

SINO-FOREST LITIGATION TRUST AGREEMENT

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1 ESTABLISHMENT OF THE LITIGATION TRUST.....	2
1.1 Settling the Litigation Trust and Funding Expenses of the Litigation Trust.....	2
1.2 Establishment of Litigation Trust and Appointment of the Litigation Trustee.....	2
1.3 Transfer of Assets and Rights to the Litigation Trustee.....	3
1.4 Title to Litigation Trust Assets.....	5
1.5 Nature and Purpose of the Litigation Trust.....	5
1.6 Incorporation of Plan.....	7
ARTICLE 2 LITIGATION TRUST INTERESTS.....	7
2.1 Allocation of Litigation Trust Interests.....	7
2.2 Interests Beneficial Only.....	7
2.3 Evidence of Beneficial Interests.....	7
2.4 Securities Law Registration.....	8
2.5 No Transfers.....	8
2.6 Absolute Owners.....	8
ARTICLE 3 THE LITIGATION TRUSTEE.....	9
3.1 Litigation Trust Proceeds.....	9
3.2 Collection of Litigation Trust Proceeds.....	9
3.3 Payment of Litigation Trust Expenses.....	9
3.4 Distributions.....	9
3.5 Tenure, Removal, and Replacement of the Litigation Trustee.....	10
3.6 Acceptance of Appointment by Successor Trustee.....	11
3.7 Regular Meetings of the Litigation Trustee and the Litigation Trust Board.....	11
3.8 Special Meetings of the Litigation Trustee and the Litigation Trust Board.....	12
3.9 Notice of, and Waiver of Notice for Litigation Trustee and Litigation Trust Board Meeting.....	12
3.10 Manner of Acting.....	12
3.11 Role of the Litigation Trustee.....	12
3.12 Authority of Litigation Trustee.....	13
3.13 Limitation of Litigation Trustee’s Authority.....	15
3.14 Books and Records.....	16
3.15 Inquiries into Trustee’s Authority.....	16
3.16 Compliance with Laws.....	16
3.17 Compensation of the Litigation Trustee.....	16
3.18 Reliance by Litigation Trustee.....	16
3.19 Investment and Safekeeping of Litigation Trust Assets.....	17
3.20 Standard of Care; Exculpation.....	17
ARTICLE 4 LITIGATION TRUST BOARD.....	17
4.1 Litigation Trust Board.....	17
4.2 Authority of the Litigation Trust Board.....	18
4.3 Regular Meetings of the Litigation Trust Board.....	18

4.4	Special Meetings of the Litigation Trust Board	18
4.5	Manner of Acting	18
4.6	Litigation Trust Board’s Action Without a Meeting	19
4.7	Notice of, and Waiver of Notice for Litigation Trust Board Meetings	19
4.8	Telephonic Communications.....	20
4.9	Tenure, Removal and Replacement of the Members of the Litigation Trust Board	20
4.10	Compensation of the Litigation Trust Board.....	21
4.11	Standard of Care; Exculpation.....	21
ARTICLE 5 TAX MATTERS		22
5.1	U.S. Federal Income Tax Treatment of the Litigation Trust.....	22
5.2	Allocations of Litigation Trust Taxable Income For U.S. Federal Income Tax Purposes.....	23
5.3	Canadian Tax Treatment of Distributions by Litigation Trustee	24
ARTICLE 6 DISTRIBUTIONS		24
6.1	Distributions; Withholding	24
6.2	Manner of Payment or Distribution.....	25
6.3	Cash Distributions	25
ARTICLE 7 INDEMNIFICATION		25
7.1	Indemnification of Litigation Trustee and the Litigation Trust Board.....	25
ARTICLE 8 REPORTING OBLIGATIONS OF LITIGATION TRUSTEE.....		26
8.1	Reports.....	26
ARTICLE 9 TERM; TERMINATION OF THE LITIGATION TRUST		26
9.1	Term; Termination of the Litigation Trust	26
9.2	Continuance of Trust for Winding Up.....	27
ARTICLE 10 AMENDMENT AND WAIVER.....		27
10.1	Amendment and Waiver.....	27
ARTICLE 11 MISCELLANEOUS PROVISIONS		28
11.1	Intention of Parties to Establish the Litigation Trust.....	28
11.2	Laws as to Construction	28
11.3	Jurisdiction	28
11.4	Severability.....	28
11.5	Notices	29
11.6	Fiscal Year.....	30
11.7	Construction; Usage	30
11.8	Counterparts; Facsimile; PDF	31
11.9	Confidentiality	31
11.10	Entire Agreement.....	32
11.11	No Bond.....	32
11.12	Effectiveness.....	32
11.13	Successor and Assigns.....	32
11.14	No Execution	32
11.15	Irrevocability	33

THIS LITIGATION TRUST AGREEMENT (this “**Agreement**”), dated as of the Effective Date, is entered into by and among:

1. Sino-Forest Corporation (“**SFC**”); and
2. Cosimo Borrelli, as trustee of the Litigation Trust (the “**Litigation Trustee**”).

PRELIMINARY STATEMENT

On March 30, 2012 (the “**Filing Date**”), SFC commenced reorganization proceedings under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the “**CCAA**”) (Case No. CV-12-9667-CL) before the Ontario Superior Court of Justice (the “**CCAA Court**”).

On December 3, 2012, SFC filed that certain Plan of Compromise and Reorganization dated December 3, 2012 pursuant to the provisions of the CCAA and the *Companies Business Corporations Act* (together with any supplement to such Plan and the exhibits and schedules thereto, as the same may be amended, modified or supplemented from time to time in accordance with the terms thereof, the “**Plan**”).

On December 12, 2012, the CCAA Court entered the Plan Sanction Order approving the Plan, which contemplates the creation of this Litigation Trust, which is hereby created pursuant to this Agreement and in accordance with the laws of Ontario in order to effectuate certain provisions of the Plan and the Plan Sanction Order and, in accordance therewith and herewith, the Litigation Trustee will hold the Litigation Trust Claims and the other Litigation Trust Assets for the benefit of the Litigation Trust Beneficiaries, all as defined herein or in the Plan.

In this Agreement, “**Litigation Trust Claims**” means any and all claims, actions, causes of action, demands, counterclaims, suits, rights, entitlements, litigation, arbitration, proceeding, hearing, complaint, debt, obligation, sums of money, accounts, covenants, damages, judgments, orders, including for injunctive relief or specific performance and compliance orders, expenses, executions, Encumbrances and other recoveries of whatever nature that any Person may be entitled to assert in law, equity or otherwise, whether known or unknown, foreseen or unforeseen, reduced to judgment or not reduced to judgment, liquidated or unliquidated, contingent or non-contingent, matured or unmatured, disputed or undisputed, secured or unsecured, assertable directly, indirectly or derivatively, existing or hereafter arising and whether pertaining to events occurring before, on or after the Filing Date (the “**Causes of Action**”) which have been or may be asserted by or on behalf of (a) SFC against any and all third parties; or (b) the Trustees (on behalf of the Noteholders) against any and all Persons in connection with the Notes issued by SFC, which claims are transferred to and vested in the Litigation Trustee pursuant to the Plan, the Plan Sanction Order and this Agreement; provided, however, that in no event shall Litigation Trust Claims include any (i) claim, right or cause of action against any Person that is released pursuant to Article 7 of the Plan or (ii) Excluded Litigation Trust Claim. For greater certainty: (x) the claims being advanced or that are subsequently advanced in the Class Actions are not being transferred to the Litigation Trust; and (y) the claims transferred to the Litigation Trust shall not be advanced in the Class Actions.

In this Agreement, “**Litigation Trust Assets**” means the Litigation Trust Claims, the Litigation Funding Amount, and any other assets acquired by the Litigation Trust on or after the Effective Date pursuant to this Agreement or the Plan.

The Litigation Trust is established for the sole purpose of liquidating and distributing the Litigation Trust Assets pursuant to the Plan and this Agreement with no objective to continue or engage in the conduct of a trade or business.

The Litigation Trust is established for (i) the benefit of the Affected Creditors with Proven Claims and the Noteholder Class Action Claimants entitled to receive Litigation Trust Interests under the Plan (individually, a “**Litigation Trust Beneficiary**” and collectively, the “**Litigation Trust Beneficiaries**”) and (ii) the pursuit of all Litigation Trust Claims.

