined in the order of this court dated July 25, 2012 (the "Mediation Order")), subject to: (i) the provisions of the Mediation Order applicable to information made available through the electronic data room referenced in the Mediation Order (the "Data Room"), including without limitation the requirement for confidentiality agreements; and (ii) any claims of privilege; and provided, for greater certainty, that the Applicant need not produce any audit-related documents created after June 2, 2011.
3. **THIS COURT ORDERS** that the Documents shall be added to the Data Room by the Applicant as and when they become available, but the Applicant shall make best efforts to add the Documents to the Data Room by August 16, 2012, and that, in any event, the Applicant shall add the Documents to the Data Room by no later than August 23, 2012.
4. **THIS COURT ORDERS** that, promptly following the addition of any Documents to the Data Room, the Applicant shall notify or shall cause to be notified, by email, those persons who have executed the Confidentiality Agreement pursuant to this Court's Mediation Order that such Documents have been added to the Data Room, but in no event shall the Applicant be required to provide such notification more than one time per day.
5. **THIS COURT ORDERS** that, to the extent that the Applicant withholds production of any Documents on the basis of a claim of privilege, the Applicant shall produce an itemized list describing each of the documents in the form of or substantially similar to a Schedule "B" of an affidavit of documents, with sufficient specificity to establish the Applicant's claim for privilege, including, without limitation, identifying information for each document, the nature of the privilege being asserted in respect of the document, and, if litigation privilege is being asserted, reasonable identifying

information regarding the litigation that gives rise to the privilege (the "Privilege Log"). The Applicant shall add the Privilege Log to the Data Room by August 27, 2012, unless the Court orders otherwise.

- 6. **THIS COURT ORDERS** that the Documents specified in clauses 1, 2(s), 3 and 4 of Schedule "A" hereto shall be in the English language.



ENTERED AT THE COURT OFFICE  
 DE / BOOK NO.  
 LE / DANS LE REGISTRE NO.:

JUL 30 2012

PER/PAR:



## Schedule "A"

1. the unconsolidated financial statements of Sino-Forest Corporation and its subsidiaries prepared prior to June 2, 2011;
2. the following documents relating to Sino-Forest audits, for each of the fiscal years 2006 through 2010, inclusive, for each audited entity:
  - a) Information request list for each year's audit, detailing the documents to be provided by the company to the auditor;
  - b) The Year End Communication or Report of the Auditor to the Audit Committee from BDO or E&Y, including:
    - i) Audit scope and findings report;
    - ii) Significant matters discussed with management;
    - iii) Management's analysis and response;
    - iv) Significant judgments and estimates;
    - v) Audit risks encountered/identified and audit response; and
    - vi) Summary of corrected and uncorrected financial statement misstatements;
  - c) Communications between the auditors and the company regarding any disagreements with management;
  - d) The unadjusted (pre-audit) trial balance;
  - e) Proposed Adjustments presented by the auditor following each year's audit (listing adjusting journal entries, analysis and explanations);
  - f) List of related parties provided to the auditor each year;
  - g) Correspondence with the auditor concerning related parties and related party transactions;
  - h) Accounting policy manuals or documented accounting policies of the company for each year;

- i) Process and procedure manuals of the company for each year, particularly pertaining to the sales cycle and purchase/acquisition cycle;
- j) Ledgers and subledgers for the following accounts:
  - i) Cash;
  - ii) Sales;
  - iii) Timber Inventory; and
  - iv) Cost of Goods Sold;
- k) Sale transaction documents provided to (requested by) the auditors in respect of timber transactions:
  - i) Sales order (or purchase order from customer) or Sales contract/agreement;
  - ii) Invoice; and
  - iii) Proof of collection;
- l) Purchase transaction documents provided to (requested by) the auditors in respect of timber transactions:
  - i) Purchase order (or contract/agreement);
  - ii) Invoice; and
  - iii) Proof of payment;
- m) Transaction documents provided to auditor in respect of Sino's "set-off" agreements on timber transactions;
- n) Correspondence with auditors regarding confirmation of transactions with authorized intermediaries and suppliers (or authorization provided to Auditors to confirm directly with the AIs and Suppliers);
- o) Documentation concerning the auditors' procedures to independently examine timber assets, including on-site physical inspection, inventory counts, examination of transaction documentation, etc.;

- p) Internal worksheets, analyses and calculations supporting the "related party transactions" disclosure in each year's financial statements (e.g., see Note 23 of the 2009 financial statements);
  - q) Any additional information provided to/requested by the auditor regarding related party transactions;
  - r) Drafts and correspondence regarding the preparation of the Cash Flow Statement;
  - s) A statement of the total fees paid to the Applicant's auditors in respect of each of the 2006-2010 fiscal years; in addition, the Applicant shall make best efforts to break down such fees by audit-related and non-audit-related work (if any), and if non-audit related work was performed by the Applicant's auditors in any such year, a reasonably detailed description of the non-audit-related work performed by the auditors in such year;
  - t) Minutes of all meetings in which the auditors and members of management participated; and
  - u) BDO and E&Y presentations to the board of directors and management.
3. a summary of the coverage positions of the insurers of the Applicant and its directors and officers, and an approximation of the remaining insurance coverage; and
  4. the claims register as provided by the Monitor .

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

Court File No. CV-12-9667-00CL

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**  
Proceedings commenced at  
**TORONTO**

**ORDER**

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Lawyers for the Ad Hoc Committee of Purchasers of  
the Applicant's Securities, including the  
Representative Plaintiffs in the Ontario Class Action

***THIS IS EXHIBIT "E" REFERRED TO IN THE  
AFFIDAVIT OF CHARLES M. WRIGHT  
SWORN BEFORE ME, THIS 13<sup>TH</sup> DAY OF APRIL, 2015***

A handwritten signature in cursive script, appearing to read "M. Stoddery". The signature is written in black ink and is positioned above a horizontal line.

***A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.***

*Re Sino-Forest Corporation*  
Court File No. CV-12-9667-00CL

and

*Trustees of Labourers' Fund v. Sino-Forest Corporation et al.*  
Court File No. CV-11-431153-00CP

**DEALERS SETTLEMENT  
CLAIMS AND DISTRIBUTION PROTOCOL  
Distribution of Dealers Compensation Fund to Securities Claimants**

1. The following definitions apply in this Claims and Distribution Protocol:
  - (a) "2013 Notes" means the 5.00% Convertible Senior Notes due 2013.
  - (b) "2014 Notes" means the 10.25% Guaranteed Senior Notes due 2014.
  - (c) "2016 Notes" means the 4.25% Convertible Senior Notes due 2016.
  - (d) "2017 Notes" means the 6.25% Guaranteed Senior Notes due 2017.
  - (e) "ACB" means the adjusted cost base for the purchase of share or notes (as the case may be), inclusive of brokerage commissions.
  - (f) "Allocation System" means the method of determining the Compensable Loss assigned to a claim in order to determine the amount of compensation to be awarded for that claim (as set out below). This is based on each Securities Claimant's estimated losses attributable to misrepresentations in Sino-Forest's offering documents, taking into account risk adjustments to account for the liability risks for different categories of Securities Claimants.
  - (g) "Claim Form" means a written claim in the prescribed form seeking compensation from the Dealers Compensation Fund and an EY Claim Form.
  - (h) "Claimant" means any person making a claim as purporting to be a Securities Claimant or on behalf of a purported Securities Claimant, with proper authority (as determined by the Claims Administrator or Class Counsel).
  - (i) "Claims Administrator" means NPT RicePoint Class Action Services Inc.
  - (j) "Class Actions" has the meaning ascribed to that term in the Plan.
  - (k) "Class Counsel" means Koskie Minsky LLP and Siskinds LLP.
  - (l) "Class Counsel Fees" means the aggregate of the fees and disbursements of Class Counsel, Paliare Roland Rothstein Rosenberg LLP, Kessler, Topaz, Meltzer & Check, LLP and Cohen Millstein Sellers & Toll PLLC (including taxes) as provided in the Dealers Allocation Order.
  - (m) "Class Settlement Fund" has the meaning ascribed to that term in the Dealers Settlement Approval Order.

- (n) “Compensable Damages” means the amount of a Claimant’s damages for each type of purchase of Securities after accounting for Offset Profits for those purchases.
- (o) “Compensable Loss” is the sum of the Claimant’s damages after Offset Profits are deducted and risk adjustments applied for each type of purchase.
- (p) “Dealers Allocation Order” means the order approving the claims process for the distribution of the Class Settlement Fund.
- (q) “Dealers Compensation Fund” means the Class Settlement Fund less Class Counsel Fees, costs of administration of the Settlement Trust (including taxes), and any expenses and taxes relating to the notice of the settlement approval hearing, notice of the fee and allocation hearing and notice of this claims and distribution protocol.
- (r) “Dealers Settlement” has the meaning attributed to that term in the Dealers Settlement Approval Order.
- (s) “Dealers Settlement Approval Order” means the order of Morawetz J. dated ●, 2015, approving the Dealers Settlement.
- (t) “Excluded Claim” means any of the following:
  - (i) a claim in respect of a purchase of Securities other than Securities purchased in an Offering; or
  - (ii) a claim by or on behalf of any person or entity that is, or previously was, a named defendant to any of the Class Actions, Albert Ip, Alfred C.T. Hung, George Ho and Simon Yeung and 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 Allen T.Y. Chan a.k.a. Tak Yuen 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, Albert Ip, Alfred C.T. Hung, George Ho and Simon Yeung.
- (u) “EY Claim Form” means any claim form submitted to the Claims Administrator pursuant to the Order of Justice Morawetz dated January 10, 2014 approving the Plan of Allocation in the Ernst & Young Settlement, as that term is defined in the Plan, where the Claimant confirms to the Claims Administrator Fund in a manner determined by the Claims Administrator that it wishes to seek compensation from the Dealers Compensation.
- (v) “FIFO” means the method applied to the holdings of Securities Claimants who made multiple purchases or sales such that sales of securities will be matched, in chronological order, first against securities first purchased.
- (w) “Notes” means, collectively, the 2013 Notes, the 2014 Notes, the 2016 Notes and the 2017 Notes.
- (x) “Offerings” (each being an “Offering”) means:

- (i) Distribution of common shares pursuant to the Final Short-Form Prospectus dated June 5, 2007;
  - (ii) Distribution of common shares pursuant to the Final Short-Form Prospectus dated June 1, 2009;
  - (iii) Distribution of common shares pursuant to the Final Short-Form Prospectus dated December 10, 2009;
  - (iv) Distribution of the 2013 Notes pursuant to the Offering Memorandum dated July 17, 2008;
  - (v) Distribution of the 2014 Notes pursuant to the Exchange Offer Memorandum dated June 24, 2009;
  - (vi) Distribution of the 2016 Notes pursuant to the Offering Memorandum dated December 10, 2009; and
  - (vii) Distribution of the 2017 Notes pursuant to the Offering Memorandum dated October 14, 2010.
- (y) "Offset Profits" means the total increase in inflation of each Security sold by a Securities Claimant prior to June 2, 2011 where such security was purchased in an Offering. Such inflation for Sino-Forest Securities shall be determined by Frank Torchio of Forensic Economics, in consultation with Class Counsel.
  - (z) "Ontario Class Action" means the action commenced against Sino-Forest Corporation and others in the Ontario Superior Court of Justice, bearing (Toronto) Court File No. CV-11-431153-00CP.
  - (aa) "Plan" means the Plan of Compromise and Reorganization of Sino-Forest Corporation, sanctioned and approved pursuant to the Plan Sanction Order of Morawetz J. dated December 10, 2012.
  - (bb) "Risk Adjusted Damages" mean the Compensable Damages for each type of purchase of securities, after it has been adjusted by a risk adjustment.
  - (cc) "Risk Adjusted Loss" means the sum of the Risk Adjusted Damages for each type of purchase of securities.
  - (dd) "Sale Price" means the price at which the Claimant disposed of shares or notes, taking into account any commissions paid in respect of the disposition, such that the Sale Price reflects the economic benefit the Claimant received on disposition.
  - (ee) "Securities" means common shares, notes or other securities defined in the *Securities Act*, RSO 1990, c. S.5, as amended, or that are securities at law.
  - (ff) "Securities Claimants" had the meaning ascribed to that term in the Dealers Settlement Approval Order.
  - (gg) "Settlement Trust" has the meaning ascribed to that term in the Dealers Settlement Approval Order.
  - (hh) "Shares" means Securities that are common shares.

- (ii) "US Class Action" means the action commenced against Sino-Forest Corporation and others in the United States District Court (SDNY), bearing Court File No. 1:12-cv-01726-VM.

2. The Claims Administrator shall distribute the Dealers Compensation Fund as set out below.

**Goal**

3. The goal is to distribute the Dealers Compensation Fund among Securities Claimants who submit valid and timely claims for Securities purchased pursuant to the Offerings, or any of them, provided, however, that Securities Claimants who have previously submitted a valid Claim Form to the Claims Administrator are not required to submit a new Claim Form.

**Deadline for Claims**

4. Any person, other than Claimants who previously filed valid claims with the Claims Administrator, who wishes to claim compensation shall deliver to or otherwise provide the Claims Administrator a Claim Form by ●, 2015 or such other date set by the Court. If the Claims Administrator does not receive a Claim Form from a Claimant by the deadline, then the Claimant shall not be eligible for any compensation whatsoever from the Dealers Compensation Fund. Notwithstanding the forgoing, the Administrator shall have the discretion to permit otherwise-valid late claims without further order of the Court.

**Processing Claim Forms**

5. The Claims Administrator shall review each Claim Form and verify that the Claimant is eligible for compensation, as follows:
  - (a) For a Claimant claiming as a Securities Claimant, the Claims Administrator shall be satisfied that (i) the Claimant is a Securities Claimant; and (ii) the claim is not an Excluded Claim.
  - (b) For a Claimant claiming on behalf of a Securities Claimant or a Securities Claimant's estate, the Claims Administrator shall be satisfied that (i) the Claimant has authority to act on behalf of the Securities Claimant or the Securities Claimant's estate in respect of financial affairs; (ii) the person or estate on whose behalf the claim was submitted is a Securities Claimant; and (iii) the claim is not an Excluded Claim.

- 6. The Claims Administrator shall review the Claim Forms and assign the Compensable Loss to the claims prescribed by the Allocation System.
- 7. The Claims Administrator shall take reasonable measures to verify that the Claimants are eligible for compensation and that the information in the Claim Forms is accurate. The Claims Administrator may make inquiries of the Claimants in the event of any concerns, ambiguities or inconsistencies in the Claim Forms.

**Allocation System and Payment of Dealers Compensation Fund**

- 8. The Dealers Compensation Fund shall be apportioned as follows:
  - (a) 69.23% of the aggregate amount available for distribution in the Dealers Compensation Fund shall be allocated to claims made in respect of purchases of Shares and shall be distributed to the eligible Claimants per the terms set out herein (the "Share Fund"); and
  - (b) 30.769% of the aggregate amount available for distribution in the Dealers Compensation Fund shall be allocated to claims made in respect of purchases of the Notes and shall be distributed to the eligible Claimants per the terms set out herein (the "Note Fund").
- 9. As soon as possible after (i) all timely Claim Forms have been processed; (ii) the time to request a reconsideration for disallowed claims under paragraph 19 has expired; and (iii) all administrative reviews under paragraphs 20-21 have concluded, the Claims Administrator shall determine each Claimant's Risk Adjusted Loss as follows:
  - (a) The ACB for each security purchased are determined using FIFO on a per security, per account, basis.
  - (b) the Securities purchased are divided into the types of securities described in the chart at paragraph 9(e).
  - (c) For each type of purchase of Securities, the damages for those purchases are calculated as follows:

Sold before June 2, 2011	No damages
Sold from June 3 to August 25, 2011	(#of Securities sold) X (ACB - Sale Price)
Sold or held after August 25, 2011 <i>Shares</i>	(#of shares sold or held) X (ACB per share - CAD\$1.40)

<sup>1</sup> For the purposes of these calculations, in respect of the Notes, each US\$1,000 principal amount of the Notes shall be deemed 1 (one) note.

2013 Notes	(#of notes sold or held) X (ACB per note - USD\$283)
2014 Notes	(#of notes sold or held) X (ACB per note - USD\$276.20)
2016 Notes	(#of notes sold or held) X (ACB per note - USD\$283)
2017 Notes	(#of notes sold or held) X (ACB per note - USD\$289.80)

- (d) The damages for each type of purchase are reduced by subtracting the Claimant's Offset Profits for those purchases to obtain the Compensable Damages.
- (e) The Compensable Damages for each type of purchase are multiplied by the risk adjustment in the following chart to obtain the Risk Adjusted Damages:

<b>A. Share Purchases (Primary Market)</b>	
June 2007 Offering	0.30
June 2009 and December 2009 Offerings	1.00
<b>B. Note Purchases (Primary Market)</b>	
2013, 2014, 2016, 2017 Notes (Canadian) <sup>2</sup>	1.00
2017 Notes (non-Canadian)	1.00
2013, 2014 and 2016 Notes (non-Canadian) If CCAA claim filed	0.01 0.50

- (f) The Compensable Loss is equal to the sum of the Risk Adjusted Damages for each type of purchase.