The Litigation Trustee is duly appointed pursuant to the Plan, the Plan Sanction Order and Section 1.2(b) of this Agreement.

Unless the context otherwise requires, capitalized terms used in this Agreement and not otherwise defined herein shall have the meanings ascribed to them in the Plan. Schedule A to this Agreement sets forth an index of terms that are defined in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements contained herein and in the Plan, SFC and the Litigation Trustee intending to be legally bound, agree as follows:

ARTICLE 1 ESTABLISHMENT OF THE LITIGATION TRUST

1.1 Settling the Litigation Trust and Funding Expenses of the Litigation Trust

SFC hereby settles the Litigation Trust with the sum of twenty (\$20.00) Canadian dollars (serial number: BIR6584805) (the “**Settlement Funds**”), the receipt of which is hereby acknowledged by the Litigation Trustee, and loans the Litigation Funding Amount to the Litigation Trustee, by way of the form of promissory note appended hereto at Schedule B, which is executed as of the date of this Agreement, to finance the operations of the Litigation Trust. The Litigation Trust Claims Transferors (as defined below) have no other funding obligations with respect to the Litigation Trust.

1.2 Establishment of Litigation Trust and Appointment of the Litigation Trustee

- (a) Pursuant to the Plan, the Plan Sanction Order and this Agreement, the Litigation Trust is hereby established on the date and at the time set out in section 6.4 of the Plan, and shall be known as the “**SFC Litigation Trust**” on behalf of and for the benefit of the Litigation Trust Beneficiaries.
- (b) The Litigation Trustee hereby accepts its appointment as trustee of the Litigation Trust as of the Plan Implementation Date (the “**Effective Date**”) and agrees to accept and hold the Settlement Funds and the Litigation Trust Assets in trust for

the Litigation Trust Beneficiaries, subject to the terms of this Agreement. The Litigation Trustee (and each successor trustee thereto serving from time to time hereunder) shall have all the rights, powers and duties set forth herein and pursuant to applicable law for accomplishing the purposes of the Litigation Trust.

1.3 Transfer of Assets and Rights to the Litigation Trustee

- (a) Subject to section 1.3(b), on the Effective Date, pursuant to the Plan and the Plan Sanction Order, each of the Litigation Trust Claims shall be deemed to be irrevocably transferred, assigned and delivered to the Litigation Trustee, including (i) all rights, title and interests in and to the Litigation Trust Claims (and with respect to the Trustees, all of the rights, title and interests of the Noteholders in and to the Litigation Trust Claims on behalf of the Noteholders), free and clear of any and all liens, claims (other than claims in the nature of setoff or recoupment), encumbrances or interests of any kind in such property of any other Person, and (ii) all respective rights, title and interests in and to any lawyer-client privilege, work product privilege or other privilege or immunity attaching to any documents or communications (whether written or oral) associated with the Litigation Trust Claims (collectively, the “**Privileges**”) (and with respect to the Trustees, all of the rights, title and interests of the Noteholders in and to the Privileges on behalf of the Noteholders), all of which shall, and shall be deemed to, vest in the Litigation Trustee for the benefit of the Litigation Trust Beneficiaries. In no event shall any part of the Litigation Trust Claims revert to or be distributed to SFC or the Noteholders (or any representative thereof (including the Trustees)). None of the foregoing transfers to the Litigation Trustee shall constitute a merger or consolidation of the respective Litigation Trust Claims, each of which shall retain its separateness following the transfer for all purposes relevant to the prosecution thereof. The Litigation Trustee’s receipt of the Privileges shall be without waiver in recognition of the joint and/or successor interest in prosecuting claims on behalf of the Litigation Trust Claims Transferors.
- (b) At any time prior to the Effective Date, SFC and the Initial Consenting Noteholders may agree to exclude one or more Causes of Action from the Litigation Trust Claims and/or to specify that any Causes of Action against a specified Person will not constitute Litigation Trust Claims (“**Excluded Litigation Trust Claims**”), in which case, any such Causes of Action shall not be transferred to the Litigation Trust on the Effective Date. Any such Excluded Litigation Trust Claims shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred on the Plan Implementation Date in accordance with Article 7 of the Plan.
- (c) Pursuant to and consistent with the provisions of the Plan, all Causes of Action against the Underwriters by (i) SFC or (ii) the Trustees (on behalf of the Noteholders) shall be deemed to be Excluded Litigation Trust Claims that are fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred on the Plan Implementation Date in accordance with Article 7 of the Plan, provided that, unless otherwise agreed by SFC and the Initial Consenting Noteholders prior to the Plan Implementation Date in accordance with

section 4.12(a) of the Plan, any such Causes of Action for fraud or criminal conduct shall not constitute Excluded Litigation Trust Claims and shall be transferred to the Litigation Trust in accordance with section 6.4(o) of the Plan.

- (d) Subject to Section 1.3(e), after the Effective Date, SFC shall (i) deliver or cause to be delivered to the Litigation Trustee, documents reasonably requested and related to the Litigation Trust Claims (including those maintained in electronic format), whether held by SFC or its employees, agents, advisors, counsel, accountants, or other professionals and (ii) provide reasonable access to such employees, agents, advisors, counsel, accountants or other professionals with knowledge of matters relevant to the Litigation Trust Claims. Where original documents are required, SFC will make reasonable efforts to make such original documents available. For the avoidance of doubt, the rights of the Litigation Trustee pursuant to this Section 1.3(d) shall include the right to demand or compel the production of copies of any such documents or information from any party, committee or person who may have produced such documents for or on behalf of SFC or any committee appointed by SFC or its board of directors.
- (e) Any documents or information delivered by SFC to the Litigation Trustee pursuant to Section 1.3(d): (i) shall be used strictly for the purposes of advancing the Litigation Trust Claims and for no other purpose, (ii) shall not, except as may be required by law, be used for any purpose in relation to any regulatory proceedings involving the Named Directors and Officers, and (iii) shall be subject to the continuation of any privilege attaching to such documents, including but not limited to lawyer-client privilege, litigation privilege, and common interest privilege, which privileges the Litigation Trustee agrees to maintain and uphold.
- (f) Where documents, information and/or access is requested of third party agents, advisors, lawyers, accountants or other professionals (“**Third Party Disclosers**”), the Litigation Trustee shall pay such reasonable fees and costs of such Third Party Disclosers as are necessary for them to comply with the requests of the Litigation Trustee.
- (g) SFC hereby agrees at any time and from time to time on and after the Effective Date, (i) at the reasonable request of the Litigation Trustee, to execute and/or deliver any instruments, documents, books, and records (including those maintained in electronic format and original documents as may be needed), (ii) to take, or cause to be taken, all such further actions as the Litigation Trustee may reasonably request in order to evidence or effectuate the transfer of the Litigation Trust Claims and the Privileges to the Litigation Trustee contemplated hereby and by the Plan and to otherwise carry out the intent of the parties hereunder, and (iii) to cooperate with the Litigation Trustee in the prosecution of Litigation Trust Claims to the extent reasonable.
- (h) The Litigation Trustee agrees that it will accommodate reasonable requests by Named Directors and Officers (and their agents, advisors, lawyers, accountants or other professionals) to access, at their expense, copies or originals of any documents obtained by the Litigation Trustee pursuant to the terms of this

Agreement, for the purposes of defending any civil, regulatory or other proceedings involving the Named Directors and Officers or in connection with their financial affairs.