10. As soon as is practicable thereafter, the Administrator shall:

- (a) allocate the Share Fund on a *pro rata* basis based upon each Claimant's Compensable Loss in relation to Shares; and
- (b) allocate the Note Fund on a *pro rata* basis based upon each Claimant's Compensable Loss in relation to Notes; and

11. The Claims Administrator shall make payments to the eligible Claimants based on the allocation under paragraphs 9 and 10, subject to the following:

- (a) The Claims Administrator shall not make payments to Claimants whose allocation under paragraphs 9 and 10 is less than \$5.00. Such amount shall instead be allocated *pro rata* to the other eligible Claimants.
- (b) All Claimants, other than class members of the US Class Action that are not also members of the Ontario Class Action, are required to pay 5% of any recovery to Claims Funding International ("CFI"), up to a maximum of \$5,000,000 in

<sup>2</sup> This is a reference to any primary market note purchase (a) in a distribution in in Canada; or (b) by a person who is, or was at the time of purchase, a resident of Canada.

aggregate, provided the action is resolved prior to the filing of the Plaintiffs' pre-trial conference brief, less any amounts paid or payable to CFI in this action to date (the "CFI Cap"). The Claims Administrator shall reserve 5% of the allocation to Claimants, other than class members of the US Class Action that are not also members of the Ontario Class Actions, for payment to CFI, up to the CFI Cap.

- (c) The Claims Administrator shall make payment to a Claimant by either bank transfer or by cheque to the Claimant at the address provided by the Claimant or the last known postal addresses for the Claimant. If, for any reason, a Claimant does not cash a cheque within 6 months after the date of the cheque, the Claimant shall forfeit the right to compensation and the funds shall be distributed in accordance with paragraph 12.

#### **Remaining Amounts**

- 12. If there are amounts remaining after payment to Securities Claimants have been made under paragraphs 9 to 11 and all other financial commitments have been met pursuant to the Dealers Allocation Order or in order to implement the Dealers Settlement, then the remaining amount shall be held in the Settlement Trust and paid out for the purposes of future disbursements in the Ontario Class Action and/or the US Class Action.
- 13. If there has been full and final settlements of the Ontario Class Action and the US Class Action or final judgments against the defendants in those actions (such that there is no prospect of additional amounts being added to the Settlement Trust), then payment of any remaining balance from the Settlement Trust shall be determined by further motion before the Court.

#### **Completion of Claim Form**

- 14. If, for any reason, a living Securities Claimant is unable to complete the Claim Form then it may be completed by the Securities Claimant's personal representative or a member of the Securities Claimant's family.

#### **Irregular Claims**

- 15. The claims process is intended to be expeditious, cost effective and "user friendly" and to minimize the burden on Securities Claimants. The Claims Administrator shall, in the absence of reasonable grounds to the contrary, assume the Securities Claimants to be acting honestly and in good faith.

16. Where a Claim Form contains minor omissions or errors, the Claims Administrator shall correct such omissions or errors if the information necessary to correct the error or omission is readily available to the Claims Administrator.
17. The claims process is also intended to prevent fraud and abuse. If, after reviewing any Claim Form, the Claims Administrator believes that the claim contains unintentional errors which would materially exaggerate the Compensable Loss to be awarded to the Claimant, then the Claims Administrator may disallow the claim in its entirety or make such adjustments so that an appropriate Compensable Loss is awarded to the Claimant. If the Claims Administrator believes that the claim is fraudulent or contains intentional errors which would materially exaggerate the Compensable Loss to be awarded to the Claimant, then the Claims Administrator shall disallow the claim in its entirety.
18. Where the Claims Administrator disallows a claim in its entirety, the Claims Administrator shall send to the Claimant at the address provided by the Claimant or the Claimant's last known email or postal address, a notice advising the Claimant that he, she or it may request the Claims Administrator to reconsider its decision. For greater certainty, a Claimant is not entitled to a notice or a review where a claim is allowed but the Claimant disputes the determination of Compensable Loss or his, her or its individual compensation.
19. Any request for reconsideration must be received by the Claims Administrator within 21 days of the date of the notice advising of the disallowance. If no request is received within this time period, the Claimant shall be deemed to have accepted the Claims Administrator's determination and the determination shall be final and not subject to further review by any court or other tribunal.
20. Where a Claimant files a request for reconsideration with the Claims Administrator, the Claims Administrator shall advise Class Counsel of the request and conduct an administrative review of the Claimant's complaint.
21. Following its determination in an administrative review, the Claims Administrator shall advise the Claimant of its determination. In the event the Claims Administrator reverses a disallowance, the Claims Administrator shall send the Claimant at the Claimant's last known postal address, a notice specifying the revision to the Claims Administrator's

disallowance.

22. The determination of the Claims Administrator in an administrative review is final and is not subject to further review by any court or other tribunal.
23. Data from each Claim Form shall be retained such that a Claimant is not required to file further claim forms in any future settlement or distribution.
24. The failure to file a timely valid Claim Form shall not prejudice any person's ability to file a claim form in any future settlement or distribution.
25. Any matter not referred to above shall be determined by analogy by the Claims Administrator in consultation with Class Counsel.

***THIS IS EXHIBIT "F" REFERRED TO IN THE  
AFFIDAVIT OF CHARLES M. WRIGHT  
SWORN BEFORE ME, THIS 13<sup>TH</sup> DAY OF APRIL, 2015***

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***A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.***



300-633 Colborne St.  
London, ON N6B 2V3

P: (519) 432-3405 ext. 322

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VIA EMAIL (.PDF) DELIVERY

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March 31, 2015

Jonathan Ptak  
Koskie Minsky LLP  
20 Queen Street West  
Suite 900, Box 52  
Toronto, Ontario  
M5H 3R3

Dear Mr. Ptak;

Thank you for the opportunity to provide you with a proposal to administer the Sino-Forest - Underwriters Settlement. We have enjoyed the opportunity to gain a better understanding of your requirements through this phase of the process and we look forward to further discussions.

As per our discussion, we have assumed that Notice will be going to all E&Y Claimants as opposed to only those with qualifying primary market transactions. We believe this is the prudent approach but would like to recognize that there will be additional costs incurred, beyond the cost of notice itself, in the form of the calls, emails, and claims from secondary market E&Y Claimants who believe that they have a claim in the Underwriters Settlement. To help contain these costs for the Class, we would appreciate an opportunity to review the draft of the Notice of Settlement Approval so that we might offer suggestions that will help individuals more clearly understand their eligibility.

We expect our estimate of 1,800 Eligible Primary Market Claimants to come down as the E&Y Settlement administration comes to an end. This is due to the fact that some Individuals improperly registered some or all of their E&Y Claim transactions as primary market where in fact we believe they are secondary market transactions. These issues will be resolved as we complete the deficiency/rejection phase of the E&Y administration.

Our experience with the E&Y Settlement has been that individuals found the Claims and Distribution Protocol very difficult to understand. As a result, the deficiency rate and support requirements were very high. To assist Class Members in the Underwriters Settlement, we are designing some new tools that will deal with the most common issues and questions Class Members will have. We will be pleased to discuss these ideas with you in more detail in the coming weeks.

This proposal deals only with the activities relating to the intake, processing and payment of claims. Activities related to notice, including the work associated with merging and cleansing the defendant data and the placement of notice in newspapers, will be addressed in a separate notice proposal.

Thank you again for your time and please contact us if you have any questions or require additional information.

Sincerely,

A handwritten signature in dark ink, appearing to read "David A. Weir". The signature is fluid and cursive.

David A. Weir

c.c.: D. Bach, G. Myers

NPT RICEPOINT

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NPT RICEPOINT

PROPOSAL TO ADMINISTER THE SINO-FOREST  
UNDERWRITERS  
CLASS ACTION SETTLEMENT

APRIL 1, 2015  
Confidential

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## 1. Firm Overview

Our firm was established in London over 20 years ago and comprises 12 partners, along with a combination of other supporting staff of Chartered Accountants, Certified General Accountants and students in training for each designation and program. In total, we have over 60 full-time employees, including partners. NPT provides services in four areas: accounting services, business valuations, wealth management, and class action administration.

Class action administration services are provided through NPT RicePoint Class Action Services Inc. Over the past 14 years, we have administered over 31 cases involving securities, product liability and price fixing settlements and distributed over \$165 million in settlement assets. For a list of representative cases, please see Appendix B of this proposal or visit our website at [www.nptricepoint.com](http://www.nptricepoint.com).

## 2. Scope of Engagement

The following is NPT RicePoint's understanding of the administrative services to be provided for the Sino-Forest Underwriters ("Sino-Forest") Class Action Settlement.

### Background

In 2013, NPT RicePoint was appointed as the administrator of the Ernst & Young ("EY") Sino Forest Settlement. As part of the administration we conducted a robust outreach to the broker/custodian community in North America seeking their assistance in identifying eligible primary and secondary market purchasers of Sino Forest. Through the outreach, and the publication of Notice in several newspapers, close to 50,000 claims, almost three times the forecast, were received.

In December of 2014, Class Counsel advised NPT RicePoint of a settlement with the Sino Forest underwriters. The terms of the Underwriter Settlement provided for compensation to primary market purchasers only.

Class Counsel asked NPT RicePoint to put forward a recommendation for administering the Underwriter Settlement using data collected during the EY administration plus a modest Notice program.

This proposal lays out the scope of work and the proposed fees to administer the Sino Forest Underwriter Settlement. While assumptions as to the form of notice are discussed in this proposal, pricing and tactical steps associated with notice will be discussed in a separate document.

### Assumptions

- The Class includes Canadians and non-Canadians who acquired Sino Forest securities on the primary market in any jurisdiction.
- The Opt Out deadline has passed.
- **Notice:** There will be no new outreach to the brokerage community. Notice will consist of a direct outreach to claimants who have previously filed claims in the E&Y Settlement. Claimants with qualifying primary market transactions in the EY settlement will receive the Notice of Settlement Approval for Underwriters as well as personalized Claim Form listing their qualifying primary market transactions. E&Y Secondary Market Claimants will receive the Notice of Settlement Approval for Underwriters. In addition to these steps, there will be a direct outreach to a list of potential claimants provided by the defendants; and, the Short Form Notice of Settlement Approval will be published in The Globe & Mail. Professional Service Fees and out-of-pocket fees for these activities will be quoted separately.

## NPT RICEPOINT

- Eligible Primary Market Class Members will be required to sign and return their personalized Claim Form acknowledging their consent to participate in the Underwriters Settlement using the qualifying transactions listed in the Claim Form. Claim Forms not returned by the end of the will be rejected. Throughout the claim period, NPT RicePoint will make additional outreach efforts to Primary Market individuals with outstanding Claim.
- If a Class Member, previously compensated in the EY Settlement, provides new information as part of the Underwriter Settlement, that would have resulted in a change to their entitlement in the EY Settlement had it been known at the time, that new information will be captured in the Class Member's file for future settlements but no retroactive adjustment will be made to their entitlement in the Underwriters Settlement to compensate for an under or over payment in EY.
- Case specific expenses will be billed separately (e.g. taxes; claim packet printing; postage and courier, bank fees, cheque stock)

### Sizing

- Settlement will be open to all primary market purchasers within the seven offerings (four notes, three common stock) noted in the Plan of Allocation.
- Estimated total claims – 1,800 previously identified primary market holders (EY) and 1,000 new claims.

### Case Setup

- Design and program the case specific Plan of Allocation.
- Establish a post office box to receive Claims and other mail.
- Draft the Claim Form, Cover Letter, Frequently Asked Questions (the "Claim Package") in consultation with Class Counsel – French/English versions.
- Establish and maintain a bilingual toll free number and email address.
- Field investor inquiries via phone, email and First Class Mail.
- Prepare deficiency notification letter.
- Prepare rejection notification letter.
- Establish a Settlement Trust.
- Receive the Dealers Compensation Fund and deposit into the Settlement Trust.
- Compile and reconcile information regarding all claims against the Settlement Trust.
- Set up distribution chequing account.

### Administration Process

- The Defendants, via Plaintiff's counsel, will provide NPT RicePoint with a list of direct purchasers. NPT RicePoint will reconcile the list against the list of known primary market claimants obtained in the EY administration to create a master list.
- Notice of the Settlement will be sent to all individuals on the master list as per the assumptions listed above.
- Eligible Class Members, who had previously participated in the EY Settlement, will receive a Claim Form with prepopulated data set listing their primary market purchases. Class Members will be asked to confirm their data and consent to participate in the Underwriters settlement sign-off within x days.
- Class Members that do not agree with the data will be required to contact NPT RicePoint to receive an individualized Claim Form in order to provide details and supporting documents related to their disagreement.
- Class Members that did not participate in the EY Settlement, will be required to complete a new Claim Form listing their eligible purchases.

## NPT RICEPOINT

- NPT RicePoint will reconcile the known claimants list against those who have responded to the Notice and perform a second outreach (by mail, email or phone depending on numbers involved) to Claimants who have not responded.
- Where a claimant does not respond to their notice, their Claim will be rejected.
- Generic claim forms will be made available on the website for claimants who did not participate in EY.
- New claim information and claims with a disagreement to their transaction information are reviewed.
- Compensable losses are calculated.
- External and internal audits are conducted.
- Deficiency/Rejection notices are issued with a response deadline.
- Response period for supplemental documentation and requests for administrative reviews.
- Supplemental documentation is reviewed.
- Administrative reviews are conducted.
- Administrative review results are provided to claimants.
- Calculations are updated.
- Nominal entitlements are calculated.
- Per the terms of the Claims and Distribution Protocol, calculate Claims Funding International ("CFI") fee and forward payment.
- Cheques are issued to all Claimants whose allocation is over \$5.00.

### Post-Distribution

- Reissue distribution cheques, when necessary.
- Process all correspondence and telephone calls following distribution.
- Attempt to locate new addresses for returned distribution cheques.
- Follow-up with un-cashed payees requesting them to cash their distribution cheques or request the re-issuance of a new distribution cheque. (A minimum may be placed on the dollar amount of uncashed distribution cheques to follow-up. This will be determined based on the range of distribution cheques not cashed.)
- Reconcile chequing account statements until the conclusion of the Administration.
- At the end of the Administration, or at such other time as the Court directs, prepare a report for the Court accounting for all monies received, administered and disbursed.
- If there are any remaining funds in the Settlement Trust, 180 days from the date of the distribution of the net settlement amount, those funds will be held in the Settlement Trust and paid out for the purposes of future disbursements in the actions (to be confirmed).

### Tax Compliance & Consultation

- Summarize activity in the Settlement Trust.
- Prepare and file all necessary tax forms and returns for the Settlement Fund.
- Respond to any communication from the taxation authorities, if applicable.

### 3. Fee Proposal (before tax)

Our fee proposal consists of a case setup fee and three variable fees that recognize the specific scope of work required to process each type of claim. Total professional services fees, before case specific fees and taxes, will be capped at \$100,000.

#### I. Overall Case Setup - \$43,350

An initial case set up fee to cover the initial costs of setting up the case administration for all claim types. This would be a minimum fee that would be charged regardless of claim volume for the following services:

- Case research.
- Post Office Box.
- Project management and oversight of case parameters.
- Data extraction for EY settlement members.
- Case reporting.
- Program, audit and test Plan of Allocation methodology.
- Draft a notice letter to Class Members listing eligible transactions (Eng/Fre).
- Draft and format Claim Form (Eng/Fre) for new Class Members or EY class Members disagreeing with their data.
- Draft Frequently Asked Questions (Eng/Fre).
- Draft deficiency, rejection and distribution letters (Eng/Fre).
- Establish a support centre (Eng/Fre)- toll free line and dedicated email.
- Train support center team on case specific items (Eng/Fre).
- Answer support calls and emails.
- Setup escrow account.
- Set up fraud control.
- Evaluate the market and make a recommendation on investment options for the Dealers Compensation Fund.
- Invest the Dealers Compensation Fund.
- Monthly reconciliation of Dealers Compensation Fund.
- Complete trust return(s).
- Complete case wrap-up report.

#### II. Variable Fees for Primary Market Claims:

##### i. Claimant Agrees to Data - \$6.50/claim

- Prepare and disseminate personalized letters.
- Follow-up on unresponsive claimants.
- Reissue letters as necessary.
- Receive Claimant submission and process.
- Update address information, if required.
- Calculate pro rata share of settlement and issue cheque.

##### ii. Claimant Disputes Data - \$25/claim

- Prepare and disseminate personalized letters.



- o Follow-up on unresponsive claimants.
- o Reissue letters as necessary.
- o Receive Claim Form and match to Notice Letter.
- o Process entire package.
- o Update address information, if required.
- o Identify source of dispute and attached documentation.
- o Adjudicate claim.
- o Issue deficiency letter, if required.
- o Audit claims, as necessary.
- o Issue eligibility letter confirming final list of approved transactions.
- o Update record for use in future settlements.
- o Calculate pro rata share of settlement and issue cheque.

### iii. New Claimant - \$23/claim

- o Receive Claim Form and supporting documentation.
- o Process entire package.
- o Confirm eligibility in the Class.
- o Adjudicate claim.
- o Issue deficiency letter, if required.
- o Audit claims, as necessary.
- o Issue eligibility letter confirming final list of approved transactions.
- o Calculate pro rata share of settlement and issue cheque.

## III. Case Specific Expenses

NPT RicePoint will invoice for case specific expenses including: accounting, printing, postage, bank fees (cheque clearing fee and fraud control fee) and all applicable taxes:

The following is an example of anticipated fees given the volumes set for below:

Fee Example - Setup and Claims Processing (Before Tax)

	Claim Volume	Setup Fee	Claim Processing	Total
Case Setup		\$ 43,350		\$ 43,350
EY Claims with agreed transaction information	1,800		\$ 11,700	\$ 11,700
EY Claims with disagreed transaction information	18		\$ 450	\$ 450
New Claims	1,000		\$ 23,000	\$ 23,000
<b>TOTAL</b>	<b>2,818</b>	<b>\$ 43,350</b>	<b>\$ 35,150</b>	<b>\$ 78,500</b>

Fee Example - Case Specific Expenses (Before Tax)

	Claim Volume	Cheque Printing/Processing	Cheque Postage	Deficiency Notice Printing	Deficiency Notice Postage	Rejection Notice Printing	Rejection Notice Postage	Bank Fees	External Audit	Total
EY Claims with agreed transaction information	1,800	\$ 3,600.00	\$ 1,350.00							\$ 4,950.00
EY Claims with disagreed transaction information	18	\$ 36.00	\$ 13.50	\$ 7.20	\$ 2.70					\$ 59.40
New Claims	1,000	\$ 1,000.00	\$ 375.00	\$ 400.00	\$ 150.00	\$ 1,000.00	\$ 375.00			\$ 3,300.00
Bank Fees (including cheque clearing)								\$ 1,618.56		\$ 1,618.56
External Audit									\$ 2,900.00	\$ 2,900.00
<b>TOTAL</b>	<b>2,818</b>	<b>\$ 4,636.00</b>	<b>\$ 1,738.50</b>	<b>\$ 407.20</b>	<b>\$ 152.70</b>	<b>\$ 1,000.00</b>	<b>\$ 375.00</b>	<b>\$ 1,618.56</b>	<b>\$ 2,900.00</b>	<b>\$ 12,727.96</b>

- Assume all Canadian addresses for demonstration of postage amounts
- 1% of known claims to have disagreements with transaction information
- Notice to claimants from the reconciled defendant list have been omitted as the number is unknown at this time
- All 1,800 known holders will be qualify for a payment
- 50% of new claims will be rejected
- 20% of new claims will be deficient
- 20% of EY claims with disagreements to their transactions will be deficient
- Estimate of 1,000 new claimants - includes those not filing under EY as well as claimants who filed but did not have Primary Market transactions who might submit a claim

#### 4.0 EXECUTION

For this case, we have again chosen to partner with Gilardi & Co. <sup>LLC</sup> (Gilardi) of San Rafael, California. Gilardi is the largest, private full service administrator of class action settlements in the United States. For nearly a quarter-century, Gilardi has provided cost-effective administrations in more than 3,000 settlements, with distributions of assets greater than \$12 billion. During this time, they have crafted methods for the efficient management of cases of all sizes and complexities. On an annual basis, Gilardi also provides escrow agent services for over 1,100 Qualified Settlement Funds and manages assets in excess of \$1.5 billion dollars.

Sino-Forest Underwriters will represent the 15th time Gilardi and NPT RicePoint have partnered together on an administration. By sharing best practices and industry knowledge, we have created a seamless operation that offers our clients a combination of leading edge technology with hands-on senior level project management.

For this specific case, Gilardi will program, implement and maintain its customized settlement administration software. This software allows data management and analysis flexibility, process automation, quality control and reporting capabilities which have been developed over the past twenty years.

All decision making, project management, customer contact and banking activity will be maintained in Canada.



**4. Approvals**

**Terms:**           **Taxes:** Pricing does not include HST

**Settlement Termination:** If an election to terminate the Settlement is exercised, NPT RicePoint will be reimbursed for any reasonable expenses incurred up to the point of Settlement termination.

**Additional Work:** Work outside this scope can be quoted separately.

**Data:** All data to be delivered in MS Excel or MS Access.

**Payment Schedule:** Fixed fee to be paid following Settlement Approval. Additional fees will be invoiced at regular intervals matching the work incurred.

**Approval:**       **Koskie Minsky LLP**

_____	_____	_____
<b>Print Name</b>	<b>Signature</b>	<b>Date</b>
<b>Siskinds LLP</b>		

_____	_____	_____
<b>Print Name</b>	<b>Signature</b>	<b>Date</b>
<b>NPT RicePoint Class Action Services Inc.</b>		

_____	_____	_____
<b>Print Name</b>	<b>Signature</b>	<b>Date</b>

**5. Supporting Material**

As a supplement, we are providing additional materials detailing the experience of our executive team, a representation of some of our cases, and a description of the services we provide:

- o Appendix A – Key Personnel
- o Appendix B – Representative Cases

**APPENDIX A: KEY PERSONNEL**



**David A. Weir, M.B.A.**  
**President, NPT RicePoint Class Action Services**

---

#### **Education**

- Master of Business Administration – Richard Ivey School of Business - 1998
- Business Administration Diploma – Wilfrid Laurier University – 1989
- Bachelor of Arts – Wilfrid Laurier University - 1988
- Canadian Securities Course - 1993

#### **Responsibilities**

David is the President of NPT RicePoint. In addition to his business development responsibilities, David is focused on the day to day management of administrations. It is through this hands-on approach that new ideas for driving efficiencies and improving take-up rates are discovered. David's commitment to senior level involvement in cases enables clients to remove themselves fully from case administration.

#### **Experience**

Following university, David worked in Toronto for Bell Canada and over twelve years at Bell, took on progressively senior roles. As Vice-President of Strategic Planning for Bell's national sales unit, David worked at the senior levels with leaders of Canadian banks to design and deliver leading edge technology solutions. As Vice-President of Capital Investment, David led the redesign of Bell's \$3.5 billion capital allocation model.

Fulfilling an entrepreneurial desire, David founded RicePoint Class Action Services Inc. Working within a partner organization, RicePoint's initial focus was in the delivery of data management, printing and distribution services. After several years, RicePoint became fully independent and expanded its services to become a full service claims administrator focused on improving take-up rates through the use of technology and one to one marketing.

In 2009, RicePoint Class Action Services Inc. merged with NPT Administration Inc. This merger delivered immediate gains in capacity and efficiency while also offering clients an increased level of senior leadership to consult with.

#### **Professional and Community Service**

- Board of Directors – Rotary Club of London, 2010 - 2013
- Coach – London Minor Hockey, 2009 – Present
- Member Rotary of London, 2005 - Present
- Big Brothers of London – Board of Directors 2002 – 2005
- Past Member – Engineering & Science Advisory Council – University of Western Ontario
- Big Brothers – Ten year Big Brother with Big Brothers of Kitchener-Waterloo 1987 – 1997
- Toastmasters International – CTM 1993 – 1996

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**NPT RICEPOINT**


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**John D. R. Prueter, C.A., M.B.A.**  
**Managing Partner, NPT LLP**

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**Education**

- Master of Business Administration – Richard Ivey School of Business - 1997
- Chartered Accountant - 1986
- Canadian Securities Course - 1984
- Bachelor of Commerce with Honours, Queen's University - 1984

**Responsibilities**

John is the Managing Partner of NPT LLP as well as a full service partner providing business services to individuals and corporations, including accounting, auditing, tax, estate planning and general business advice. John has been the partner in charge of the Class Action Administration business of the firm since its inception in 2000.

**Experience**

John has been in public accounting for over twenty-three years. He is responsible for many small to medium sized owner managed businesses, publicly listed clients, professionals and individuals, offering full business services to them with a high level of personal service.

John's past experiences have included involvement with public offerings, information circulars, prospectuses and related information and direct audit experience with large not-for-profit organizations and institutions, universities, pension plans, and other publicly traded corporations.

John has managed many different class action administrations involving alleged price fixing, securities and pension related cases with varying degrees of complexities.

John is a graduate of the executive MBA program at the Richard Ivey School of Business. This additional training and experience benefits all clients and engagements.

**Professional and Community Service**

- Canadian Institute of Chartered Accountants
- Ontario Institute of Chartered Accountants
- Institute of Chartered Accountants of Western Ontario
- Member of the London Hunt and Country Club
- Member of the London Club
- Past Chairman of the London Health Sciences Foundation
- Past Treasurer of Westminster College

**NPT RICEPOINT**

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**APPENDIX B – REPRESENTATIVE CASES**

**NPT RICEPOINT**

ADMINISTRATION	CLAIMS PROCESSED	SETTLEMENT FUND	CLAIM DEADLINE
Sino-Forest EY Settlement Securities Litigation	In progress	CAD \$117,000,000	February 14, 2014
Zungul Haixi Corp Securities Litigation	1,801	CAD \$10,850,000	January 6, 2014
easyhome Ltd. Securities Litigation	117	CAD \$2,250,000	September 17, 2013
Gammon Gold Inc. Securities Litigation	2,339	CAD \$13,250,000	March 13, 2013
Arctic Glacier Income Fund Securities Litigation	5,390	CAD \$13,750,000	September 11, 2012
Redline Communications Securities Litigation	237	CAD \$3,600,000	March 5, 2012
Canadian Superior Energy Securities Litigation	3,290	USD \$5,200,000	December 7, 2011
Gildan Activewear Securities Litigation	22,749	USD \$22,500,000	March 10, 2011
PetroKazakhstan Inc. Securities Litigation	2,112	CAD \$9,900,000	February 24, 2011
SunOpta Inc. Securities Litigation	5,059	USD \$11,250,000	June 11, 2010
CP Ships Ltd. Securities Litigation	11,216	CAD \$12,800,000	June 7, 2010
TVI Pacific Securities Litigation	609	CAD \$2,100,000	January 18, 2010

**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**

Court File No.: CV-12-9667-00-CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

Proceeding under the *Class Proceedings Act*, 1992

**AFFIDAVIT OF CHARLES M. WRIGHT**

**KOSKIE MINSKY LLP**

900-20 Queen Street West  
Box 52

Toronto, ON M5H 3R3

**Kirk M. Baert (LSUC#: 30942O)**

Tel: 416.595.2117/Fax: 416.204.2889

**Jonathan Ptak (LSUC#: 45773F)**

Tel: 416.595.2149/Fax: 416.204.2903

**SISKINDS LLP**

680 Waterloo Street

P.O. Box 2520

London, ON N6A 3V8

**A. Dimitri Lascaris (LSUC#: 50074A)**

Tel: 519.660.7844/Fax: 519.660.7845

**Charles M. Wright (LSUC#: 36599Q)**

Tel: 519.660.7753/Fax: 519.660.7754

**PALIARE ROLAND ROSENBERG**

**ROTHSTEIN LLP**

155 Wellington Street, 35<sup>th</sup> Floor

Toronto, ON M5V 3H1

**Ken Rosenberg (LSUC #21102H)**

**Massimo Starnino (LSUC #41048G)**

Tel: 416-646-4300/Fax: 416-646-4301

Lawyers for the Ad Hoc Committee of Purchasers of the  
Applicant's Securities, including the Class Action Plaintiffs

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

**AFFIDAVIT OF STEPHEN GOUDGE**

I, Stephen Goudge, of the City of Toronto, in the Province of Ontario, MAKE OATH AND  
SAY AS FOLLOWS:

1. I conducted two days of mediation in this action on November 9 and 10, 2014.
2. The mediation was successful. A settlement was reached in the action, subject to court approval.
3. The discussions I held with counsel for the plaintiffs and counsel for the defendants left me with the conclusion that both parties were very well represented.

The negotiations over which I presided as mediator were arms length, clearly adversarial, and hard fought. I was delighted to be able to help resolve this difficult case.

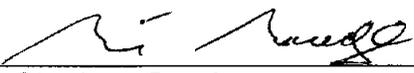
4. I have no doubt that the parties were well informed and fully prepared for the mediation process, which played a real part in its success.

5. While it is obviously up to the supervising court to determine the question, in my view, the settlement reached is, in all the circumstances, fair and reasonable to all parties.

**SWORN BEFORE ME** at the City of  
Toronto, in the Province of Ontario on  
April 1, 2015.

  
\_\_\_\_\_  
Commissioner for Taking Affidavits

ANDREW LOKAN

  
\_\_\_\_\_  
Stephen Goudge

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**

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*

**AFFIDAVIT OF GARTH MYERS**

**(Filed in respect of compliance with notice)**  
**(Sworn April 8, 2015)**

**I, GARTH MYERS, of the City of Toronto, in the Province of Ontario AFFIRM:**

1. I am an associate at Koskie Minsky LLP, who, along with Siskinds LLP (together, "Class Counsel"), are counsel to the plaintiffs in the above-captioned class proceeding (the "Class Plaintiffs"). I have knowledge of the matters deposed to below. Where I make statements in this affidavit that are not within my personal knowledge, I have indicated the source of my information and believe such information to be true.

2. Unless otherwise defined or the context requires otherwise, all capitalized terms in this affidavit have the meanings attributed to them in the Plan of Compromise and Reorganization of Sino-Forest under the *Companies' Creditors Arrangement Act* ("CCAA") dated December 3, 2012 (the "Plan").

3. For the purposes of the above-captioned proceeding under the CCAA (the "CCAA Proceedings"), Paliare Roland Rosenberg Rothstein LLP ("Paliare Roland") acts together with Class Counsel to represent the Ad Hoc Committee of Purchasers of the Applicant's Securities, including the Class Plaintiffs (together, the "Ontario Plaintiffs").

4. Pursuant to the Order of the Honourable Mr. Justice Morawetz, dated January 29, 2015 (the "Notice Order"), attached hereto as **Exhibit "A"**, Class Counsel was required to provide notice of the hearing to approve:

- (a) the proposed settlement between the Ontario Plaintiffs and 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) (the "Underwriters");

- (b) approval of Class Counsel fees and disbursements; and
  - (c) approval of a Proposed Claims and Distribution Protocol.
5. Attached hereto as **Exhibit "B"** is a copy of the Notice and the Notice of Objection.
6. The Notice Order provided that the Notice be distributed in the following manner:
- (a) Class Counsel shall provide or cause to be provided a copy of the Notice and the Notice of Objection directly, either electronically or by mail, to all individuals or entities who have contacted Class Counsel, Siskinds Desmeules sencl ("Desmeules") or Cohen Milstein Sellers & Toll PLLC ("Cohen Milstein") regarding this action, and to any person or entity who requests a copy of the Notice and the Notice of Objection, provided that such person or entity has furnished his, her or its contact information to Class Counsel, Desmeules, or Cohen Milstein;
  - (b) Class Counsel will send or cause to be sent by direct mailing copies of the Notice and the Notice of Objection to all known individuals and entities who purchased Sino-Forest securities in the primary market from the Dealers during the class period, based on the information to be provided on a best efforts basis by the Dealers;
  - (c) Class Counsel will send or will distribute the Notice and the Notice of Objection by email to all individuals and entities that have submitted claim forms in connection with the Ernst & Young Settlement (as defined in the Plan of Compromise and Reorganization of Sino-Forest Corporation under the *Companies' Creditors Arrangement Act* (the "CCAA") dated December 3, 2012 (the "Plan")) and who have indicated on their claim form that they are making a claim in respect of Sino-Forest securities purchased on the primary market, provided that such person or entity has furnished his, her, or its contact information in the claim form. The notice shall be sent electronically via email if email addresses have been provided; otherwise the notice shall be sent by mail;
  - (d) Class Counsel will send or will cause to be sent copies of the Notice and the Notice of Objection to the current Service List in the above-captioned proceeding under the CCAA (the "CCAA Proceeding"); and
  - (e) Copies of the Notice and the Notice of Objection will be posted on the websites of Class Counsel (in English and French) and Cohen Milstein (in English).
7. The Notice Order further provided that the Notice and Notice of Objection be distributed no later than 30 days of the Notice Order, and the deadline for delivering a notice of objection is

30 days after the distribution of the Notice is complete (the "Objection Deadline"). Thirty days following the Notice Order was February 28, 2015, a Saturday. The first weekday after February 28, 2015 was March 2, 2015. As a result, the Objection Deadline was set for April 1, 2015, 30 days after March 2, 2015.

8. I am advised by Natércia McLellan of Koskie Minsky LLP, Genevieve Fontan of Cohen Milstein, and Nicole Young of Siskinds LLP that, in accordance with paragraph 5(a), 5(d), and 5(e), above, by February 28, 2015 the Notice and Notice of Objection was sent to all individuals that had provided their contact information to Class Counsel, Desmeules, and Cohen Milstein in connection with these proceedings, the Notice and Notice of Objection was posted on the websites of Class Counsel (in English and French) and Cohen Milstein (in English), and the Notice and Notice of Objection were sent out to the CCAA service list. Attached here as **Exhibit "C"** is a copy of the French translation of the Notice and Notice of Objection.

9. I am advised by Rebecca Wise, an associate with Torys LLP, counsel to the Underwriters, that in accordance with paragraph 5 of the Notice Order, best efforts were made to provide Class Counsel with a list of all known individuals and entities who purchased Sino-Forest securities in the primary market from the Underwriters during the class period.

10. Such list was provided to Class Counsel by February 27, 2015, and the Notice and Notice of Objection were sent to those individuals and entities by March 1, 2015. I am further advised by Ms. Wise that she made arrangements for Credit Suisse Securities (Europe) Limited to forward the Notice and Notice of Objection to its clients who purchased Sino-Forest securities in the primary market from the Underwriters during the class period. The Notice and Notice of Objection were sent to those clients by March 2, 2015.