1.4 Title to Litigation Trust Assets

- (a) Upon the transfer of the Litigation Trust Claims to the Litigation Trust pursuant to the Plan, the Plan Sanction Order and this Agreement, SFC and any other holders of the Litigation Trust Claims (the “**Litigation Trust Claims Transferors**”) shall have no interest in or with respect to the Litigation Trust Assets, and the Litigation Trustee, on behalf of the Litigation Trust Beneficiaries, shall succeed to all of the Litigation Trust Claims Transferors’ rights, title and interests in and to the Litigation Trust Claims.
- (b) Notwithstanding anything in the Plan or in this Agreement to the contrary, the transfer of the Litigation Trust Claims to the Litigation Trustee does not diminish, and fully preserves, any defences or privileges a defendant would have if such Litigation Trust Claims had been retained by the Litigation Trust Claims Transferors.
- (c) To the extent that any Litigation Trust Assets cannot be transferred to the Litigation Trustee because of a restriction on transferability under applicable non-bankruptcy law, such Litigation Trust Assets shall be deemed to have been retained by the applicable Litigation Trust Claims Transferors, and the Litigation Trustee shall be deemed to have been designated as the exclusive representative of such Litigation Trust Claims Transferors to enforce and pursue such Litigation Trust Assets on behalf of such Litigation Trust Claims Transferors, and all proceeds, income and recoveries on account of any such Litigation Trust Assets shall be assets of the Litigation Trust and paid over thereto immediately upon receipt by the Litigation Trust Claims Transferors, or any other Person. Notwithstanding the foregoing, but subject to Section 3.4 and Article 6 of this Agreement, all net proceeds, income, and recoveries of or on account of such Litigation Trust Assets shall be transferred to the Litigation Trust to be distributed to the holders of the Litigation Trust Interests consistent with the terms of this Agreement.

1.5 Nature and Purpose of the Litigation Trust

- (a) Purpose. The Litigation Trust is organized and established as a trust pursuant to which the Litigation Trustee, subject to the terms and conditions contained herein, is to (i) hold the assets of the Litigation Trust and (ii) oversee the efficient prosecution of the Litigation Trust Claims, on the terms and conditions set forth herein.
- (b) Actions of the Litigation Trustee. Subject to the terms of this Agreement, the Litigation Trustee shall, in consultation with the Litigation Trust Board and subject to the exercise of their collective reasonable business judgment, and with the consent of the Litigation Trust Board where required under the terms of this

Agreement, in an efficient and responsible manner prosecute the Litigation Trust Claims and preserve and endeavour to enhance the value of the Litigation Trust Assets. The efficient and responsible prosecution of the Litigation Trust Claims may be accomplished either through the prosecution, compromise and settlement, abandonment, dismissal or other disposition of any or all claims, rights or causes of action, or otherwise, as determined by the Litigation Trustee and the Litigation Trustee Board in accordance with the terms of this Agreement and the exercise of their collective reasonable best judgement. The Litigation Trustee shall, subject to the terms of this Agreement, have the absolute right to pursue, settle and compromise or not pursue any and all Litigation Trust Claims as it determines is in the best interests of the Litigation Trust Beneficiaries and consistent with the purposes of the Litigation Trust, and the Litigation Trustee shall have no liability for the outcome of any such decision except for any damages caused by gross negligence, bad faith, wilful misconduct or knowing violation of law.

- (c) Limitation on Actions Against Named Directors and Officers. From and after the Plan Implementation Date, to the extent that the Litigation Trust Claims include rights of action against a Named Director or Officer, (a) the Litigation Trustee may only commence or prosecute an action for a Non-Released D&O Claim against a Named Director or Officer if the Litigation Trustee has first obtained (i) the consent of the Monitor or (ii) leave of the Court on notice to the applicable Directors and Officers, SFC, the Monitor, the Initial Consenting Noteholders and any applicable insurers; and (b) in connection with any action brought or prosecuted by the Litigation Trustee against a Named Director or Officer asserting a Section 5.1(2) D&O Claim or a Conspiracy Claim, the Litigation Trustee shall, as against the Named Directors and Officers, in relation to such claims, be irrevocably limited to recovery solely from the proceeds of the Insurance Policies paid or payable on behalf of SFC or its Directors or Officers, and shall have no right to, and shall not, directly or indirectly, make any claim or seek any recoveries from any of the Named Directors and Officers other than enforcing the Litigation Trustee's rights to be paid from the proceeds of an Insurance Policy by the applicable insurer(s).
- (d) Relationship. This Agreement is intended to create a trust and a trust relationship and to be governed and construed in all respects as a trust. The Litigation Trust is not intended to be, and shall not be deemed to be or treated as, a general partnership, limited partnership, joint venture, corporation, joint stock company or association, nor shall the Litigation Trustee, or the Litigation Trust Board (or any of its members or *ex officio* members), or the Litigation Trust Beneficiaries, or any of them, for any purpose be, or be deemed to be or treated in any way whatsoever to be, liable or responsible hereunder as partners or joint venturers. The relationship of the Litigation Trust Beneficiaries, on the one hand, to the Litigation Trustee and the Litigation Trust Board, on the other, shall not be deemed a principal or agency relationship, and their rights shall be limited to those conferred upon them by this Agreement.
- (e) No Waiver of Claims. Subject to the terms of this Agreement, the Litigation Trustee may enforce all rights to commence and pursue, as appropriate, any and

all Litigation Trust Claims after the Effective Date. The Litigation Trustee shall have, retain, reserve, and be entitled to assert all such Litigation Trust Claims, rights of setoff, and other legal or equitable defences which the Litigation Trust Claims Transferors had on the Effective Date fully as if the Litigation Trust Claims had not been transferred to the Litigation Trustee in accordance with the Plan, the Plan Sanction Order and this Agreement, and all of the Litigation Trust Claims Transferors' legal and equitable rights may be asserted after the Effective Date. Nothing in this Agreement shall be construed in a manner that is inconsistent with the Plan, the Plan Sanction Order or any other orders made by the CCAA Court.

1.6 Incorporation of Plan

The Plan and the Plan Sanction Order are each hereby incorporated into this Agreement and made a part hereof by this reference; provided, however, to the extent that there is conflict between the provisions of this Agreement, the provisions of the Plan, and/or the Plan Sanction Order, each such document shall have controlling effect in the following rank order: (1) the Plan; (2) the Plan Sanction Order; and (3) this Agreement.

ARTICLE 2 LITIGATION TRUST INTERESTS

2.1 Allocation of Litigation Trust Interests

The Litigation Trust Interests shall be allocated pursuant to the Plan.

2.2 Interests Beneficial Only

The ownership of a Litigation Trust Interest shall not entitle any holder of Litigation Trust Interests to any title in or to the assets of the Litigation Trust as such (which title shall be vested in the Litigation Trustee) or to any right to call for a partition or division of the assets of the Litigation Trust or to require an accounting.

2.3 Evidence of Beneficial Interests

The entitlements of the holders of Litigation Trust Interests (and the beneficial interests therein) are as established pursuant to the Plan and the Plan Sanction Order and will not be represented by any certificates, securities, receipts or in any other form or manner whatsoever, except as may be maintained on the books and records of the Litigation Trust by the Litigation Trustee or the Registrar. The death, incapacity or bankruptcy of any Litigation Trust Beneficiary during the term of the Litigation Trust shall not (i) operate to terminate the Litigation Trust, (ii) entitle the representatives or creditors of the deceased party to an accounting, (iii) entitle the representatives or creditors of the deceased party to take any action in the CCAA Court or elsewhere for the distribution of the Litigation Trust Assets or for a partition thereof or (iv) otherwise affect the rights and obligations of any of the Litigation Trust Beneficiaries hereunder.

2.4 Securities Law Registration

It is intended that the Litigation Trust Interests shall not constitute “securities.” To the extent the Litigation Trust Interests are deemed to be “securities,” the issuance of Litigation Trust Interests to Litigation Trust Beneficiaries hereunder or under the Plan (and any redistribution of any of the foregoing pursuant to the Plan or otherwise) shall be exempt from the prospectus and registration requirements of any applicable provincial laws pursuant to section 2.11 of National Instrument 45-106 – Prospectus and Registration Exemptions. If the Litigation Trustee determines, with the advice of counsel, that the Litigation Trust is required to comply with registration and/or reporting requirements of any applicable securities laws, then the Litigation Trustee shall, after consultation with the Litigation Trust Board, take any and all actions to comply with such registration and reporting requirements, if any, to the extent required by applicable law. Notwithstanding the foregoing, nothing herein shall be deemed to preclude the Litigation Trust Board and the Litigation Trustee from amending this Agreement to make such changes as are deemed necessary or appropriate by the Litigation Trustee, with the advice of counsel, to ensure that the Litigation Trust is not subject to any such registration and/or reporting requirements.