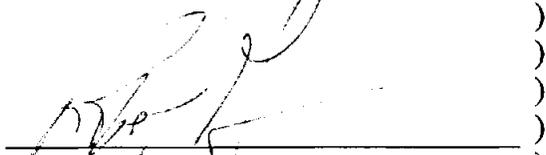
11. I am advised by Kurt Elgie of NPT RicePoint that in accordance with paragraph 5(b) and 5(c) above, copies of the Notice and Notice of Objection were sent to all persons and entities that have submitted claims to participate in the Ernst & Young settlement and who have indicated on their claim from that they are making a claim in respect of Sino-Forest securities purchased on the primary market, and copies of the Notice were provided to the list of all known individuals and entities who purchased Sino-Forest securities in the primary market from the Underwriters during the class period as provided by Torys LLP. I am advised my Mr. Elgie that the final mailing in respect of paragraph 5(b) was made on March 2, 2015. I am further advised by Mr. Elgie that 1,407 emailed notices were undeliverable and bounced back, and on March 4 and 5, 2015, hard copies of the Notice and Notice of Objection were mailed to these individuals and entities.

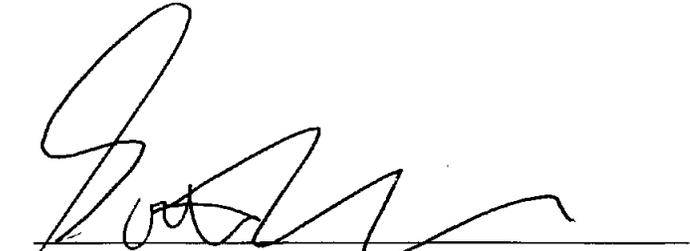
12. In addition, Class Counsel provided notice of the hearing to approve the increase in NPT's fee for the administration of the settlement with Ernst & Young and approval of an order seeking to permit the filing of late claims in the Ernst & Young settlement. This notice, attached hereto as **Exhibit "D"**, was included with the Notice pursuant to paragraphs 6(a), 6(c), 6(d), and 6(e).

13. In total, over 22,305 Notices were sent to class members. I am advised by Kurt Elgie that this includes Notices sent to brokers and third party filers who have made claims on behalf of 31,548 class members.

14. I make this affidavit in respect of notice issues and in support of the motion for settlement and fee approval and for no other or improper purpose.

SWORN before me at the City of )  
Toronto, in the Province of Ontario, )  
this 8 day of April, 2015. )

  
\_\_\_\_\_  
A Commissioner, etc. )  
Robert Ginn )

  
\_\_\_\_\_  
GARTH MYERS

A  
affidavit of Garth Myers  
sworn before me, this 8th  
day of April 2015

Court File No.: CV-12-9667-00CL



Kenneth  
A COMMISSIONER FOR TAKING AFFIDAVITS

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE ~~MR. REGIONAL JUDGE~~  
JUSTICE MORAWETZ )

THOMPSON, THE 29<sup>th</sup> DAY  
OF JANUARY, 2015

**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

Proceeding under the *Class Proceedings Act, 1992*

**ORDER  
(Notice Approval – Dealers Settlement)**

**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") 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) for an order approving the form of notice to Securities Claimants (the "Notice") of the hearing to approve the settlement agreement with 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) (the "Dealers" and the "Dealers Settlement"), and matters ancillary thereto, was heard on January 29, 2015, in Toronto, Ontario.

**WHEREAS** the Ontario Plaintiffs and the Dealers have entered into the Dealers Settlement;

**AND WHEREAS** notice has previously been provided to Securities Claimants of the Ernst & Young Settlement and the settlement with David J. Horsley;

**AND ON BEING ADVISED** that in excess of 47,000 claims have been submitted by Securities Claimants wishing to participate in the proceeds of the Ernst & Young Settlement;

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**AND ON BEING ADVISED** that a proceeding (the "Chapter 15 Proceeding") was commenced in the United States Bankruptcy Court for the Southern District of New York (the "United States Bankruptcy Court") captioned In re Sino Forest Corporation, Case No. 13-10361 (MG) and that this notice will be disseminated pursuant to the Federal Rules of Bankruptcy Procedure and any applicable local rules in connection with the motion filed in the Chapter 15 Proceeding for an order recognizing and enforcing the order granting approval of the Dealers Settlement in the United States;

**AND ON READING** the materials filed, and on hearing submissions of counsel to the Ontario Plaintiffs and the Dealers;

1. **THIS COURT ORDERS** that the time for service and filing of this notice of motion and motion record is validated and abridged and any further service thereof is dispensed with.
2. **THIS COURT ORDERS** that unless otherwise defined herein, or unless the context requires otherwise, capitalized terms in this Order have the meanings attributed to them at **Schedule "A"** of this Order.
3. **THIS COURT ORDERS** that the notice substantially in the form attached as **Schedule "B"** (the "Notice") be and hereby is approved, subject to the right of the parties to make non-material amendments to such form as may be necessary or desirable.
4. **THIS COURT ORDERS** that the Notice shall be disseminated as follows by no later than 30 days after this Order:
  - (a) Siskinds LLP and Koskie Minsky LLP (together, "Class Counsel") shall provide or cause to be provided a copy of the Notice and the Notice of Objection directly, either electronically or by mail, to all individuals or entities who have contacted Class Counsel, Siskinds Desmeules sencl ("Desmeules") or Cohen Milstein Sellers & Toll PLLC ("Cohen Milstein") regarding this

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action, and to any person or entity who requests a copy of the Notice and the Notice of Objection, provided that such person or entity has furnished his, her or its contact information to Class Counsel, Desmeules, or Cohen Milstein;

- (b) Class Counsel will send or cause to be sent by direct mailing copies of the Notice and the Notice of Objection to all known individuals and entities who purchased Sino-Forest securities in the primary market from the Dealers during the class period, based on the information to be provided by the Dealers, as set out in paragraph 5 below;
  - (c) Class Counsel will send or will distribute the Notice and the Notice of Objection by email to all individuals and entities that have submitted claim forms in connection with the Ernst & Young Settlement (as defined in the Plan of Compromise and Reorganization of Sino-Forest Corporation under the *Companies' Creditors Arrangement Act* (the "CCAA") dated December 3, 2012 (the "Plan")) and who have indicated on their claim form that they are making a claim in respect of Sino-Forest securities purchased on the primary market, provided that such person or entity has furnished his, her, or its contact information in the claim form. The notice shall be sent electronically via email if email addresses have been provided; otherwise the notice shall be sent by mail;
  - (d) Class Counsel will send or will cause to be sent copies of the Notice and the Notice of Objection to the current Service List in the above-captioned proceeding under the CCAA (the "CCAA Proceeding"); and
  - (e) Copies of the Notice and the Notice of Objection will be posted on the websites of Class Counsel (in English and French) and Cohen Milstein (in English).
5. **THIS COURT ORDERS** that the Dealers are required to make best efforts to provide to Class Counsel, within 30 days of this Order, the names and addresses of all known individuals and entities who purchased Sino-Forest securities in the primary market from the Dealers during the class period.
6. **THIS COURT ORDERS** that any persons wishing to object to the Dealers Settlement shall deliver a notice of objection substantially in the form attached hereto as **Schedule "C"** (the "Notice of Objection") to be received by no later than 30 days after the distribution of the notice is complete (the "Objection Deadline") by mail, courier, or email transmission, to the contact information indicated on the Notice of Objection, and that any Notice of Objection received later than the Objection Deadline shall not be filed with the Court or considered at the hearing to approve the Dealers Settlement; and

7. **THIS COURT REQUESTS**, pursuant to the *Companies' Creditors Arrangement Act* together with such other statutes, regulations and protocols as may apply, and as a matter of comity, that all courts, regulatory and administrative bodies, and other tribunals, in all provinces and territories of Canada, in the United States of America, and in all other nations or states, recognize this order and act in aid of and in a manner complementary to this order and this court in carrying out the terms of this order.

Date:

  
Morawetz J.

ENTREED / INSCRIT A TORONTO  
ON / BOOK NO.  
LE / DANS LE REGISTRE NO..

JAN 30 2015

MB

## SCHEDULE "A"

### Definitions of capitalized terms used in this Order

"CCAA" means the *Companies' Creditors Arrangement Act*, RSC, 1985, c. C-36.

"Dealers" means 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).

"Ernst & Young Settlement" has the meaning attributed to it in the Plan.

"Dealers Settlement" means the settlement as reflected in the Minutes of Settlement between the Dealers 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).

"Plan" means the Plan of Compromise and Reorganization of Sino-Forest Corporation under the CCAA, dated December 3, 2012 .

"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.

## Schedule "B"

**SINO-FOREST SECURITIES LITIGATION****NOTICE OF PROPOSED SETTLEMENT WITH:**

**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)**

**TO:** All persons 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 (the "Securities Claimants").

**READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS.  
YOU MAY NEED TO TAKE PROMPT ACTION**

**IMPORTANT DEADLINE**

**Objection Deadline** (for those who wish to object or make submissions regarding the proposed settlements with the Dealers or recognition and enforcement of any order approving such proposed settlements in the United States. See pages 3 & 4 for more details)

**Background of Sino-Forest Class Action and CCAA Proceeding**

In June and July of 2011, class actions were commenced in the Ontario Superior Court of Justice (the "Ontario Proceeding") and the Quebec Superior Court (the "Quebec Proceeding") by certain plaintiffs (the "Canadian Plaintiffs") against Sino-Forest Corporation ("Sino-Forest"), its auditors, a consulting company, its senior officers and directors, 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) (the "Dealers"). In January 2012, a proposed class action was commenced by certain plaintiffs (together with Canadian Plaintiffs, the "Plaintiffs") against Sino-Forest and other defendants in the Supreme Court of the State of New York which was removed to and is now pending in the United States District Court for the Southern District of New York (the "U.S.

Action”) (together with the Ontario Proceeding and the Québec Proceeding, the “Proceedings”). The Proceedings alleged, *inter alia*, that the public filings of Sino-Forest contained false and misleading statements about Sino-Forest’s financial results, assets, business, and transactions.

Since that time, the litigation has been vigorously contested. On March 30, 2012, Sino-Forest obtained creditor protection under the *Companies’ Creditors Arrangement Act* (the “CCAA”), and the Ontario Superior Court ordered a stay of proceedings against the company and other parties (the “CCAA Proceeding”). Orders and other materials relevant to the CCAA Proceeding can be found at the CCAA Monitor’s website at <http://cfcanda.fticonsulting.com/sfc/> (the “Monitor’s Website”).

On December 10, 2012, the Ontario Superior Court entered an order (the “Plan Sanction Order”) approving a Plan of Arrangement in the CCAA Proceeding. As part of the Plan of Arrangement, the court approved a framework by which the Plaintiffs may enter into settlement agreements with any of the third-party defendants to the Proceedings.

On February 4, 2013, a proceeding was commenced in the United States Bankruptcy Court for the Southern District of New York (the “United States Bankruptcy Court”) captioned *In re Sino Forest Corporation*, Case No. 13-10361 (MG) (the “Chapter 15 Proceeding”) seeking recognition of the CCAA Proceeding and an order recognizing and enforcing the Plan Sanction Order in the United States. On April 15, 2013, the Bankruptcy Court entered an order recognizing and enforcing the Plan Sanction Order in the United States.

Shortly prior to the commencement of the CCAA Proceeding, the Plaintiffs entered into a settlement agreement with Pöyry (Beijing) Consulting Company Limited (the “Pöyry Settlement”). The Pöyry Settlement was approved by courts in Ontario and Québec, and January 15, 2013 was fixed as the date by which members of the class could opt of the Proceedings. The opt out period has now expired. No person may now opt out of the Proceedings.

To date, the claims in the Proceedings against the defendants Ernst & Young and David J. Horsley have also been settled and approved by the Ontario Superior Court.

On January 12, 2015, the Ontario Superior Court certified the Ontario Proceeding and granted leave to the Plaintiffs to pursue claims made pursuant to Part XXIII.1 of the Ontario *Securities Act* (and equivalent legislation in other Provinces) as against Sino-Forest, BDO Limited, Allen T.Y. Chan, W. Judson Martin, Kai Kit Poon, William E. Ardell, James P. Bowland, James M.E. Hyde, Edmund Mak, Simon Murray, Peter Wang, and Garry J. West.

#### **Who Acts for the Securities Claimants**

Koskie Minsky LLP, Siskinds LLP, Siskinds Desmeules, sencrl, and Cohen Milstein Sellers & Toll PLLC (collectively, “Class Counsel”) represent the Securities Claimants in the Proceedings. If you want to be represented by another lawyer, you may hire one to appear in court for you at your own expense.

You will not have to directly pay any fees or expenses to Class Counsel. However, Class Counsel will seek to have their fees and expenses paid from any money obtained for the class or paid separately by the defendants.

### **Proposed Settlement with the Dealers**

The Plaintiffs have entered into a proposed settlement with the Dealers (the "Settlement Agreement"). The Settlement Agreement would settle, extinguish and bar all claims, globally, against the Dealers in relation to Sino-Forest including the allegations in the Proceedings. The Dealers do not admit to any wrongdoing or liability. The terms of the proposed settlements do not involve the resolution of any claims against Sino-Forest or any of the other remaining defendants. For an update on CCAA orders affecting Sino-Forest, please see the Monitor's Website. A complete copy of the proposed Settlement Agreement and other information about these Proceedings is available on the website of Koskie Minsky LLP, at [www.kmlaw.ca/sinoforestclassaction](http://www.kmlaw.ca/sinoforestclassaction), on the website of Cohen Milstein Sellers & Toll PLLC at <http://www.cohenmilstein.com/cases/274/sino-forest> ("Cohen Milstein Website") and on [www.sinosettlement.com](http://www.sinosettlement.com) (collectively, the "Class Action Websites").

The Settlement Agreement, if approved and its conditions fulfilled, provides that CAD\$32,500,000 (the "Settlement Amount") shall be paid into an interest bearing account for the benefit of the Securities Claimants until such time that it is distributed pursuant to orders of the Ontario Superior Court and to pay legal fees and disbursements.

In return, the Proceedings will be dismissed against the Dealers, and there will be an order forever barring all claims against them in relation to Sino-Forest, including any allegations relating to the Proceedings. Such order will be final and binding and there will be no ability to pursue a claim against the Dealers through an opt-out process under class proceedings or similar legislation.

The proposed settlement with the Dealers is subject to court approval, as discussed below.

### **Hearing to Approve the Settlement Agreement, Class Counsel Fees, and the Claims and Distribution Protocol on ● in Toronto, Ontario**

On ● at ●. (ET), there will be a hearing before the Ontario Superior Court of Justice at which Class Counsel will seek that Court's approval of i) the Settlement Agreement; ii) the fees and expense reimbursement requests of Class Counsel; and iii) a plan of allocation and distribution of the Settlement Amount (the "Claims and Distribution Protocol") (together, the "Ontario Approval Motion"). The hearing will be held at the Canada Life Building, 330 University Avenue, 8<sup>th</sup> Floor, Toronto, Ontario. The exact courtroom number will be available on a notice board on the 8<sup>th</sup> Floor.

The proposed Claims and Distribution Protocol sets out, among other things, i) the method by which the Administrator (defined below) will review and process claims forms; and ii) the method by which the Administrator will calculate the amount of compensation to be distributed to each Securities Claimant, including the Allocation System, which assigns different risk adjustment factors to different Sino-Forest securities depending on factors such as the type of security acquired and the time that security was acquired. Persons that suffered the same loss on their Sino-Forest securities may receive different levels of compensation, depending on the risk adjustment factors assigned to their securities.

The detailed proposed Claims and Distribution Protocol can be found at the Class Action Websites, or by contacting Class Counsel at the contact information set out at the end of this notice.

At the Ontario Approval Motion, the court will determine whether the Settlement Agreement and the Claims and Distribution Protocol are fair, reasonable, and in the best interests of Securities Claimants. At that hearing, Class Counsel will also seek court approval of its request for fees and expense reimbursements ("Class Counsel Fees"). As is customary in class actions, Class Counsel is prosecuting and will continue to prosecute this class action on a contingent fee basis. Class Counsel is paid only where there is recovery for the class, and Class Counsel funds the out-of-pocket expenses of conducting the litigation in the interim. Class Counsel will be requesting the following fees and disbursements to be deducted from the Settlement Amount before it is distributed to Securities Claimants:

Siskinds LLP, Koskie Minsky LLP, Siskinds Desmeules, sencrl

Amount requested: \$● plus disbursements (expenses), plus taxes

Cohen Milstein Sellers & Toll PLLC

Amount requested: \$● plus disbursements (expenses), plus taxes

The court materials in support of these fee and disbursement requests will be posted on the Class Action Websites prior to the Distribution Protocol and Fee Hearing.

Expenses incurred or payable relating to notification, implementation, and administration of the settlement ("Administration Expenses") will also be paid from the Settlement Amount.

All Securities Claimants may attend the hearing of the Ontario Approval Motion and ask to make submissions regarding the proposed settlement with the Dealers.

**Persons intending to object to the approval of the Settlement Agreement, the Allocation and Distribution protocol or fee and expense application are required to deliver a Notice of Objection, substantially in the form that can be found on the Class Action Websites, and, if this Notice is received by mail or email, enclosed with this Notice (the "Notice of Objection"), to Siskinds LLP by regular mail, courier, or email transmission, to the contact information indicated on the Notice of Objection, so that it is received by no later than 5:00 p.m. on●, 2015. Copies of the Notices of Objection sent to Siskinds LLP will be filed with the Ontario Superior Court.**

Concurrent with the hearing of the Ontario Approval Motion, there will be a hearing in the United States Bankruptcy Court for an order recognizing and enforcing the order granting approval of the Dealers Settlement in the United States.

**Concurrent Hearing for Recognition and Enforcement on ●in New York, New York**

Among other things, the Settlement Agreement is conditioned on and order recognizing and enforcing the order granting approval of the Dealers Settlement in the United States. Accordingly, on or before●, United States bankruptcy counsel for the Plaintiffs, Lowenstein

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Sandler LLP will file a motion (the "Dealers Settlement Recognition Motion") with the United States Bankruptcy Court seeking such relief. Copies of the Dealers Settlement Recognition Motion will be available on the Class Action Websites.

On ●, at ● (ET), concurrently with the hearing on the Ontario Approval Motion, there will be a hearing on the Dealers Settlement Recognition Motion before the Honorable Martin Glenn, United States Bankruptcy Judge, in Courtroom 501 of the Bankruptcy Court, One Bowling Green, New York, New York. If the Ontario Approval Motion is granted, the Bankruptcy Court will consider whether to grant an order recognizing and enforcing the order granting approval of the Dealers Settlement in the United States.

**Any objections or responses to the Dealers Settlement Recognition Motion, which will be considered separately by the United States Bankruptcy Court from any objections made with respect to the Ontario Approval Motion, must be made in accordance with the United States Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the Local Rules for the Bankruptcy Court. In addition, such objection or response must be made in writing describing the basis therefore and filed with the United States Bankruptcy Court electronically in accordance with General Order M-399 by registered users of the United States Bankruptcy Court's electronic case filing system, and by all other parties in interest, on a 3.5 inch disc, preferably in Portable Document Format (PDF), Word Perfect or any other Windows-based word processing format, with a hard copy to the Chambers of the Honorable Martin Glenn, United States Bankruptcy Judge, Southern District of New York, One Bowling Green, New York, NY 10004-1408 and served upon United States bankruptcy counsel for the Dealers at ● Attention: ●, and United States bankruptcy counsel for the Plaintiffs, Lowenstein Sandler LLP, 1251 Avenue of the Americas, New York, N.Y. 10020, Attention: Michael S. Etkin and Andrew D. Behlmann, so as to be received by them no later than ● at ●. (ET).**

**THE COURT MAY APPROVE A CLAIMS AND DISTRIBUTION PROTOCOL THAT IS DIFFERENT THAN THE CLAIMS AND DISTRIBUTION PROTOCOL THAT IS PROPOSED BY CLASS COUNSEL. WHETHER OR NOT THEY SUBMIT A VALID CLAIM FORM, ALL PERSONS OR ENTITIES THAT ARE ENTITLED TO PARTICIPATE IN THE DEALERS SETTLEMENT WILL BE BOUND BY THE CLAIMS AND DISTRIBUTION PROTOCOL, WHATEVER IT MAY BE, THAT IS APPROVED BY THE COURT.**

#### **The Administrator**

The Ontario Superior Court has appointed NPT RicePoint as the Administrator of the settlement. The Administrator will, among other things: (i) receive and process the claim forms; (ii) make determinations of Class Members' eligibility for compensation pursuant to the Claims and Distribution Protocol; (iii) communicate with Class Members regarding their eligibility for compensation; and (iv) manage and distribute the net settlement amount. The Administrator can be contacted at:

Mailing Address: NPT RicePoint Class Action Services  
Sino-Forest Class Action  
P.O. Box 3355

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London, ON N6A 4K3  
Telephone: 1-866-432-5534  
Email Address: sino@nptricepoint.com  
Website: www.npricepoint.com

**Further Information**

If you would like additional information, please contact Koskie Minsky LLP, Siskinds LLP, Siskinds Desmeules sencrl, or Cohen Milstein Sellers & Toll PLLC using the information below:

Garth Myers, Jonathan Ptak  
Koskie Minsky LLP  
20 Queen St. West, Suite 900, Box 52, Toronto, ON, M5H 3R3  
Re: Sino-Forest Class Action  
Tel: 1.866.474.1739 (within North America)  
Tel: 416.595.2158 (outside North America)  
Email: sinoforestclassaction@kmlaw.ca

Dimitri Lascaris, Charles Wright  
Siskinds LLP  
680 Waterloo Street, P.O. Box 2520 London, ON N6A 3V8  
Re: Sino-Forest Class Action  
Tel: 1.800.461.6166 x 2380 (within North America)  
Tel: 519.672.2251 x 2380 (outside North America)  
Email: sinoforest@siskinds.com

Simon Hebert  
Siskinds Desmeules, sencrl  
43 Rue Buade, Bureau 320, Québec City, Québec, G1R 4A2  
Re: Sino-Forest Class Action  
Tel: 418.694.2009  
Email: simon.hebert@siskindsdesmeules.com

Richard Speirs, Genevieve Fontan  
Cohen Milstein Sellers & Toll, PLLC  
88 Pine Street  
New York, NY 10005  
Tel. 212.838.7797  
Email: lawinfo@cohenmilstein.com

**Interpretation**

If there is a conflict between the provisions of this notice and the Settlement Agreement, the terms of the Settlement Agreement will prevail.

- 7 -

Please do not direct inquiries about this notice to the Ontario Superior Court or the United States Bankruptcy Court. All inquiries should be directed to Class Counsel.

DISTRIBUTION OF THIS NOTICE HAS BEEN AUTHORIZED BY THE ONTARIO  
SUPERIOR COURT OF JUSTICE

## Schedule "C"

## NOTICE OF OBJECTION

ONLY USE THIS FORM IF YOU **DO NOT** LIKE THE DEALERS SETTLEMENT OR THE CLAIMS AND DISTRIBUTION PROTOCOL OR THE COUNSEL FEE APPLICATION AND WISH TO OBJECT

TO: **SISKINDS LLP**  
680 Waterloo Street  
PO Box 2520  
London, ON N6A 3V8

Attention: Nicole Young

Email: sinoforest@siskinds.com

RE: **SINO-FOREST CORPORATION — DEALERS SETTLEMENT**

I, \_\_\_\_\_ (please check all boxes that apply):  
(insert name)

- am a current shareholder of Sino-Forest Corporation
- am a former shareholder of Sino-Forest Corporation
- am a current noteholder of Sino-Forest Corporation
- am a former noteholder of Sino-Forest Corporation
- other (please explain)

---

I acknowledge that pursuant to the order of Mr. Justice Morawetz dated ● (the "Order"), persons wishing to object to the Dealers Settlement, the claims and distribution protocol, or the counsel fee application are required to complete and deliver this Notice of Objection to Siskinds LLP by mail, courier or email to be received by no later than ● (Eastern Time) on ●.

I hereby give notice that I object to the Dealers Settlement, the claims and distribution protocol, or the counsel application for the following reasons (please attach extra pages if you require more space):

**ONLY SUBMIT AN OBJECTION IF YOU DO NOT LIKE THE DEALERS SETTLEMENT, THE CLAIMS AND DISTRIBUTION PROTOCOL, OR THE COUNSEL FEE APPLICATION AND WISH TO OBJECT**

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- I DO NOT intend to appear at the hearing of the motion to approve the Dealers Settlement, the Claims and Distribution Protocol, or the Counsel Fee Application, and I understand that my objection will be filed with the court prior to the hearing of the motion at ● on ●, at 330 University Ave., 8th Floor Toronto, Ontario.
  
- I DO intend to appear, in person or by counsel, and to make submissions at the hearing of the motion to approve the Dealers Settlement, the Claims and Distribution Protocol, or the Counsel Fee Application, at ● on ●, at 330 University Ave., 8th Floor Toronto, Ontario.

**MY ADDRESS FOR SERVICE IS:**

**MY LAWYER'S ADDRESS FOR SERVICE IS (if applicable):**

Name:

Name:

Address:

Address:

Tel.:

Tel.:

Fax:

Fax:

Email:

Email:

**Date:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

The Trustees of the Labourer's Pension Fund  
of Central and Eastern Canada, et al.

and

Sino-Forest Corporation, et al.

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

Plaintiffs

Defendants

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-12-9667-00CL

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
Proceedings Under the *Class Proceedings Act, 1992*  
Proceeding commenced at Toronto

**ORDER**

**KOSKIE MINSKY LLP**  
20 Queen Street West, Suite 900, Box 52  
Toronto ON M5H 3R3

**Kirk M. Baert (LSUC#: 30942O)**  
Tel: (416) 595-2117  
Fax: (416) 204-2889

**Jonathan Ptak (LSUC#: 45773F)**  
Tel: (416) 595-2149  
Fax: (416) 204-2903

**SISKINDS LLP**  
680 Waterloo Street, P.O. Box 2520  
London ON N6A 3V8

**Charles M. Wright (LSUC#: 36599Q )**  
Tel: (519) 660-7753  
Fax: (519) 660-7754

**A. Dimitri Lascaris (LSUC#: 50074A)**  
Tel: (519) 660-7844  
Fax: (519) 660-7845

**Lawyers for the Plaintiffs**

# SINO-FOREST SECURITIES LITIGATION

## NOTICE OF PROPOSED SETTLEMENT WITH:

**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)**

**TO:** All persons 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 (the "Securities Claimants").

**READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS.  
YOU MAY NEED TO TAKE PROMPT ACTION**

### IMPORTANT DEADLINE

**Objection Deadline** (for those who wish to object or make submissions regarding the proposed settlements with the Dealers or recognition and enforcement of any order approving such proposed settlements in the United States. See pages 3 & 4 for more details)

This is Exhibit B referred to in the affidavit of Garth Myers sworn before me, this 8<sup>th</sup> day of April 2012

*[Signature]*  
A COMMISSIONER FOR TAKING AFFIDAVITS  
*R. [Signature]*

### Background of Sino-Forest Class Action and CCAA Proceeding

In June and July of 2011, class actions were commenced in the Ontario Superior Court of Justice (the "Ontario Proceeding") and the Quebec Superior Court (the "Quebec Proceeding") by certain plaintiffs (the "Canadian Plaintiffs") against Sino-Forest Corporation ("Sino-Forest"), its auditors, a consulting company, its senior officers and directors, 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) (the "Dealers"). In January 2012, a proposed class action was commenced by certain plaintiffs (together with Canadian Plaintiffs, the "Plaintiffs") against Sino-Forest and other defendants in the Supreme Court of the State of New York which was removed to and is now pending in the United States District Court for the Southern District of New York (the "U.S.

Action”) (together with the Ontario Proceeding and the Québec Proceeding, the “Proceedings”). The Proceedings alleged, *inter alia*, that the public filings of Sino-Forest contained false and misleading statements about Sino-Forest’s financial results, assets, business, and transactions.

Since that time, the litigation has been vigorously contested. On March 30, 2012, Sino-Forest obtained creditor protection under the *Companies’ Creditors Arrangement Act* (the “CCAA”), and the Ontario Superior Court ordered a stay of proceedings against the company and other parties (the “CCAA Proceeding”). Orders and other materials relevant to the CCAA Proceeding can be found at the CCAA Monitor’s website at <http://cfcanada.fticonsulting.com/sfc/> (the “Monitor’s Website”).

On December 10, 2012, the Ontario Superior Court entered an order (the “Plan Sanction Order”) approving a Plan of Arrangement in the CCAA Proceeding. As part of the Plan of Arrangement, the court approved a framework by which the Plaintiffs may enter into settlement agreements with any of the third-party defendants to the Proceedings.

On February 4, 2013, a proceeding was commenced in the United States Bankruptcy Court for the Southern District of New York (the “United States Bankruptcy Court”) captioned *In re Sino Forest Corporation*, Case No. 13-10361 (MG) (the “Chapter 15 Proceeding”) seeking recognition of the CCAA Proceeding and an order recognizing and enforcing the Plan Sanction Order in the United States. On April 15, 2013, the Bankruptcy Court entered an order recognizing and enforcing the Plan Sanction Order in the United States.

Shortly prior to the commencement of the CCAA Proceeding, the Plaintiffs entered into a settlement agreement with Pöyry (Beijing) Consulting Company Limited (the “Pöyry Settlement”). The Pöyry Settlement was approved by courts in Ontario and Québec, and January 15, 2013 was fixed as the date by which members of the class could opt of the Proceedings. The opt out period has now expired. No person may now opt out of the Proceedings.

To date, the claims in the Proceedings against the defendants Ernst & Young and David J. Horsley have also been settled and approved by the Ontario Superior Court.

On January 12, 2015, the Ontario Superior Court certified the Ontario Proceeding and granted leave to the Plaintiffs to pursue claims made pursuant to Part XXIII.1 of the Ontario *Securities Act* (and equivalent legislation in other Provinces) as against Sino-Forest, BDO Limited, Allen T.Y. Chan, W. Judson Martin, Kai Kit Poon, William E. Ardell, James P. Bowland, James M.E. Hyde, Edmund Mak, Simon Murray, Peter Wang, and Garry J. West.

#### **Who Acts for the Securities Claimants**

Koskie Minsky LLP, Siskinds LLP, Siskinds Desmeules, sncrl, and Cohen Milstein Sellers & Toll PLLC (collectively, “Class Counsel”) represent the Securities Claimants in the Proceedings. If you want to be represented by another lawyer, you may hire one to appear in court for you at your own expense.

You will not have to directly pay any fees or expenses to Class Counsel. However, Class Counsel will seek to have their fees and expenses paid from any money obtained for the class or paid separately by the defendants.

### **Proposed Settlement with the Dealers**

The Plaintiffs have entered into a proposed settlement with the Dealers (the "Settlement Agreement"). The Settlement Agreement would settle, extinguish and bar all claims, globally, against the Dealers in relation to Sino-Forest including the allegations in the Proceedings. The Dealers do not admit to any wrongdoing or liability. The terms of the proposed settlements do not involve the resolution of any claims against Sino-Forest or any of the other remaining defendants. For an update on CCAA orders affecting Sino-Forest, please see the Monitor's Website. A complete copy of the proposed Settlement Agreement and other information about these Proceedings is available on the website of Koskie Minsky LLP, at [www.kmlaw.ca/sinoforestclassaction](http://www.kmlaw.ca/sinoforestclassaction), on the website of Cohen Milstein Sellers & Toll PLLC at <http://www.cohenmilstein.com/cases/274/sino-forest> ("Cohen Milstein Website") and on [www.sinosettlement.com](http://www.sinosettlement.com) (collectively, the "Class Action Websites").

The Settlement Agreement, if approved and its conditions fulfilled, provides that CAD\$32,500,000 (the "Settlement Amount") shall be paid into an interest bearing account for the benefit of the Securities Claimants until such time that it is distributed pursuant to orders of the Ontario Superior Court and to pay legal fees and disbursements.

In return, the Proceedings will be dismissed against the Dealers, and there will be an order forever barring all claims against them in relation to Sino-Forest, including any allegations relating to the Proceedings. Such order will be final and binding and there will be no ability to pursue a claim against the Dealers through an opt-out process under class proceedings or similar legislation.

The proposed settlement with the Dealers is subject to court approval, as discussed below.

### **Hearing to Approve the Settlement Agreement, Class Counsel Fees, and the Claims and Distribution Protocol on ● in Toronto, Ontario**

On ● at ●. (ET), there will be a hearing before the Ontario Superior Court of Justice at which Class Counsel will seek that Court's approval of i) the Settlement Agreement; ii) the fees and expense reimbursement requests of Class Counsel; and iii) a plan of allocation and distribution of the Settlement Amount (the "Claims and Distribution Protocol") (together, the "Ontario Approval Motion"). The hearing will be held at the Canada Life Building, 330 University Avenue, 8<sup>th</sup> Floor, Toronto, Ontario. The exact courtroom number will be available on a notice board on the 8<sup>th</sup> Floor.

The proposed Claims and Distribution Protocol sets out, among other things, i) the method by which the Administrator (defined below) will review and process claims forms; and ii) the method by which the Administrator will calculate the amount of compensation to be distributed to each Securities Claimant, including the Allocation System, which assigns different risk adjustment factors to different Sino-Forest securities depending on factors such as the type of security acquired and the time that security was acquired. Persons that suffered the same loss on their Sino-Forest securities may receive different levels of compensation, depending on the risk adjustment factors assigned to their securities.

The detailed proposed Claims and Distribution Protocol can be found at the Class Action Websites, or by contacting Class Counsel at the contact information set out at the end of this notice.

At the Ontario Approval Motion, the court will determine whether the Settlement Agreement and the Claims and Distribution Protocol are fair, reasonable, and in the best interests of Securities Claimants. At that hearing, Class Counsel will also seek court approval of its request for fees and expense reimbursements ("Class Counsel Fees"). As is customary in class actions, Class Counsel is prosecuting and will continue to prosecute this class action on a contingent fee basis. Class Counsel is paid only where there is recovery for the class, and Class Counsel funds the out-of-pocket expenses of conducting the litigation in the interim. Class Counsel will be requesting the following fees and disbursements to be deducted from the Settlement Amount before it is distributed to Securities Claimants:

Siskinds LLP, Koskie Minsky LLP, Siskinds Desmeules, sencrl

Amount requested: \$● plus disbursements (expenses), plus taxes

Cohen Milstein Sellers & Toll PLLC

Amount requested: \$● plus disbursements (expenses), plus taxes

The court materials in support of these fee and disbursement requests will be posted on the Class Action Websites prior to the Distribution Protocol and Fee Hearing.

Expenses incurred or payable relating to notification, implementation, and administration of the settlement ("Administration Expenses") will also be paid from the Settlement Amount.

All Securities Claimants may attend the hearing of the Ontario Approval Motion and ask to make submissions regarding the proposed settlement with the Dealers.