2.5 No Transfers

- (a) No transfer, sale assignment, distribution, exchange, pledge, hypothecation, mortgage or other disposition (each, a “**Transfer**”) of a Litigation Trust Interest may be effected or made; provided, that, Transfers of a Litigation Trust Interest may be made by operation of law or by will or the laws of descent and distribution.
- (b) The Litigation Trustee may appoint a registrar, which may be the Litigation Trustee (the “**Registrar**”), for the purpose of recording entitlement to the Litigation Trust Interests as provided for in this Agreement. The Registrar, if other than the Litigation Trustee, may be such other institution acceptable to the Litigation Trust Board. For its services hereunder, the Registrar, unless it is the Litigation Trustee, shall be entitled to receive reasonable compensation from the Litigation Trust as approved by the Litigation Trust Board, as an expense of the Litigation Trust.
- (c) The Litigation Trustee may cause to be kept at the office of the Registrar, or at such other place or places as shall be designated by the Litigation Trustee from time to time, a registry of the holders of Litigation Trust Interests (the “**Trust Register**”) which shall be maintained on a strictly confidential basis by the Registrar. The identity and extent of the Litigation Trust Interests of any Litigation Trust Beneficiary shall not be disclosed to any third party (other than the Litigation Trustee, the Litigation Trust Board and the Registrar, each of them shall maintain any such information in strict confidence), without the prior written consent of such Litigation Trust Beneficiary in each case.

2.6 Absolute Owners

The Litigation Trustee may deem and treat the holder of a Litigation Trust Interest (of record in the Trust Register or otherwise) as the absolute owner of such Litigation Trust Interests for the

purpose of receiving distributions and payment thereon or on account thereof and for all other purposes whatsoever and the Litigation Trustee shall not be charged with having received notice of any claim or demand to such Litigation Trust Interests or the interest therein of any other Person.

ARTICLE 3 THE LITIGATION TRUSTEE

3.1 Litigation Trust Proceeds

Any and all proceeds, income and/or recoveries obtained on account of or from the Litigation Trust Assets shall be added to the assets of the Litigation Trust (the “**Litigation Trust Proceeds**”, which, for greater certainty, shall not include the Litigation Funding Amount), held as a part thereof and dealt with in accordance with the terms of this Agreement.

3.2 Collection of Litigation Trust Proceeds

The Litigation Trustee shall collect all Litigation Trust Proceeds and title therein shall be vested in the Litigation Trustee, in trust for the benefit of the Litigation Trust Beneficiaries, to be dealt with in accordance with the terms of this Agreement.

3.3 Payment of Litigation Trust Expenses

Subject to Section 3.12 of this Agreement and the obligations of the Litigation Trustee under Section 3.4 of this Agreement, the Litigation Trustee shall maintain the Litigation Funding Amount and expend the Litigation Funding Amount, together with any other amounts received as litigation funding amounts in accordance with Section 3.12(s), (i) as is reasonably necessary to pay reasonable and necessary administrative expenses (including but not limited to, the reasonable costs and expenses of the Litigation Trustee (including reasonable fees, costs, and expenses of professionals retained thereby) and the compensation and the reasonable costs and expenses of the members of the Litigation Trust Board as contemplated by Section 4.10 hereof (including the fees of professionals retained by such members as contemplated by Sections 4.2 hereof), any taxes imposed on the Litigation Trust or in respect of the Litigation Trust Assets or reasonable fees and expenses in connection with, arising out of, or related to, the Litigation Trust Assets and litigations associated therewith), (ii) to pay the costs and expenses of the valuations of the Litigation Trust Assets incurred by the Litigation Trust Board and/or the Litigation Trustee in accordance with Section 5.1(c) of this Agreement, (iii) to pay or reimburse amounts in accordance with Article 7 hereof and (iv) to satisfy other liabilities incurred or assumed by the Litigation Trust (or to which the assets of the Litigation Trust are otherwise subject) in accordance with this Agreement.

3.4 Distributions

The Litigation Trustee shall make distributions of Litigation Trust Proceeds in accordance with the provisions of Article 6 of this Agreement.

3.5 Tenure, Removal, and Replacement of the Litigation Trustee

- (a) Each Litigation Trustee will serve until the earliest of (i) the completion of all the Litigation Trustee's duties, responsibilities and obligations under this Agreement, (ii) the Litigation Trustee's resignation and the appointment of a successor pursuant to Section 3.5(b) of this Agreement, (iii) the Litigation Trustee's removal pursuant to Section 3.5(c) of this Agreement, (iv) the Litigation Trustee's death (if applicable) and (v) the termination of the Litigation Trust in accordance with this Agreement.
- (b) The Litigation Trustee may resign by giving not less than 90 days' prior written notice to the Litigation Trust Board. Such resignation will become effective on the later to occur of: (i) the day specified in such written notice and (ii) the appointment of a successor trustee as provided herein and the acceptance by such successor trustee of such appointment in accordance with Section 3.6 of this Agreement. If a successor trustee is not appointed or does not accept its appointment within 90 days following delivery of notice of resignation, the Litigation Trustee may file a motion with the CCAA Court, upon notice and hearing, for the appointment of a successor trustee.
- (c) The Litigation Trustee may be removed for any reason by majority vote of the members of the Litigation Trust Board.
- (d) In the event of a vacancy in the position of the Litigation Trustee (whether by removal, resignation, or death, if applicable), the vacancy will be filled by the appointment of a successor trustee by (i) majority vote of the members of the Litigation Trust Board, and by the acceptance of the Litigation Trust by the successor trustee in accordance with Section 3.6 of this Agreement or (ii) an order of the CCAA Court after an opportunity for a hearing (provided, however, that only the Litigation Trust Board shall have standing to seek such an order (and the Litigation Trust Board shall only seek such an order upon a majority vote of the members of the Litigation Trust Board, except as provided in Section 3.5(b) of this Agreement)). If a successor trustee is appointed as provided in clause (i) or (ii) of the preceding sentence, and such appointment is accepted by the successor trustee in accordance with Section 3.6 of this Agreement, the Litigation Trust Board shall provide notice of such appointment to the holders of the Litigation Trust Interests, which notice will include the name, address, and telephone number of the successor trustee provided, however, that the provision of such notice shall not be a condition precedent to the vesting in the successor Litigation Trustee of all the estates, properties, rights, powers, trusts, and duties of its predecessor.
- (e) Immediately upon the appointment of any successor trustee, all rights, powers, duties, authority, and privileges of the predecessor Litigation Trustee hereunder will be vested in and undertaken by the successor trustee without any further act and the successor trustee will not be liable personally for any act or omission of the predecessor Litigation Trustee. A successor trustee shall have all the rights, privileges, powers, and duties of its predecessor under this Agreement.

- (f) Upon the appointment of a successor trustee, the predecessor Litigation Trustee (or the duly appointed legal representative of a deceased Litigation Trustee) shall, if applicable, when requested in writing by the successor trustee or the CCAA Court, execute and deliver an instrument or instruments conveying and transferring to such successor trustee upon the trusts herein expressed all the estates, properties, rights, powers and trusts of such predecessor Litigation Trustee, and shall duly assign, transfer, and deliver to such successor trustee all property and money held hereunder, and all other assets, documents, instruments, records and other writings relating to the Litigation Trust, the Litigation Trust Assets, the Litigation Trust Proceeds, the Litigation Funding Amount, and the Litigation Trust Interests, then in its possession and held hereunder, and shall execute and deliver such documents, instruments and other writings as may be requested by the successor trustee or the CCAA Court to effect the termination of such predecessor Litigation Trustee's capacity under the Litigation Trust, this Agreement and the Plan and otherwise assist and cooperate, without cost or expense to the predecessor Litigation Trustee, in effectuating the assumption of its obligations and functions by the successor trustee.
- (g) During any period in which there is a vacancy in the position of Litigation Trustee, the Litigation Trust Board shall appoint one of its members to serve as interim Litigation Trustee (the "**Interim Trustee**"). The Interim Trustee shall be subject to all the terms and conditions applicable to a Litigation Trustee hereunder. Such Interim Trustee shall not be limited in any manner from exercising any rights or powers as a member of the Litigation Trust Board merely by its appointment as Interim Trustee.
- (h) The death, resignation or removal of the Litigation Trustee shall not terminate the Litigation Trust or revoke any existing agency created pursuant to this Agreement or invalidate any action theretofore taken by the Litigation Trustee.

3.6 Acceptance of Appointment by Successor Trustee

Any successor trustee appointed hereunder shall execute an instrument accepting such appointment and assuming all of the obligations of the predecessor Litigation Trustee hereunder and accepting the terms of this Agreement and agreeing that the provisions of this Agreement shall be binding upon and inure to the benefit of the successor trustee and all of its heirs, and legal and personal representatives, successors and assigns, and thereupon the successor trustee shall, without any further act, become vested with all the estates, properties, rights, powers, trusts, and duties of its predecessor Litigation Trustee in the Litigation Trust hereunder with like effect as if originally named herein.

3.7 Regular Meetings of the Litigation Trustee and the Litigation Trust Board

Meetings of the Litigation Trustee, on one hand, and the Litigation Trust Board, on the other, are to be held with such frequency and in such manner and at such place as the Litigation Trust Board may determine in its sole discretion, but in no event shall such meetings be held less frequently than one time during each quarter of each calendar year.

3.8 Special Meetings of the Litigation Trustee and the Litigation Trust Board

Special meetings of the Litigation Trustee on the one hand, and the Litigation Trust Board, on the other, may be held whenever, wherever and however called for either by the Litigation Trustee or at least two members of the Litigation Trust Board.

3.9 Notice of, and Waiver of Notice for Litigation Trustee and Litigation Trust Board Meeting

Notice of the time and place (but not necessarily the purpose or all of the purposes) of any regular or special meeting of the Litigation Trust Board and the Litigation Trustee will be given to the Litigation Trustee and the members of the Litigation Trust Board in person or by telephone, or via mail, electronic mail, or facsimile transmission. Notice to the Litigation Trustee and the members of the Litigation Trust Board of any such meeting will be deemed given sufficiently in advance when (i) if given by mail, the same is deposited in the mail at least ten calendar days before the meeting date, with postage thereon prepaid, (ii) if given by electronic mail or facsimile transmission, the same is transmitted at least one Business Day prior to the convening of the meeting, or (iii) if personally delivered (including by overnight courier) or given by telephone, the same is handed, or the substance thereof is communicated over the telephone, to the Litigation Trustee and the members of the Litigation Trust Board or to an adult member of his/her office staff or household, at least one Business Day prior to the convening of the meeting. The Litigation Trustee and any member of the Litigation Trust Board may waive notice of any meeting of the Litigation Trust Board and any adjournment thereof at any time before, during, or after it is held, subject to applicable law. Except as provided in the next sentence below, the waiver must be in writing, signed by the Litigation Trustee or the applicable member or members of the Litigation Trust Board entitled to the notice, and filed with the minutes or records of the Litigation Trust. The attendance of the Litigation Trustee or a member of the Litigation Trust Board at a meeting (whether in person or by telephone or videoconference) shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

3.10 Manner of Acting

The Litigation Trustee or any member of the Litigation Trust Board may participate in a regular or special meeting by, or conduct the meeting through the use of, conference telephone, or similar communications equipment by means of which all persons participating in the meeting may hear each other, in which case any required notice of such meeting may generally describe the arrangements (rather than or in addition to the place) for the holding thereof. The Litigation Trustee or any member of the Litigation Trust Board participating in a meeting by this means is deemed to be present in person at the meeting.

3.11 Role of the Litigation Trustee

In furtherance of and consistent with the purpose of the Litigation Trust, the Litigation Trustee, subject to the terms and conditions of this Agreement, shall have the power to (i) prosecute, compromise and settle, abandon, dismiss or otherwise dispose of for the benefit of the Litigation Trust Beneficiaries all Litigation Trust Claims transferred to the Litigation Trust (whether such

suits are brought in the name of the Litigation Trust, the Litigation Trustee or otherwise), and (ii) otherwise perform the functions and take the actions provided for or permitted in this Agreement. In all circumstances, the Litigation Trustee shall act in the best interests of the Litigation Trust Beneficiaries and in furtherance of the purpose of the Litigation Trust.

3.12 Authority of Litigation Trustee

Subject to any limitations set forth in this Agreement (including, without limitation, Article 4 hereof and Section 3.4 of this Agreement) or in the Plan, but in addition to the other powers and authorities granted to the Litigation Trustee and set forth in this Agreement, the Litigation Trustee shall have the following powers and authorities:

- (a) to hold legal title to any and all rights of the holders of Litigation Trust Interests in or arising from the Litigation Trust Assets, including collecting, receiving any and all money and other property belonging to the Litigation Trust (including any Litigation Trust Proceeds) and, in consultation with the Litigation Trust Board, the right, on behalf of the Litigation Trust Beneficiaries, to vote any claim or interest relating to a Litigation Trust Claim in any proceeding and to receive any distribution thereon;
- (b) in consultation with, and subject to the approval of the Litigation Trust Board where required under the terms of this Agreement, to perform the duties, exercise the powers, and assert the rights of a trustee, including commencing, prosecuting or settling causes of action, enforcing contracts or asserting claims, defences, offsets and privileges;
- (c) in consultation with the Litigation Trust Board, to protect and enforce the rights to the Litigation Trust Claims by any method deemed appropriate including by judicial proceedings or pursuant to any applicable bankruptcy, insolvency, moratorium or similar law and general principles of equity;
- (d) in consultation with and subject to the approval of the Litigation Trust Board, to obtain reasonable insurance coverage with respect to the liabilities and obligations of the Litigation Trustee and the Litigation Trust Board under this Agreement (in the form of any errors and omissions policy or otherwise);
- (e) in consultation with the Litigation Trust Board, to obtain insurance coverage with respect to real and personal property that may become assets of the Litigation Trust, if any;
- (f) in consultation with and subject to the approval of the Litigation Trust Board, to retain and pay such counsel and other professionals, including any professionals previously retained by the ad hoc committee of Initial Consenting Noteholders or SFC, as the Litigation Trustee shall select to assist the Litigation Trustee in its duties, on such terms as the Litigation Trustee and the Litigation Trust Board deem reasonable and appropriate, without CCAA Court approval; and subject to the approval of the Litigation Trust Board, the Litigation Trustee may commit the Litigation Trust to and shall pay such counsel and other professionals reasonable

compensation for services rendered (including on an hourly, contingency, or modified contingency basis) and reasonable and documented out-of-pocket expenses incurred;

- (g) in consultation with and subject to the approval of the Litigation Trust Board, to retain and pay an accounting firm to perform such reviews and/or audits of the financial books and records of the Litigation Trust as may be required by applicable laws (including, if applicable, securities laws) and/or this Agreement, and to prepare and file any tax returns, informational returns or periodic and current reports for the Litigation Trust as required by applicable laws (including, if applicable, securities laws) and/or by this Agreement; subject to the approval of the Litigation Trust Board, the Litigation Trustee may commit the Litigation Trust to and shall pay such accounting firm reasonable compensation for services rendered and reasonable and documented out-of-pocket expenses incurred;
- (h) in consultation with and subject to the approval of the Litigation Trust Board, to retain, enter into fee arrangements with and pay such third parties to assist the Litigation Trustee in carrying out its powers, authorities and duties under this Agreement; subject to the approval of the Litigation Trust Board, the Litigation Trustee may commit the Litigation Trust to and shall pay all such Persons reasonable compensation for services rendered and reasonable and documented out-of-pocket expenses incurred, as well as commit the Litigation Trust to indemnify any such Persons in connection with the performance of services (provided that such indemnity shall not cover any losses, costs, damages, expenses or liabilities that result from the gross negligence, bad faith, wilful misconduct or knowing violation of law by such Persons);
- (i) in consultation with and subject to the approval of the Litigation Trust Board, to waive any privilege (including the Privileges) or any defence on behalf of the Litigation Trust or, with respect to the Litigation Trust Claims;
- (j) in consultation with and subject to the approval of the Litigation Trust Board, to investigate, analyze, compromise, adjust, arbitrate, mediate, sue on or defend, pursue; prosecute, abandon, dismiss, exercise rights, powers, and privileges with respect to, or otherwise deal with and settle, in accordance with the terms set forth herein, all causes of action in favour of or against the Litigation Trust;
- (k) at any time from and after the Effective Date, and subject to the approval of the Litigation Trust Board and the prior consent of the Initial Consenting Noteholders, to seek and obtain an order from any court of competent jurisdiction, including an Order of the Court in the CCAA or otherwise, that gives effect to any releases of any Litigation Trust Claims agreed to by the Litigation Trustee in accordance with this Agreement, including a release that fully, finally, irrevocably and forever compromises, releases, discharges, cancels and bars the applicable Litigation Trust Claims as if they were Excluded Litigation Trust Claims released in accordance with Article 7 of the Plan;