**Persons intending to object to the approval of the Settlement Agreement, the Allocation and Distribution protocol or fee and expense application are required to deliver a Notice of Objection, substantially in the form that can be found on the Class Action Websites, and, if this Notice is received by mail or email, enclosed with this Notice (the "Notice of Objection"), to Siskinds LLP by regular mail, courier, or email transmission, to the contact information indicated on the Notice of Objection, so that it is received by no later than 5:00 p.m. on ●, 2015. Copies of the Notices of Objection sent to Siskinds LLP will be filed with the Ontario Superior Court.**

Concurrent with the hearing of the Ontario Approval Motion, there will be a hearing in the United States Bankruptcy Court for an order recognizing and enforcing the order granting approval of the Dealers Settlement in the United States.

**Concurrent Hearing for Recognition and Enforcement on ● in New York, New York**

Among other things, the Settlement Agreement is conditioned on and order recognizing and enforcing the order granting approval of the Dealers Settlement in the United States. Accordingly, on or before●, United States bankruptcy counsel for the Plaintiffs, Lowenstein

Sandler LLP will file a motion (the "Dealers Settlement Recognition Motion") with the United States Bankruptcy Court seeking such relief. Copies of the Dealers Settlement Recognition Motion will be available on the Class Action Websites.

On ●, at ● (ET), concurrently with the hearing on the Ontario Approval Motion, there will be a hearing on the Dealers Settlement Recognition Motion before the Honorable Martin Glenn, United States Bankruptcy Judge, in Courtroom 501 of the Bankruptcy Court, One Bowling Green, New York, New York. If the Ontario Approval Motion is granted, the Bankruptcy Court will consider whether to grant an order recognizing and enforcing the order granting approval of the Dealers Settlement in the United States.

**Any objections or responses to the Dealers Settlement Recognition Motion, which will be considered separately by the United States Bankruptcy Court from any objections made with respect to the Ontario Approval Motion, must be made in accordance with the United States Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the Local Rules for the Bankruptcy Court. In addition, such objection or response must be made in writing describing the basis therefore and filed with the United States Bankruptcy Court electronically in accordance with General Order M-399 by registered users of the United States Bankruptcy Court's electronic case filing system, and by all other parties in interest, on a 3.5 inch disc, preferably in Portable Document Format (PDF), Word Perfect or any other Windows-based word processing format, with a hard copy to the Chambers of the Honorable Martin Glenn, United States Bankruptcy Judge, Southern District of New York, One Bowling Green, New York, NY 10004-1408 and served upon United States bankruptcy counsel for the Dealers at ● Attention: ●, and United States bankruptcy counsel for the Plaintiffs, Lowenstein Sandler LLP, 1251 Avenue of the Americas, New York, N.Y. 10020, Attention: Michael S. Etkin and Andrew D. Behlmann, so as to be received by them no later than ● at ●. (ET).**

**THE COURT MAY APPROVE A CLAIMS AND DISTRIBUTION PROTOCOL THAT IS DIFFERENT THAN THE CLAIMS AND DISTRIBUTION PROTOCOL THAT IS PROPOSED BY CLASS COUNSEL. WHETHER OR NOT THEY SUBMIT A VALID CLAIM FORM, ALL PERSONS OR ENTITIES THAT ARE ENTITLED TO PARTICIPATE IN THE DEALERS SETTLEMENT WILL BE BOUND BY THE CLAIMS AND DISTRIBUTION PROTOCOL, WHATEVER IT MAY BE, THAT IS APPROVED BY THE COURT.**

**The Administrator**

The Ontario Superior Court has appointed NPT RicePoint as the Administrator of the settlement. The Administrator will, among other things: (i) receive and process the claim forms; (ii) make determinations of Class Members' eligibility for compensation pursuant to the Claims and Distribution Protocol; (iii) communicate with Class Members regarding their eligibility for compensation; and (iv) manage and distribute the net settlement amount. The Administrator can be contacted at:

Mailing Address: NPT RicePoint Class Action Services  
Sino-Forest Class Action  
P.O. Box 3355

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London, ON N6A 4K3  
Telephone: 1-866-432-5534  
Email Address: sino@nptricepoint.com  
Website: www.npricepoint.com

**Further Information**

If you would like additional information, please contact Koskie Minsky LLP, Siskinds LLP, Siskinds Desmeules sencrl, or Cohen Milstein Sellers & Toll PLLC using the information below:

Garth Myers, Jonathan Ptak  
Koskie Minsky LLP  
20 Queen St. West, Suite 900, Box 52, Toronto, ON, M5H 3R3  
Re: Sino-Forest Class Action  
Tel: 1.866.474.1739 (within North America)  
Tel: 416.595.2158 (outside North America)  
Email: sinoforestclassaction@kmlaw.ca

Dimitri Lascaris, Charles Wright  
Siskinds LLP  
680 Waterloo Street, P.O. Box 2520 London, ON N6A 3V8  
Re: Sino-Forest Class Action  
Tel: 1.800.461.6166 x 2380 (within North America)  
Tel: 519.672.2251 x 2380 (outside North America)  
Email: sinoforest@siskinds.com

Simon Hebert  
Siskinds Desmeules, sencrl  
43 Rue Buade, Bureau 320, Québec City, Québec, G1R 4A2  
Re: Sino-Forest Class Action  
Tel: 418.694.2009  
Email: simon.hebert@siskindsdesmeules.com

Richard Speirs, Genevieve Fontan  
Cohen Milstein Sellers & Toll, PLLC  
88 Pine Street  
New York, NY 10005  
Tel. 212.838.7797  
Email: lawinfo@cohenmilstein.com

**Interpretation**

If there is a conflict between the provisions of this notice and the Settlement Agreement, the terms of the Settlement Agreement will prevail.

- 7 -

Please do not direct inquiries about this notice to the Ontario Superior Court or the United States Bankruptcy Court. All inquiries should be directed to Class Counsel.

DISTRIBUTION OF THIS NOTICE HAS BEEN AUTHORIZED BY THE ONTARIO  
SUPERIOR COURT OF JUSTICE



**NOTICE OF OBJECTION**

**ONLY USE THIS FORM IF YOU DO NOT LIKE THE  
DEALERS SETTLEMENT OR THE CLAIMS AND  
DISTRIBUTION PROTOCOL OR THE COUNSEL FEE  
APPLICATION AND WISH TO OBJECT**

**TO: SISKINDS LLP**  
680 Waterloo Street  
PO Box 2520  
London, ON N6A 3V8

Attention: Nicole Young

Email: sinoforest@siskinds.com

**RE: SINO-FOREST CORPORATION — DEALERS SETTLEMENT**

I, \_\_\_\_\_ (please check all boxes that apply):  
(insert name)

- am a current shareholder of Sino-Forest Corporation
- am a former shareholder of Sino-Forest Corporation
- am a current noteholder of Sino-Forest Corporation
- am a former noteholder of Sino-Forest Corporation
- other (please explain)

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I acknowledge that pursuant to the order of Mr. Justice Morawetz dated ● (the "Order"), persons wishing to object to the Dealers Settlement, the claims and distribution protocol, or the counsel fee application are required to complete and deliver this Notice of Objection to Siskinds LLP by mail, courier or email to be received by no later than ● (Eastern Time) on ●.

I hereby give notice that I object to the Dealers Settlement, the claims and distribution protocol, or the counsel application for the following reasons (please attach extra pages if you require more space):

**ONLY SUBMIT AN OBJECTION IF YOU DO NOT LIKE THE DEALERS  
SETTLEMENT, THE CLAIMS AND DISTRIBUTION PROTOCOL, OR THE  
COUNSEL FEE APPLICATION AND WISH TO OBJECT**

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- I DO NOT intend to appear at the hearing of the motion to approve the Dealers Settlement, the Claims and Distribution Protocol, or the Counsel Fee Application, and I understand that my objection will be filed with the court prior to the hearing of the motion at ● on ●, at 330 University Ave., 8th Floor Toronto, Ontario.
  
- I DO intend to appear, in person or by counsel, and to make submissions at the hearing of the motion to approve the Dealers Settlement, the Claims and Distribution Protocol, or the Counsel Fee Application, at ● on ●, at 330 University Ave., 8th Floor Toronto, Ontario.

**MY ADDRESS FOR SERVICE IS:**

**MY LAWYER'S ADDRESS FOR SERVICE IS (if applicable):**

Name:

Name:

Address:

Address:

Tel.:

Tel.:

Fax:

Fax:

Email:

Email:

**Date:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

LITIGE SUR TITRES – SINO-FOREST  
AVIS DE RÈGLEMENT PROPOSÉ AVEC :

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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 (É.-U.) LLC et Merrill Lynch, Pierce, Fenner & Smith Incorporated (le successeur par fusion à la Bank of America Securities LLC)

À : Toutes les personnes et entités, quel que soit leur lieu de domiciliation, qui ont acquis des titres de Sino-Forest Corporation, y compris des titres négociés sur les marchés primaire, secondaire et hors bourse (les « Titres des demandeurs »).

**VEUILLEZ LIRE ATTENTIVEMENT CET AVIS, CAR IL PEUT TOUCHER VOS DROITS JURIDIQUES. VOUS POURRIEZ DEVOIR AGIR IMMÉDIATEMENT**

**DATE LIMITE IMPORTANTE**

**Date limite de l'opposition** (pour les personnes qui souhaitent s'opposer ou faire des soumissions concernant les projets de règlement négociés avec les Courtiers ou qui souhaitent que soit reconnue et appliquée toute ordonnance approuvant de tels règlements proposés aux États-Unis. Veuillez vous reporter aux pages 2 et 3 pour obtenir plus de détails à ce sujet).

Le 1er avril 2015 (Cour supérieure de l'Ontario) et

Le 29 mai 2015 (Tribunal des faillites aux États-Unis)

**Contexte du recours collectif de Sino-Forest et procédure CCAA**

En juin et juillet 2011, des recours collectifs ont été intentés devant la Cour supérieure de justice de l'Ontario (la « Procédure de l'Ontario ») et à la Cour supérieure du Québec (la « Procédure du Québec ») par certains demandeurs (les « Demandeurs canadiens ») contre Sino-Forest Corporation (« Sino-Forest »), ses vérificateurs, un cabinet de conseil, ses dirigeants et cadres supérieurs, 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 (É.-U.) LLC et Merrill Lynch, Pierce, Fenner & Smith Incorporated (le successeur par fusion à la Bank of America Securities LLC) (les « Courtiers »). En janvier 2012, un recours collectif proposé a été intenté par certains demandeurs (de pair avec les Demandeurs canadiens, les « Demandeurs ») contre Sino-Forest et d'autres défendeurs à la Cour suprême de l'État de New York. Ce recours a été transféré à la Cour de District des États-Unis ayant compétence dans le District-Sud de New York où ledit recours est désormais en instance (le « Recours aux États-Unis ») (de pair avec la Procédure de l'Ontario et la Procédure du Québec, les « Procédures »). Dans le cadre de ces Procédures, il a été allégué, *entre autres*, que les documents publics de Sino-Forest contenaient des déclarations fausses et trompeuses concernant le bilan financier de Sino-Forest, ainsi que les actifs, activités et opérations de cette dernière.

Le litige a été contesté vigoureusement depuis cette époque. Le 30 mars 2012, Sino-Forest a obtenu une protection contre ses créanciers en vertu de la loi américaine intitulée *Companies' Creditors Arrangement Act* (la loi « CCAA »). La Cour supérieure de l'Ontario a, par conséquent, ordonné un arrêt des procédures contre la société et les autres parties (la « Procédure CCAA »). Vous pouvez visualiser les ordonnances et autres documents liés à la Procédure CCAA sur le site Internet du contrôleur de CCAA à l'adresse <http://cfcanda.fticonsulting.com/sfc/> (le « Site Web du contrôleur »).

Le 10 décembre 2012, la Cour supérieure de l'Ontario a émis une ordonnance (l'« Ordonnance de l'homologation du plan ») pour approuver un Plan d'arrangement dans le cadre de la Procédure CCAA. Dans le cadre de ce Plan d'arrangement, la Cour a approuvé un cadre en vertu duquel les Demandeurs peuvent conclure des règlements à l'amiable avec tout défendeur tiers de la Procédure.

Le 4 février 2013, une procédure a été entamée dans la Cour des faillites des États-Unis du District-Sud de New York (« la Cour des faillites des États-Unis »), intitulée « In re Sino Forest Corporation », n° de dossier 13-10361 (MG) (la « Procédure du chapitre 15 »), afin de demander que soit reconnue la Procédure CCAA et de solliciter une ordonnance selon laquelle est reconnue et appliquée l'Ordonnance de l'homologation du plan aux États-Unis. Le 15 avril 2013, la Cour des faillites a rendu une ordonnance dans le but de reconnaître et faire appliquer l'Ordonnance de l'homologation du plan aux États-Unis.

Peu de temps avant le début de la Procédure CCAA, les Demandeurs ont conclu un règlement à l'amiable avec Pöyry (Beijing) Consulting Consulting Company Limited (le « Règlement de Pöyry »). Le Règlement de Pöyry a été approuvé par les cours de l'Ontario et du Québec, et une date a été établie, soit le 15 janvier 2013, à laquelle les membres pouvaient se retirer du Recours collectif. Cette période de retrait est maintenant écoulée. Par conséquent, il est désormais impossible de se retirer des Procédures.

This is Exhibit C referred to in the affidavit of G. W. H. Myers  
sworn before me this 8th day of April 2015

  
Robert H. [unclear]  
COMMISSIONER FOR TAKING AFFIDAVITS

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À ce jour, les réclamations mises de l'avant dans les Procédures contre les défendeurs Ernst & Young et David J. Horsley ont également été réglées et approuvées par la Cour supérieure de l'Ontario.

Le 12 janvier 2015, la Cour supérieure de l'Ontario a certifié la Procédure de l'Ontario et a autorisé les Demandeurs à poursuivre les réclamations déposées en vertu de la Section XXIII.1 de la *Loi sur les valeurs mobilières* de l'Ontario (et de lois similaires dans d'autres provinces) contre Sino-Forest, BDO Limited, Allen T.Y. Chan, W. Judson Martin, Kai Kit Poon, William E. Ardell, James P. Bowland, James M.E. Hyde, Edmund Mak, Simon Murray, Peter Wang et Garry J. West.

### **Les représentants des Demandeurs d'indemnités dans le cadre du litige concernant les titres émis par Sino-Forest**

Les cabinets d'avocat suivants sont les représentants des Demandeurs d'indemnités : Koskie Minsky LLP, Siskinds LLP, Siskinds Desmeules, sencl, et Cohen Milstein Sellers & Toll PLLC (collectivement les « Avocats du groupe »). Si vous désirez être représenté(e) à la Cour par un avocat de votre choix, vous avez le droit d'en engager un à vos frais.

Vous n'aurez pas à payer directement vous-même les frais et dépenses encourus par les Avocats du groupe. Toutefois, les Avocats du groupe demanderont soit un paiement en remboursement de leurs frais et dépenses à même les sommes obtenues au bénéfice du groupe, soit un paiement à part à verser par les défendeurs.

### **Projet de règlement négocié avec les Courtiers**

Les Demandeurs ont conclu un projet de règlement avec les Courtiers (le « Règlement à l'amiable »). Ce Règlement à l'amiable viserait à régler, à annuler et à bloquer toutes les réclamations, dans leur globalité, à l'encontre des Courtiers en ce qui concerne Sino-Forest, y compris toutes les allégations formulées dans le cadre des Procédures. Les Courtiers nient avoir des dettes envers les demandeurs et ils nient avoir commis des actes répréhensibles. Les modalités du projet de règlement ne portent pas sur la résolution des réclamations à faire valoir contre Sino-Forest ou les autres défendeurs. Pour obtenir une mise à jour des Ordonnances CCAA qui touchent Sino-Forest, veuillez consulter le site Web du Contrôleur. Vous pouvez visionner une copie complète du projet de Règlement à l'amiable et autres renseignements concernant ces Procédures sur le site Web de Koskie Minsky LLP, à [www.kmlaw.ca/sinoforestclassaction](http://www.kmlaw.ca/sinoforestclassaction), le site Web de Cohen Milstein Sellers & Toll PLLC à <http://www.cohenmilstein.com/cases/274/sino-forest> (le « Site Web de Cohen Milstein »), ainsi que sur le site Web à [www.sinosettlement.com](http://www.sinosettlement.com) (collectivement, les « Sites Web du recours collectif »).

Si le Règlement à l'amiable est approuvé et que ses conditions sont remplies, il est prévu qu'un montant de 32 500 000 \$ CA (le « Montant du règlement ») soit versé dans un compte productif d'intérêts au bénéfice des Demandeurs d'indemnités parties prenantes au litige eu égard aux titres de Sino-Forest, et ce, après distribution dudit Montant conformément à l'ordonnance de la Cour supérieure de l'Ontario, qui décrète que soient acquittés les honoraires des avocats et leurs déboursments.

En contrepartie, les Procédures contre les Courtiers seront abandonnées, et la Cour émettra une ordonnance pour bloquer en permanence toute réclamation contre ces derniers relativement à Sino-Forest, y compris toute allégation relativement aux Procédures. Cette ordonnance sera définitive et exécutoire. De plus, il sera impossible de poursuivre toute réclamation contre les Courtiers au moyen d'un processus d'option de refus aux termes du recours collectif ou de toute autre loi qui autoriserait un tel processus.