- (l) in consultation with and subject to the approval of the Litigation Trust Board, and solely with respect to Litigation Trust Claims, to avoid and recover transfers of SFC's property as may be permitted by applicable law;
- (m) to invest any moneys held as part of the Litigation Trust in accordance with the terms of Section 3.19 of this Agreement;
- (n) in consultation with the Litigation Trust Board, to request any appropriate tax determination with respect to the Litigation Trust;
- (o) subject to applicable securities and other laws, if any, to establish and maintain a website for the purpose of providing notice of Litigation Trust activities in lieu of sending written notice to the holders of the Litigation Trust Interests and other such Persons entitled thereto, subject to providing notice of such website to such holders and other Persons;
- (p) in consultation with the Litigation Trust Board, to seek the examination of any Person, subject to the provisions of any applicable laws or rules;
- (q) to make distributions in accordance with Article 6 of this Agreement;
- (r) to take or refrain from taking any and all other actions that the Litigation Trustee, upon consultation with the Litigation Trust Board, reasonably deems necessary or convenient for the continuation, protection and maximization of the Litigation Trust Claims or to carry out the purposes hereof; provided, however, that the Litigation Trustee shall not be required to consult with or obtain approval of the Litigation Trust Board to the extent such actions are purely administrative in nature; and
- (s) in consultation with and subject to the approval of the Litigation Trust Board, to incur or receive on any terms that the Litigation Trustee and the Litigation Trust Board may approve, any further amounts to be used as a "Litigation Funding Amount" pursuant to the terms of this Agreement.

3.13 Limitation of Litigation Trustee's Authority

- (a) Notwithstanding anything herein to the contrary, the Litigation Trustee shall not (i) be authorized to engage in any trade or business or (ii) take any such actions as would be inconsistent with the purposes of this Agreement, the preservation of the assets of the Litigation Trust and the best interests of the Litigation Trust Beneficiaries.
- (b) The Litigation Trust shall not hold 50% or more of the stock (in either vote or value) of any Person that is treated as a corporation for federal income tax purposes, nor be the sole member of a limited liability company, nor have any interest in a Person that is treated as a partnership for federal income tax purposes, unless such stock, membership interest, or partnership interest was obtained involuntarily or as a matter of practical economic necessity in order to preserve the value of the Litigation Trust Assets.

3.14 Books and Records

- (a) The Litigation Trustee shall maintain books and records relating to the Litigation Trust Assets and the Litigation Trust Proceeds and the payment of expenses of, liabilities of, and claims against or assumed by, the Litigation Trust in such detail and for such period of time as may be necessary to enable it to make full and proper accounting in respect thereof. Such books and records shall be maintained on a modified cash or other comprehensive basis of accounting necessary to facilitate compliance with the tax reporting and securities law requirements, if any, of the Litigation Trust as well as the reporting requirements set forth in Article 8 and elsewhere in this Agreement. Nothing in this Agreement requires the Litigation Trustee to file any accounting or seek approval of any court with respect to the administration of the Litigation Trust, or as a condition for managing any payment or distribution out of the assets of the Litigation Trust.
- (b) Holders of the Litigation Trust Interests and their duly authorized representatives shall have the right, upon reasonable prior written notice to the Litigation Trustee, and in accordance with the reasonable regulations prescribed by the Litigation Trustee, to inspect and, at the sole expense of such holder seeking the same, make copies of the books and records relating to the Litigation Trust on any Business Day and as often as may be reasonably be desired, in each case for a purpose reasonably related to such holder's Litigation Trust Interests and subject to any confidentiality restrictions set forth herein or as the Litigation Trustee or the Litigation Trust Board may deem appropriate.

3.15 Inquiries into Trustee's Authority

Except as otherwise set forth in this Agreement or the Plan, no Person dealing with the Litigation Trust shall be obligated to inquire into the authority of the Litigation Trustee in connection with the protection, conservation or disposition of the Litigation Trust Claims.

3.16 Compliance with Laws

Any and all distributions of assets of the Litigation Trust shall be in compliance with applicable laws, including applicable provincial securities laws.

3.17 Compensation of the Litigation Trustee

Notwithstanding anything to the contrary contained herein, the Litigation Trustee shall be compensated for its services, and reimbursed for its expenses, in accordance with, and pursuant to the terms of, a separate agreement to be negotiated and executed by the Litigation Trust Board, which agreement shall not be subject to any third-party notice or approval.

3.18 Reliance by Litigation Trustee

Except as otherwise provided herein:

- (a) the Litigation Trustee may rely on, and shall be protected in acting upon, any resolution, certificate, statement, instrument, opinion, report, notice, request,

consent, order or other paper or document reasonably believed by the Litigation Trustee to be genuine and to have been signed or presented by the proper party or parties; and

- (b) Persons dealing with the Litigation Trustee shall look only to the assets of the Litigation Trust to satisfy any liability incurred by the Litigation Trustee to such Person in carrying out the terms of this Agreement, and neither the Litigation Trustee nor any member of the Litigation Trust Board shall have any personal obligation to satisfy any such liability.

3.19 Investment and Safekeeping of Litigation Trust Assets

Subject to Section 3.4 of this Agreement, the Litigation Trustee shall invest all Litigation Trust Assets (other than Litigation Trust Claims), all Litigation Trust Proceeds, the Litigation Funding Amount and all income earned by the Litigation Trust (pending distribution in accordance with Article 6 of this Agreement) only in cash and government securities, and the Litigation Trustee may retain any Litigation Trust Proceeds received that are not cash only for so long as may be required for the prompt and orderly liquidation of such assets into cash.

3.20 Standard of Care; Exculpation

Neither the Litigation Trustee nor any of its duly designated agents or representatives or professionals shall be liable for any act or omission taken or omitted to be taken by the Litigation Trustee in good faith, other than (i) acts or omissions resulting from the Litigation Trustee's or any such agent's, representative's or professional's gross negligence, bad faith, wilful misconduct or knowing violation of law or (ii) acts or omissions from which the Litigation Trustee or any such agent, representative or professional derived an improper personal benefit. The Litigation Trustee may, in connection with the performance of its functions, and in its sole and absolute discretion, consult with its counsel, accountants, financial advisors and agents, and shall not be liable for any act taken, omitted to be taken, or suffered to be done in accordance with advice or opinions rendered by such Persons. Notwithstanding such authority, the Litigation Trustee shall be under no obligation to consult with its counsel, accountants, financial advisors or agents, and its good faith determination not to do so shall not result in the imposition of liability on the Litigation Trustee, unless such determination is based on gross negligence, bad faith, wilful misconduct or knowing violation of law. No amendment, modification or repeal of this Section 3.20 shall adversely affect any right or protection of the Litigation Trustee or any of its agents, representatives or professionals that exists at the time of such amendment, modification or repeal.

ARTICLE 4 LITIGATION TRUST BOARD

4.1 Litigation Trust Board

A litigation trust board (the "**Litigation Trust Board**") shall initially consist of three Persons selected to serve in such capacity prior to the Effective Date by the Initial Consenting Noteholders, as listed on Schedule C hereto. No holder of Litigation Trust Interests (except to

the extent such holder is a member of the Litigation Trust Board) shall have any consultation or approval rights whatsoever in respect of management and operation of the Litigation Trust.