Le projet de règlement négocié avec les Courtiers est soumis à l'approbation de la Cour, ainsi qu'il est décrit ci-dessous.

### **Tenue de l'audience d'approbation du Règlement à l'amiable, des Honoraires des avocats du groupe, ainsi que du Protocole régissant les réclamations et la distribution du Montant du règlement, le 11 mai 2015 à Toronto (Ontario)**

Le 11 mai 2015, à 10 heures (HNE), une audience aura lieu devant la Cour supérieure de justice de l'Ontario, à l'occasion de laquelle les Avocats du groupe solliciteront l'approbation par la Cour i) du Règlement à l'amiable ; ii) de la demande de remboursement des honoraires et des dépenses des Avocats du groupe ; ainsi que ii) du plan d'attribution et de distribution du Montant du règlement (le « Protocole de réclamations et distribution ») (collectivement, la « Motion d'approbation par la Cour supérieure de justice de l'Ontario »). L'audience se tiendra dans l'immeuble Canada Life situé au 330 University Avenue, 8<sup>e</sup> étage, Toronto (Ontario). Le numéro de la salle d'audience sera indiqué sur un tableau d'affichage situé au 8<sup>e</sup> étage.

Le Protocole de réclamations et distribution proposé précise, entre autres, i) la méthode qu'utilisera l'Administrateur (voir définition ci-dessous) pour examiner et traiter les formulaires de réclamation, ainsi que ii) la méthode qu'utilisera celui-ci pour calculer le montant des indemnités à distribuer à chaque Demandeur partie prenante au litige eu égard aux titres émis par Sino-Forest, y compris le Système d'attribution qui assignera les différents coefficients d'ajustement du risque aux titres de Sino-Forest selon des facteurs tels que le type des titres acquis et le moment d'acquisition. Par conséquent, il est possible que les

personnes dont les titres de Sino-Forest ont subi des pertes identiques reçoivent des indemnités calculées d'après des échelons différents, en fonction des coefficients d'ajustement du risque assignés à leurs titres.

Vous pouvez consulter les détails du Protocole de réclamations et distribution proposé en vous rendant sur les sites Web du Recours collectif ou en communiquant avec les Avocats du groupe aux coordonnées présentées à la fin du présent avis.

Lors de la présentation de la Motion d'approbation par la Cour supérieure de justice de l'Ontario, la Cour déterminera si le Règlement à l'amiable et le Protocole de réclamations et distribution sont équitables, raisonnables et dans l'intérêt supérieur des Demandeurs parties prenantes au litige portant sur les titres émis par Sino-Forest. Au cours de cette audience, les Avocats du groupe solliciteront également l'approbation par la Cour de sa demande de remboursement des honoraires et des dépenses (les « Honoraires des avocats du groupe »). Comme il est d'usage pour les recours collectifs, les Avocats du groupe poursuivent et continueront à poursuivre le présent recours collectif sur une base d'honoraires conditionnels. Les Avocats du groupe ne seront rémunérés qu'à condition que le recours collectif obtienne gain de cause. Dans l'intervalle, ils assumeront l'ensemble des frais découlant de la conduite du litige. Avant la distribution du Montant du règlement aux Demandeurs d'indemnités parties prenantes au litige eu égard aux titres émis par Sino-Forest, les Avocats du groupe soumettront une demande de déduction des honoraires et débours suivants à partir du Montant du règlement :

Siskinds LLP, Koskie Minsky LLP, Siskinds Desmeules, sncrl  
Montant demandé : 5 517 207 \$, plus débours (dépenses), plus taxes  
Cohen Milstein Sellers & Toll PLLC  
Montant demandé : 194 620 \$, plus débours (dépenses), plus taxes

Les documents judiciaires à l'appui de la demande de remboursement des honoraires et débours seront publiés sur les sites Web du Recours collectif avant la tenue de l'Audience portant sur les honoraires et le Protocole de distribution.

Les frais engagés ou exigibles relativement à l'avis, à la mise en œuvre et à l'administration du règlement (les « Frais d'administration ») seront également payés à même du Montant du règlement.

Tous les Demandeurs d'indemnités parties prenantes au litige eu égard aux titres de Sino-Forest peuvent assister à l'Audience portant sur la Motion d'approbation par la Cour supérieure de justice de l'Ontario et demander de faire des soumissions concernant le projet de règlement conclu avec les Courtiers.

**Les personnes qui prévoient s'opposer à l'approbation du Règlement à l'amiable, au Protocole d'attribution et de distribution du Montant de règlement ou à l'Application des honoraires et dépenses, doivent envoyer un Avis d'opposition, essentiellement au format indiqué sur les sites Web du Recours collectif, et si cet Avis est reçu par courrier ou courriel, joint à cet Avis (l'« Avis d'opposition »), à Siskinds LLP par voie de courrier ordinaire, messagerie ou courriel, aux coordonnées indiquées sur l'Avis d'opposition, de sorte qu'il soit reçu au plus tard le 1er avril 2015 à 17 heures (HNE). Des exemplaires des Avis d'opposition envoyés à Siskinds LLP seront déposés auprès de la Cour supérieure de l'Ontario.**

En parallèle avec l'audience portant sur la Motion d'approbation par la Cour supérieure de justice de l'Ontario, une audience se tiendra à la Cour de faillite des États-Unis en vue d'obtenir une ordonnance selon laquelle sera reconnue et appliquée l'ordonnance qui accordera l'approbation du Règlement des courtiers aux États-Unis.

**Audience simultanée pour solliciter une Ordonnance de reconnaissance et d'application le 9 juin 2015 à New York, New York**

Entre autres choses, le Règlement à l'amiable est conditionnel à une ordonnance de reconnaissance et d'application de l'ordonnance qui accorde l'approbation du Règlement des courtiers aux États-Unis. En conséquence, le cabinet d'avocats experts en faillite qui représente les Demandeurs aux États-Unis, Lowenstein Sandler LLP, déposera une motion (la « Motion de reconnaissance du règlement des Courtiers ») auprès de la Cour de faillite des États-Unis afin de demander une telle approbation. La copie de la Motion de reconnaissance du règlement des Courtiers sera mise à disposition sur les sites Web du Recours collectif.

Le 9 juin 2015, à 10 heures (HNE), en parallèle avec l'audience portant sur la Motion d'approbation par la Cour supérieure de justice de l'Ontario, une audience sera tenue relativement à la Motion de reconnaissance du règlement des Courtiers auprès de l'honorable Martin Glenn, juge siégeant à la Cour de faillite aux États-Unis, dans la salle d'audience n°501 de la Cour de faillite, One Bowling Green, New York, New York. Si la Motion d'approbation est acceptée par la Cour supérieure de justice de

l'Ontario, la Cour de faillite délibérera sur l'opportunité d'accorder une ordonnance de reconnaissance et d'application de l'ordonnance accordant l'approbation du règlement des Courtiers aux États-Unis.

**Toute objection opposée ou toute réaction à l'égard de la Motion de reconnaissance du règlement des Courtiers (laquelle sera délibérée par la Cour de faillite des États-Unis séparément de toute objection opposée à la Motion d'approbation par la Cour supérieure de justice de l'Ontario) doit être conforme aux dispositions du Code des faillites des États-Unis (United States Bankruptcy Code), aux procédures prescrites par les Règles fédérales sur la faillite (Federal Rules of Bankruptcy Procedure) et aux règles locales auxquelles adhère la Cour de faillite. En outre, une telle objection ou réaction doit être faite à l'écrit, en décrire les fondements et déposée auprès de la Cour de faillite des États-Unis par voie électronique, conformément à l'ordonnance générale M-399, par les utilisateurs enregistrés du système de dépôt de dossiers électroniques de ladite Cour de faillite des États-Unis, et par toutes les autres parties intéressées, sur un disque de 3,5 pouces, de préférence au format PDF (document portable), Word Perfect ou tout autre format de traitement de texte compatible avec Windows, avec une copie papier adressée aux chambres de l'honorable Martin Glenn, juge siégeant en faillite aux États-Unis, District-Sud de New York, One Bowling Green, New York, NY 10004-1408, et signifié au cabinet d'avocats experts en faillite aux États-Unis représentant les Courtiers, au Sherman & Sterling LLP, 599 Lexington Avenue, New York, NY 1022, United States, à l'attention de : Jaculin Aaron, et le cabinet d'avocats experts en faillite représentant les Demandeurs aux États-Unis, Lowenstein Sandler LLP, 1251 Avenue of the Americas, New York, N.Y. 10020, à l'attention de : Michael S. Etkin et Andrew D. Behlmann, afin d'être reçue par ces derniers au plus tard le 29 mai 2015 à 17 heures (HNE).**

**LA COUR PEUT APPROUVER UN PROTOCOLE DE RÉCLAMATIONS ET DISTRIBUTION QUI EST DIFFÉRENT DE CELUI PROPOSÉ PAR LE CABINET D'AVOCAT DU GROUPE. QU'ELLES SOUMETTENT OU NON UN FORMULAIRE DE RÉCLAMATION VALIDE, TOUTES LES PERSONNES ET ENTITÉS AUTORISÉES À PARTICIPER AU RÈGLEMENT DES COURTIERIS SERONT LIÉES PAR LE PROTOCOLE DE RÉCLAMATIONS ET DISTRIBUTION, QUELLE QU'EN SOIT LA NATURE, QUE LA COUR APPROUVERA.**

#### **L'administrateur**

La Cour supérieure de l'Ontario a nommé NPT RicePoint en tant qu'Administrateur du règlement. L'Administrateur aura notamment comme responsabilité de : (i) recevoir et traiter les formulaires de réclamation ; (ii) déterminer l'admissibilité à l'indemnité des Membres du groupe conformément au Protocole de réclamations et distribution ; (iii) communiquer avec les Membres du groupe au sujet de leur admissibilité à l'indemnité ; et (iv) gérer et distribuer le Montant net du Règlement. Vous pouvez joindre l'Administrateur au :

Adresse postale : NPT RicePoint Class Action Services  
Sino-Forest Class Action  
C.P. 3355  
London (Ontario) N6A 4K3  
Téléphone : 1 866 432-5534  
Adresse courriel : [sino@nptricepoint.com](mailto:sino@nptricepoint.com)  
Site Web : [www.nptricepoint.com](http://www.nptricepoint.com)

#### **Informations supplémentaires**

Si vous souhaitez obtenir des informations supplémentaires, veuillez communiquer avec Koskie Minsky LLP, Siskinds LLP, Siskinds Desmeules sencl, ou Cohen Milstein Sellers & TollPLLC, en utilisant les coordonnées ci-dessous :

Garth Myers, Jonathan Ptak  
Koskie Minsky LLP  
20 Queen St. West, bureau 900, boîte 52  
Toronto (Ontario) M5H 3R3  
Objet : Sino-Forest Class Action  
Téléphone : 1 866 474-1739 (en Amérique du Nord)  
Téléphone : 416 595-2158 (à l'extérieur de l'Amérique du Nord)  
Adresse courriel : [sinoforestclassaction@kmlaw.ca](mailto:sinoforestclassaction@kmlaw.ca)

Dimitri Lascaris, Charles Wright  
Siskinds LLP  
680 Waterloo Street, C.P. 2520  
London (Ontario) N6A 3V8  
Objet : Sino-Forest Class Action  
Téléphone : 1 800 461-6166, poste 2380 (en Amérique du Nord)  
Téléphone : 519 672-2251, poste 2380 (à l'extérieur de l'Amérique du Nord)  
Adresse courriel : [sinoforest@siskinds.com](mailto:sinoforest@siskinds.com)

Samy Elnemr  
Siskinds Desmeules, Avocats, sncrl  
480, Saint-Laurent, suite 501, Montréal, Québec, H2Y 3Y7  
Objet : Recours collectif contre Sino-Forest  
Téléphone: 514.849.1970  
Adresse courriel : [samy.elnemr@siskindsdesmeules.com](mailto:samy.elnemr@siskindsdesmeules.com)

Richard Speirs, Genevieve Fontan  
Cohen Milstein Sellers & Toll, PLLC  
88 Pine Street  
New York, NY 10005  
Téléphone : 418 694-2009  
Adresse courriel : [lawinfo@cohenmilstein.com](mailto:lawinfo@cohenmilstein.com)

**Interprétation**

En cas de conflit entre les dispositions du présent Avis et le Règlement à l'amiable, les dispositions du Règlement à l'amiable ont préséance.

Veillez ne pas envoyer vos demandes de renseignements au sujet du présent Avis à la Cour supérieure de l'Ontario ni à la Cour de faillite des États-Unis. Toutes les demandes de renseignements doivent être adressées aux avocats du groupe.

LA DIFFUSION DE CET AVIS A ÉTÉ AUTORISÉE PAR LA COUR SUPÉRIEURE DE JUSTICE DE L'ONTARIO

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**AVIS D'OPPOSITION**  
**UTILISEZ UNIQUEMENT CE FORMULAIRE SI LE RÈGLEMENT**  
**DES COURTIER, LE PROTOCOLE DE RÉCLAMATIONS ET**  
**DISTRIBUION OU L'APPLICATION DES HONORAIRES**  
**D'AVOCAT NE VOUS CONVIENNENT PAS ET SI VOUS**  
**SOUHAITEZ Y OPPOSER VOTRE OBJECTION**

**À : SISKINDS LLP**

680 Waterloo Street

C.P. 2520

London (Ontario) N6A 3V8

À l'attention de : Nicole Young

Adresse courriel : sinoforest@siskinds.com

**Objet : SINO-FOREST CORPORATION – RÈGLEMENT DES COURTIER**

Je soussigné(e), \_\_\_\_\_ (veuillez cocher toutes les cases qui s'appliquent) :  
 (insérez le nom)

- suis à présent un(e) actionnaire de Sino-Forest Corporation
- suis à présent un(e) ancien(ne) actionnaire de Sino-Forest Corporation
- suis à présent un(e) porteur(e) de titres de Sino-Forest Corporation
- suis à présent un(e) ancien(ne) porteur(e) de titres de Sino-Forest Corporation
- Autre (veuillez préciser)

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Je reconnais qu'en vertu de l'ordonnance rendue par le juge, monsieur Morawetz, en date du 29 janvier 2015 (l'« Ordonnance »), les personnes qui souhaitent opposer une objection au règlement des Courtiers, au Protocole de réclamations et distribution ou à l'application des honoraires d'avocat doivent remplir le présent Avis d'opposition et l'envoyer à Siskinds LLP par courrier, messagerie ou courriel de sorte qu'il soit reçu au plus tard le 1er avril 2015 à 17 heures (HNE).

Par les présentes, je donne avis que j'oppose mon objection au règlement des Courtiers, au Protocole de réclamations et distribution ou à l'application des honoraires d'avocat pour les motifs suivants (veuillez ajouter des pages supplémentaires si plus d'espace est nécessaire) :

**SOUMETTEZ UNIQUEMENT VOTRE OJECTION SI LE RÈGLEMENT DES COURTIER, LE PROTOCOLE DE RÉCLAMATIONS ET DISTRIBUION OU L'APPLICATION DES HONORAIRES D'AVOCAT NE VOUS CONVIENNENT PAS**

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JE N'AI PAS L'INTENTION d'assister à l'audience portant sur la motion d'approbation du règlement des Courtiers, du Protocole de réclamations et distribution ou de l'Application des honoraires d'avocat, et je comprends que mon opposition sera déposée auprès de la Cour avant la tenue de ladite audience à 10 heures (HNE) le 11 mai 2015, à l'adresse suivante : 330 University Ave., 8e étage, Toronto (Ontario).

J'AI L'INTENTION d'assister soit en personne, soit par avocat interposé, à l'audience portant sur la motion d'approbation du règlement des Courtiers, du Protocole de réclamations et distribution ou de l'Application des honoraires d'avocat, et j'ai l'intention de faire des soumissions lors de ladite audience à 10 heures (HNE) le 11 mai 2015, à l'adresse suivante : 330 University Ave., 8e étage, Toronto (Ontario).

**MON ADRESSE DE RÉCEPTION  
DE LA SIGNIFICATION :**

**L'ADRESSE DE RÉCEPTION DE LA  
SIGNIFICATION DE MON  
AVOCAT (le cas échéant) :**

Nom :

Nom :

Adresse :

Adresse :

Téléphone :

Téléphone :

Télécopieur :

Télécopieur :

Adresse courriel :

Adresse courriel :

**Date :** \_\_\_\_\_

**Signature :** \_\_\_\_\_

**LITIGE À L'ÉGARD DES TITRES DE SINO-FOREST  
AVIS DE MOTION VISANT À AUTORISER DES FRAIS  
D'ADMINISTRATION SUPPLÉMENTAIRES et À ACCEPTER  
DES RÉCLAMATIONS TARDIVES dans le CADRE DU  
RÈGLEMENT DE ERNST & YOUNG**

**Avis de motion visant à autoriser des frais d'administration supplémentaires**

NPT RicePoint Class Action Services Inc. (« NPT ») est l'administrateur nommé par la Cour du règlement conclu entre le comité ad hoc des acquéreurs de titres émis par Sino-Forest (le « Comité ad hoc ») et Ernst & Young LLP (le « Règlement de Ernst & Young »). Puisque le volume des réclamations déposées dans le cadre du Règlement de Ernst & Young est plus élevé que prévu – le volume dépasse substantiellement l'estimation faite par NPT dans sa proposition exprimant son souhait d'administrer ledit Règlement (la « Proposition ») – le Comité ad hoc sollicite une ordonnance selon laquelle les honoraires de NPT devraient être augmentés de **580 000 \$ à 1 439 125 \$** afin de tenir compte du surcroît de temps requis en conséquence par NPT pour administrer le Règlement.