4.2 Authority of the Litigation Trust Board

The Litigation Trust Board shall have the authority and responsibility to oversee, review, and guide the activities and performance of the Litigation Trustee and shall have the authority to remove the Litigation Trustee in accordance with Section 3.5(c) of this Agreement. The Litigation Trustee shall consult with and provide information to the Litigation Trust Board in accordance with and pursuant to the terms of this Agreement and the Plan. The Litigation Trust Board shall have the authority to select and engage such Persons, and select and engage such professional advisors, including any professional previously retained by the Initial Consenting Noteholders or SFC, in accordance with the terms of this Agreement, as the Litigation Trust Board deems necessary and desirable to assist the Litigation Trust Board in fulfilling its obligations under this Agreement. The Litigation Trustee shall pay the reasonable fees of such Persons and firms (including on an hourly, contingency, or modified contingency basis) and reimburse such Persons for their reasonable and documented out-of-pocket costs and expenses consistent with the terms of this Agreement.

4.3 Regular Meetings of the Litigation Trust Board

Meetings of the Litigation Trust Board are to be held with such frequency and in such manner and at such place and time as the members of the Litigation Trust Board may determine in their reasonable discretion, but in no event shall such meetings be held less frequently than one time during each quarter of each calendar year.

4.4 Special Meetings of the Litigation Trust Board

Special meetings of the Litigation Trust Board may be held whenever, wherever and however called for by the Litigation Trust Board or any two members of the Litigation Trust Board.

4.5 Manner of Acting

- (a) A majority of the total number of members of the Litigation Trust Board then in office shall constitute a quorum for the transaction of business at any meeting of the Litigation Trust Board (whether at a meeting with or without the Litigation Trustee); provided, however, that all decisions or approvals or other actions of the Litigation Trust Board shall require the affirmative vote of a majority of all of the members of the Litigation Trust Board, and such an affirmative vote obtained as to any particular matter, decision, approval or other action at a meeting at which a quorum is present shall be the act of the Litigation Trust Board, except as otherwise required by law or as provided in this Agreement.
- (b) Voting may, if approved by the majority of all of the members of the Litigation Trust Board, be conducted by electronic mail or individual communications by each member of the Litigation Trust Board.
- (c) Any member of the Litigation Trust Board who is present and entitled to vote at a meeting of the Litigation Trust Board (including any meeting of the Litigation

Trustee and the Litigation Trust Board) when action is taken is deemed to have assented to the action taken, subject to the requisite vote of the Litigation Trust Board unless: (i) such member of the Litigation Trust Board objects at the beginning of the meeting (or promptly upon his/her arrival) to holding it or transacting business at the meeting; or (ii) his/her dissent or abstention from the action taken is entered in the minutes of the meeting; or (iii) he/she delivers written notice (including by electronic or facsimile transmission) of his/her dissent or abstention to the Litigation Trust Board before its adjournment. The right of dissent or abstention is not available to any member of the Litigation Trust Board who votes in favour of the action taken.

- (d) Prior to the taking of a vote on any matter or issue or the taking of any action with respect to any matter or issue, each member of the Litigation Trust Board shall report to the Litigation Trust Board any conflict of interest such member has or may have with respect to the matter or issue at hand and fully disclose the nature of such conflict or potential conflict (including disclosing any and all financial or other pecuniary interests that such member might have with respect to or in connection with such matter or issue, other than solely as a holder of a Litigation Trust Interest). A member who has or who may have a conflict of interest shall be deemed to be a “conflicted member” who shall not be entitled to vote or take part in any action with respect to such matter or issue (provided, however, such member shall be counted for purposes of determining the existence of a quorum); the vote or action with respect to such matter or issue shall be undertaken only by members of the Litigation Trust Board who are not “conflicted members” and, notwithstanding anything contained herein to the contrary, the affirmative vote of only a majority of the members of the Litigation Trust Board who are not “conflicted members” shall be required to approve of such matter or issue and the same shall be the act of the Litigation Trust Board.

4.6 Litigation Trust Board’s Action Without a Meeting

Any action required or permitted to be taken by the Litigation Trust Board at a meeting of the Litigation Trust Board may be taken without a meeting if the action is taken by unanimous written consent of the Litigation Trust Board as evidenced by one or more written (including by way of email) consents describing the action taken, signed by all members of the Litigation Trust Board and recorded in the minutes or other transcript of proceedings of the Litigation Trust Board.

4.7 Notice of, and Waiver of Notice for Litigation Trust Board Meetings

Notice of the time and place (but not necessarily the purpose or all of the purposes) of any regular or special meeting of the Litigation Trust Board will be given to the members of the Litigation Trust Board in person or by telephone, or via mail, electronic mail, or facsimile transmission. Notice to the members of the Litigation Trust Board of any such special meeting will be deemed given sufficiently in advance when (i) if given by mail, the same is deposited in the mail at least ten calendar days before the meeting date, with postage thereon prepaid, (ii) if given by electronic mail or facsimile transmission, the same is transmitted at least one Business Day prior to the convening of the meeting, or (iii) if personally delivered (including by overnight

courier) or given by telephone, the same is handed, or the substance thereof is communicated over the telephone to the members of the Litigation Trust Board or to an adult member of his/her office staff or household, at least one Business Day prior to the convening of the meeting. Any member of the Litigation Trust Board may waive notice of any meeting and any adjournment thereof at any time before, during, or after it is held, subject to applicable law. Except as provided in the next sentence below, the waiver must be in writing, signed by the applicable member or members of the Litigation Trust Board entitled to the notice. The attendance of a member of the Litigation Trust Board at a meeting (whether in person or by telephone or videoconference) shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

4.8 Telephonic Communications

Any member of the Litigation Trust Board may participate in a regular or special meeting of the Litigation Trust Board by, or conduct the meeting through the use of, conference telephone, or similar communications equipment by means of which all persons participating in the meeting may hear each other, in which case any required notice of such meeting may generally describe the arrangements (rather than or in addition to the place) for the holding thereof. Any member of the Litigation Trust Board participating in a meeting by this means is deemed to be present in person at the meeting.

4.9 Tenure, Removal and Replacement of the Members of the Litigation Trust Board

The authority of the members of the Litigation Trust Board will be effective as of the Effective Date and will remain and continue in full force and effect until the Litigation Trust is terminated in accordance with Section 8.1 hereof. The service of the members of the Litigation Trust Board will be subject to the following:

- (a) The members of the Litigation Trust Board will serve until death or resignation pursuant to Section 4.9(b) of this Agreement, or removal pursuant to Section 4.9(c) of this Agreement.
- (b) A member of the Litigation Trust Board may resign at any time by providing a written notice of resignation to the remaining members of the Litigation Trust Board. Such resignation will be effective upon the date received by the Litigation Trust Board or such later date specified in the written notice.
- (c) A member of the Litigation Trust Board may be removed by the majority vote of the other members of the Litigation Trust Board, written resolution of which shall be delivered to the removed Litigation Trust Board member; provided, however, that such removal may only be made for Cause. For purposes of this Section 4.9(c), “Cause” shall be defined as: (i) such Litigation Trust Board member’s theft or embezzlement or attempted theft or embezzlement of money or tangible or intangible assets or property; (ii) such Litigation Trust Board member’s violation of any law (whether foreign or domestic), which results in an indictable offence or similar judicial proceeding; (iii) such Litigation Trust Board member’s gross negligence, bad faith, wilful misconduct or knowing violation of law, in the

performance of his or her duties as a member of the Litigation Trust Board; or (iv) such Litigation Trust Board member's failure to perform any of his or her other material duties under this Agreement (including the regular attendance at meetings of the Litigation Trust Board and of the Litigation Trustee and the Litigation Trust Board); provided, however, that such Litigation Trust Board member shall have been given a reasonable period to cure any alleged Cause under clauses (iii) (other than bad faith, wilful misconduct or knowing violation of law) and (iv).

- (d) In the event of a vacancy on the Litigation Trust Board (whether by removal, death or resignation), the remaining members of the Litigation Trust Board shall appoint a new member to fill such position. In the event that there are no members of the Litigation Trust Board selected or appointed in accordance with the preceding sentence, appointments to fill such vacancies that would have been made in accordance with the preceding sentence shall be made by the Litigation Trustee, following consultation with the Monitor (if available in such capacity). Upon any such appointment of a successor member of the Litigation Trust Board, the Litigation Trustee shall provide the holders of the Litigation Trust Interests with notice of the name of the new member of the Litigation Trust Board, provided, however, that the provision of such notice shall not be a condition precedent to the rights and power of the new member of the Litigation Trust Board to act in such capacity.
- (e) Immediately upon the appointment of any successor member of the Litigation Trust Board all rights, powers, duties, authority, and privileges of the predecessor member of the Litigation Trust Board hereunder will be vested in and undertaken by the successor member of the Litigation Trust Board without any further act; and the successor member of the Litigation Trust Board will not be liable personally for any act or omission of the predecessor member of the Litigation Trust Board.