Les honoraires d'origine de 580 000 \$ proposés par NPT et approuvés par la Cour ont été établis en fonction d'une évaluation prévoyant le dépôt de 18 200 réclamations et 5 500 heures à consacrer à l'administration du Règlement de Ernst & Young. Dans le cas d'une augmentation importante du nombre des réclamations déposées au titre de ce Règlement, la Proposition stipule que le Comité ad hoc aurait le droit de se présenter de nouveau à la Cour pour demander l'approbation de frais supplémentaires au bénéfice de NPT. En fait, une telle augmentation s'est bel et bien produite. Jusqu'ici, plus de 49 625 réclamations ont été déposées (chiffre de 2,73 fois plus important que celui prévu dans la Proposition), et NPT compte consacrer environ 12 261 heures à l'administration du Règlement (soit 6,761 heures de plus que prévu dans la proposition). Dans ces circonstances, les avocats du groupe sont convaincus qu'une augmentation des honoraires de NPT de 580 000 \$ à 1 439 125 \$ est juste et raisonnable.

**Avis de motion visant à autoriser le dépôt des Réclamations tardives**

Selon l'ordonnance de la Cour, la date limite pour déposer les réclamations dans le cadre du Règlement de Ernst & Young était le 14 février 2014. Depuis cette date, NPT a reçu environ 1 780 réclamations tardives (les « Réclamations tardives »). Le Comité ad hoc sollicite une ordonnance auprès de la Cour, qui autorisera le dépôt de toutes les Réclamations tardives que NPT recevra jusqu'au 11 mai 2015, inclusivement.

**Comment Opposer une objection aux Motions visant à autoriser des frais  
d'administration supplémentaires et des Indemnités pour les réclamations tardives**

Si vous souhaitez opposer une objection à : (a) la motion visant à autoriser les frais d'administration supplémentaires, ou à (b) la motion visant à autoriser le dépôt des réclamations tardives, veuillez envoyer un courriel à [sinoforest@siskinds.com](mailto:sinoforest@siskinds.com) ou poster une lettre à Siskinds LLP 680 Waterloo Street, C.P. 2520, London (Ontario) N6A 3V8, à l'attention de : Nicole Young. Veuillez indiquer (i) votre nom, (ii) vos motifs, (iii) votre intention d'assister ou non à l'audience portant sur la motion visant à autoriser des frais d'administration supplémentaires et celle visant à autoriser des indemnités pour les réclamations tardives (l'heure et la date de l'audience figurent sur l'avis d'approbation du règlement ci-joint), (iv) votre adresse de réception de la signification et (v) l'adresse de réception de la signification de votre avocat (le cas échéant).

**Votre avis d'opposition devra être reçu le 1er avril 2015.**

# SINO-FOREST SECURITIES LITIGATION NOTICE OF MOTION TO AUTHORIZE ADDITIONAL ADMINISTRATION FEES and TO PERMIT LATE CLAIMS in the ERNST & YOUNG SETTLEMENT

## Notice of Motion to Authorize Additional Administration Fees

NPT RicePoint Class Action Services Inc. ("NPT") is the court-appointed administrator of the settlement between the Ad Hoc Committee of Purchasers of Sino-Forest's Securities (the "Ad Hoc Committee") and Ernst & Young LLP (the "E&Y Settlement"). Due to an unexpectedly high volume of claims filed in the E&Y Settlement, materially beyond NPT's estimate in its proposal to administer the E&Y Settlement (the "Proposal"), and a corresponding increase in the amount of time required for NPT to administer the settlement, the Ad Hoc Committee seeks an order increasing NPT's fee from \$580,000 to \$1,439,125.00.

The original fee of \$580,000 proposed by NPT and approved by the court was based on an estimate that 18,200 claims would be filed and the E&Y Settlement would take 5,500 hours to administer. The Proposal provided that the Ad Hoc Committee could return to court for authorization of additional fees for NPT if there was a material increase in claims filed in the E&Y Settlement. Such a material increase has occurred, and over 49,625 claims have now been filed (2.73 times greater than anticipated in the Proposal) and NPT expects to expend approximately 12,261 hours administering the settlement (6,761 more hours than contemplated in the Proposal). In the circumstances, class counsel believes that an increase in NPT's fees from \$580,000 to \$1,439,125.00 is fair and reasonable.

## Notice of Motion to Permit Filing of Late Claims

Pursuant to court order, the deadline to file claims in the E&Y Settlement was February 14, 2014. Since that date, NPT has received approximately 1,780 late claims (the "Late Claims"). The Ad Hoc Committee seeks a court order permitting NPT to allow filing of all Late Claims received up until May 11, 2015.

## How to Object to the Motion to Authorize Additional Administrator Fees and to Permit Compensation for Late Claims

If you would like to object to: (a) the motion to authorize additional administration fees; and/or (b) the motion to permit filing of late claims, please email [sinoforest@siskinds.com](mailto:sinoforest@siskinds.com) or mail a letter to Siskinds LLP 680 Waterloo Street, PO Box 2520, London, ON N6A 3V8 Attention: Nicole Young and provide (i) your name; (ii) your reason for objecting; (iii) whether or not you intend to appear at the hearing of the motion to authorize additional administration fees and the motion to permit compensation for late claims (the time and date of which are on the notice of settlement approval, enclosed); (iv) your address for service; and (v) your lawyer's address for service (if applicable).

Your objection must be received by April 1, 2015. This is Exhibit D referred to in the affidavit of Gail Myers

sworn before me, this 5th day of April 2015

[Signature]  
A COMMISSIONER FOR TAKING AFFIDAVITS  
Robert Green

**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**

Court File No.: CV-12-9667-00-CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

Proceeding under the *Class Proceedings Act, 1992*

**AFFIDAVIT OF GARTH MYERS**

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**Ken Rosenberg (LSUC #21102H)**

**Massimo Starnino (LSUC #41048G)**

Tel: 416-646-4300/Fax: 416-646-4301

Lawyers for the Ad Hoc Committee of Purchasers of the  
Applicant's Securities, including the Class Action Plaintiffs

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**

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

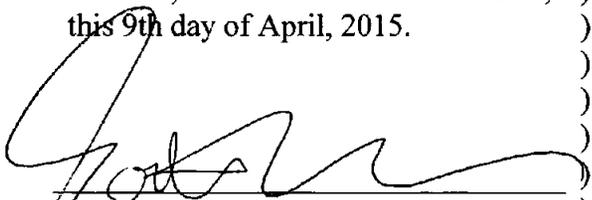
**AFFIDAVIT OF HEATHER PALMER  
(Sworn April 9, 2015)**

I, **HEATHER PALMER**, of the City of Toronto, in the Province of Ontario

**MAKE OATH AND SAY:**

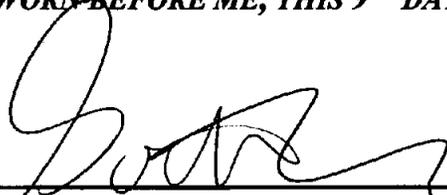
1. I am an assistant in the class action department at Koskie Minsky LLP. Koskie Minsky LLP is counsel to the plaintiffs in the above styled class action. I therefore have personal knowledge of the matters set out below.
2. Attached hereto as **Exhibit "A"** is a copy of a letter dated January 8, 2015 from Andrew Gray to Robert Staley.
3. Attached hereto as **Exhibit "B"** is a copy of a letter dated January 16, 2015 from Mr. Staley to Mr. Gray.
4. Attached hereto as **Exhibit "C"** is a copy of the Plan Sanction Order of this Court dated December 10, 2012.
5. Attached hereto as **Exhibit "D"** is a copy of a letter dated April 1, 2015 from Ken Rosenberg to Derek Bell and Mr. Staley.
6. Attached hereto as **Exhibit "E"** is a copy of a letter dated April 7, 2015 from Mr. Staley to Mr. Rosenberg.

SWORN before me at the City of )  
 Toronto, in the Province of Ontario, )  
 this 9th day of April, 2015. )  
 )  
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 )  
 )  
 )

  
 \_\_\_\_\_  
 A Commissioner, etc.  
 Garth Myers

  
 \_\_\_\_\_  
 Heather Palmer

***THIS IS EXHIBIT "A" REFERRED TO IN THE  
AFFIDAVIT OF HEATHER PALMER  
SWORN BEFORE ME, THIS 9<sup>TH</sup> DAY OF APRIL, 2015***



---

***A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.***

**TORYS**  
LLP

79 Wellington St. W., 30th Floor  
Box 270, TD South Tower  
Toronto, Ontario M5K 1N2 Canada  
P. 416.865.0040 | F. 416.865.7380  
www.torys.com

Andrew Gray  
agray@torys.com  
P. 416.865.7830

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:

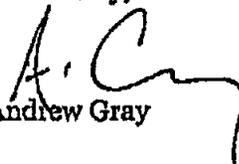
**Re: Sino-Forest Corporation ("Sino-Forest")**

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,

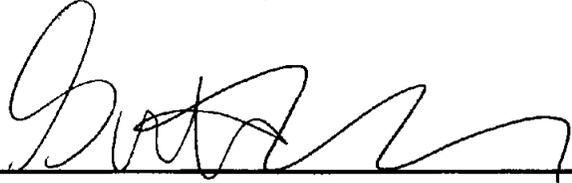
  
Andrew Gray

AG

Enclosure

cc: John Fabello  
Jon Plak

***THIS IS EXHIBIT "B" REFERRED TO IN THE  
AFFIDAVIT OF HEATHER PALMER  
SWORN BEFORE ME, THIS 9<sup>TH</sup> DAY OF APRIL, 2015***



---

***A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.***



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: 416.777.4857  
e-mail: [rstaley@bennettjones.com](mailto:rstaley@bennettjones.com)

January 16, 2015

By E-Mail: [agray@torys.com](mailto: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 Defendant<sup>1</sup> 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.

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<sup>1</sup> 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.

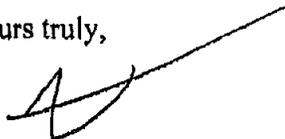
The beneficiaries of the Litigation Trust differ from the beneficiaries of the Class Actions. The Litigation Trust and the class action parties are competing to obtain recoveries for the benefit of their stakeholders, in many cases from the same parties. A Named Third Party Defendant Settlement can be 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,



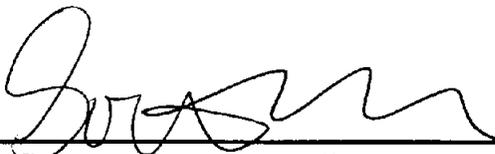
Robert W. Staley

RWS/jm

cc: Derek Bell, Bennett Jones LLP  
cc: Jonathan Bell, Bennett Jones LLP

WSLegal05925000013\11392313v2

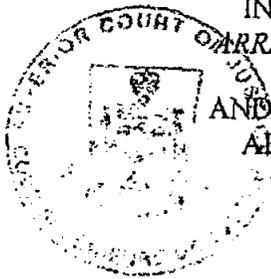
***THIS IS EXHIBIT "C" REFERRED TO IN THE  
AFFIDAVIT OF HEATHER PALMER  
SWORN BEFORE ME, THIS 9<sup>TH</sup> DAY OF APRIL, 2015***

  
\_\_\_\_\_  
***A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.***

Court File No. CV-12-9667-00CL

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

THE HONOURABLE MR.	)	MONDAY, THE 10 <sup>th</sup> DAY
	)	
JUSTICE MORAWETZ	)	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.

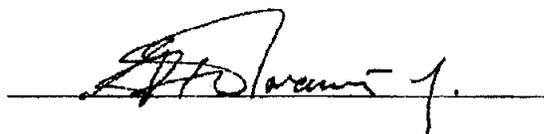
62. **THIS COURT ORDERS** that this Plan Sanction Order shall be posted on the Monitor's Website at <http://cfcanada.fticonsulting.com/sfc> and only be required to be served upon the parties on the Service List and those parties who appeared at the hearing of the motion for this Plan Sanction Order.

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.

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ON / BOOK NO.  
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**

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**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**

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**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)(1) 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)(i) 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)(i) 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(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;

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- (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);

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- (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;
- (ij) 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

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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](mailto:zychk@bennettjones.com) and [sahnir@bennettjones.com](mailto: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  
11<sup>th</sup> 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 &amp; 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:

Lenzner 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 3<sup>rd</sup> 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 [7<sup>th</sup>] 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	6 -- Tel. N° - N° de tél.
-----------	---------------------------------------	----------------------------------	---------------------------



### 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

***THIS IS EXHIBIT "D" REFERRED TO IN THE  
AFFIDAVIT OF HEATHER PALMER  
SWORN BEFORE ME, THIS 9<sup>TH</sup> DAY OF APRIL, 2015***



***A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.***

**PALIARE  
ROLAND**  
BARRISTERS

**Ken Rosenberg**

T 416.646.4304 Asst 416.646.7404

F 416.646.4301

E [ken.rosenberg@paliareroland.com](mailto:ken.rosenberg@paliareroland.com)[www.paliareroland.com](http://www.paliareroland.com)

File 80089

April 1, 2015

**VIA EMAIL**

Derek Bell and Robert W. Staley  
Bennett Jones LLP  
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' Facta:	April 23, 2015
Litigation Trustee's Factum:	April 30, 2015
Plaintiffs' and Dealers' Reply Facta (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.

Chris G. Paliare  
Ian J. Roland  
Ken Rosenberg  
Linda R. Rothstein  
Richard P. Stephenson  
Nick Coleman  
Margaret L. Waddell  
Donald K. Eady  
Gordon D. Capem  
Lily I. Harmer  
Andrew Lokan  
John Monger  
Odette Soriano  
Andrew C. Lewis  
Megan E. Shortreed  
Massimo Starnino  
Karen Jones  
Robert A. Centa  
Nini Jones  
Jeffrey Larry  
Kristian Borg-Olivier  
Emily Lawrence  
Denise Sayer  
Tina H. Lie  
Jean-Claude Killey  
Jodi Martin  
Michael Fenrick  
Jessica Latimer  
Debra McKenna  
Lindsay Scott  
Alysha Shore  
Gregory Ko  
Denise Cooney

## COUNSEL

Stephen Goudge, Q.C.

Robin D. Walker, Q.C.

## HONORARY COUNSEL

Ian G. Scott, Q.C., O.C.  
(1934 - 2006)

Yours very truly,  
**PALIARE ROLAND ROSENBERG ROTHSTEIN LLP**

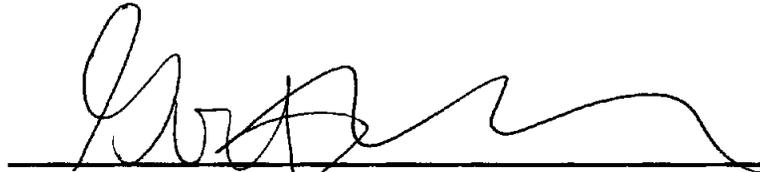


Ken Rosenberg  
KR:ss

c. Charles Wright  
Dimitri Lascaris  
Kirk M. Baert  
Garth Myers  
Syliva Tse  
Jonathan Ptak  
Andrew Gray  
John Fabello  
David Bish

Doc 1403759 v1

***THIS IS EXHIBIT "E" REFERRED TO IN THE  
AFFIDAVIT OF HEATHER PALMER  
SWORN BEFORE ME, THIS 9<sup>TH</sup> DAY OF APRIL, 2015***

A handwritten signature in black ink, appearing to be 'G. A. ...', written over a horizontal line.

***A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.***



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: 416.777.4857  
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By Email: [ken.rosenberg@paliareroland.com](mailto:ken.rosenberg@paliareroland.com)

April 7, 2015

Mr. Ken Rosenberg  
Paliare Roland Rosenberg Rothstein LLP  
155 Wellington Street West  
35<sup>th</sup> 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  
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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/ii



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January 16, 2015

By E-Mail: [agray@torys.com](mailto: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 Defendant<sup>1</sup> 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.

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<sup>1</sup> Named Third Party Defendant and the remaining defined terms in this letter are as defined in the Plan.

January 16, 2015

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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.

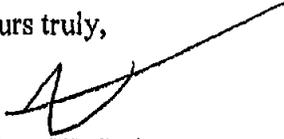
The beneficiaries of the Litigation Trust differ from the beneficiaries of the Class Actions. The Litigation Trust and the class action parties are competing to obtain recoveries for the benefit of their stakeholders, in many cases from the same parties. A Named Third Party Defendant Settlement can be 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

**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**

Court File No.: CV-12-9667-00-CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

Proceeding under the *Class Proceedings Act, 1992*

**AFFIDAVIT OF HEATHER PALMER**

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Lawyers for the Ad Hoc Committee of Purchasers of the  
Applicant's Securities, including the Class Action Plaintiffs

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

The Trustees of the Labourer's Pension Fund  
of Central and Eastern Canada, et al.

Plaintiffs

and Sino-Forest Corporation, et al.

Defendants

Commercial Court File No.: CV-12-9667-00CL

Superior Court File No: CV-10-414302

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
Commercial List**

Proceeding under the *Class Proceedings Act, 1992*  
Proceeding commenced at Toronto

**MOTION RECORD OF THE PLAINTIFFS  
Settlement Approval  
(Returnable May 11, 2015)**

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