4.10 Compensation of the Litigation Trust Board

Each member of the Litigation Trust Board shall be paid an annual amount as compensation for his or her services hereunder as a member of the Litigation Trust Board, which amount shall be determined by the Board of Newco (as defined in the Plan) from time to time. In addition, each member of the Litigation Trust Board shall be entitled to be reimbursed from the Litigation Trust for his or her reasonable and documented out-of-pocket expenses incurred in connection with the performance of his or her duties hereunder by the Litigation Trust upon demand for payment thereof.

4.11 Standard of Care; Exculpation

None of the Litigation Trust Board, its respective members, designees, professionals, or duly designated agents, counsel or representatives, shall be liable for the act or omission of any other member, designee, professional, agent, or representative of the Litigation Trust Board, nor shall any member of the Litigation Trust Board be liable for any act or omission taken or omitted to be taken by the Litigation Trust Board in good faith, other than for (i) acts or omissions resulting

from the Litigation Trust Board's or any such member's, designee's, professional's, agent's or representative's gross negligence, bad faith, wilful misconduct or knowing violation of law or (ii) acts or omissions from which the Litigation Trust Board or such member, designee, professional, agent or representative derived an improper personal benefit. The Litigation Trust Board may, in connection with the performance of its functions, and in its sole and absolute discretion, consult with the Litigation Trust Board's counsel, accountants, financial advisors and agents, and shall not be liable for any act taken, omitted to be taken, or suffered to be done in good faith in accordance with advice or opinions rendered by such Persons. Notwithstanding such authority, none of the Litigation Trust Board or any of its members shall be under any obligation to consult with the Litigation Trust Board's counsel, accountants, financial advisors or agents, and their good faith determination not to do so shall not result in the imposition of liability on the Litigation Trust Board or, as applicable, any of its members, designees, professionals, agents or representatives, unless such determination is based on gross negligence, bad faith, wilful misconduct or knowing violation of law. No amendment modification or repeal of this Section 4.11 shall adversely affect any right or protection of the Litigation Trust Board, its members, designees, professional agents or representatives that exists at the time of such amendment, modification or repeal.

ARTICLE 5 TAX MATTERS

5.1 U.S. Federal Income Tax Treatment of the Litigation Trust

- (a) For all U.S. federal income tax purposes, all parties (including SFC and the other Litigation Trust Claims Transferors, the Litigation Trustee, the Litigation Trust Board and the Litigation Trust Beneficiaries) shall treat the transfer of the Litigation Trust Assets to the Litigation Trustee for the benefit of the Litigation Trust Beneficiaries as (a) a transfer of the Litigation Trust Assets directly to those Litigation Trust Beneficiaries receiving Litigation Trust Interests (other than to the extent allocable to Unresolved Claims), followed by (b) the transfer by such Litigation Trust Beneficiaries to the Litigation Trustee of the Litigation Trust Assets in exchange for the Litigation Trust Interests (and in respect of the Litigation Trust Assets allocable to the Unresolved Claims, as a transfer to the Unresolved Claims Reserve by the Litigation Trust Claim Transferors). Accordingly, those Litigation Trust Beneficiaries receiving Litigation Trust Interests shall be treated for U.S. federal income tax purposes as the grantors and owners of their respective shares of the Litigation Trust Assets. The foregoing treatment also shall apply, to the extent permitted by applicable law, for U.S. state and local income tax purposes.

- (b) Subject to definitive guidance from the I.R.S. or a court of competent jurisdiction to the contrary, the Litigation Trustee shall file returns for the Litigation Trust as a grantor trust pursuant to Treasury Regulation section 1.671-4(a) and in accordance with this Article 5. The Litigation Trustee shall also annually send to each holder of a Litigation Trust Interest a separate statement setting forth such holder's share of items of income, gain, loss, deduction, or credit and will instruct all such holders and parties to report such items on their federal income tax returns. The Litigation Trustee also shall file (or cause to be filed) any other

statements, returns or disclosures relating to the Litigation Trust that are required by any governmental unit.

- (c) The Litigation Trust Board shall inform, in writing, the Litigation Trustee of the fair market value of the Litigation Trust Assets transferred to the Litigation Trust based on the good faith determination of the Litigation Trust Board, and the Litigation Trustee shall apprise, in writing, the Litigation Trust Beneficiaries of such valuation. In such circumstances, the valuation shall be used consistently by all parties (including SFC and the other Litigation Trust Claim Transferors, the Litigation Trustee, the Litigation Trust Board and the Litigation Trust Beneficiaries) for all federal income tax purposes, as applicable. As applicable or necessary, the Litigation Trustee shall make such valuation prepared by the Litigation Trust Board available from time to time, to the extent relevant or reasonably necessary, and such valuation shall be used consistently by all parties (including SFC and the other Litigation Trust Claim Transferors, the Litigation Trustee, the Litigation Trust Board and the Litigation Trust Beneficiaries) for all federal income tax purposes. In connection with the preparation of any such valuation, the Litigation Trust Board shall be entitled to retain such professionals and advisors as the Litigation Trust Board shall determine to be appropriate or necessary, and the Litigation Trust Board shall take such other actions in connection therewith as it determines to be appropriate or necessary in connection therewith. The Litigation Trust shall bear all of the reasonable costs and expenses incurred in connection with determining such value, including the fees and expenses of any Persons retained by the Litigation Trust Board in connection therewith.
- (d) If applicable, the Litigation Trustee may request an expedited determination of taxes of the Litigation Trust for all returns filed for, or on behalf of, the Litigation Trust for all taxable periods through the dissolution of the Litigation Trust.
- (e) The Litigation Trustee shall be responsible for payments, out of the Litigation Trust Assets and Litigation Trust Proceeds, of any taxes imposed on the Litigation Trust or the Litigation Trust Assets.
- (f) The Litigation Trustee may require any of the Litigation Trust Beneficiaries to furnish to the Litigation Trustee its Employer or Taxpayer Identification Number and the Litigation Trustee may condition any distribution or payment to any of them upon receipt of such identification number.

5.2 Allocations of Litigation Trust Taxable Income For U.S. Federal Income Tax Purposes

Allocations of Litigation Trust taxable income among the holders of the Litigation Trust Interests shall be determined by reference to the manner in which an amount of cash equal to such taxable income would be distributed (without regard to any restrictions on distributions described herein) if, immediately prior to such deemed distribution, the Litigation Trust had distributed all of its other assets (valued at their tax book value) to the holders of the Litigation Trust Interests, in each case up to the tax book value of the assets treated as contributed by such holders, adjusted

for prior taxable income and loss and taking into account all prior and concurrent distributions from the Litigation Trust (including all distributions held in escrow pending the resolution of Unresolved Claims). Similarly, taxable loss of the Litigation Trust shall be allocated by reference to the manner in which an economic loss would be borne immediately after a liquidating distribution of the remaining Litigation Trust Assets. The tax book value of the Litigation Trust Assets for this purpose shall equal their fair market value on the Effective Date (or otherwise, as applicable) as determined under Section 5.1(c) above, adjusted in either case in accordance with tax accounting principles prescribed by the Internal Revenue Code, and applicable tax regulations, and other applicable administrative and judicial authorities and pronouncements.

5.3 Canadian Tax Treatment of Distributions by Litigation Trustee

Amounts distributed by the Litigation Trustee shall be treated as distributions of income or capital for Canadian federal income tax purposes, as determined by the Litigation Trustee. The Litigation Trustee shall be entitled to file any election for tax purposes which it considers desirable or appropriate. The Litigation Trustee may create a legally enforceable right of Litigation Trust Beneficiaries in respect of any particular distribution to enforce payment of that distribution on or before December 31 of the relevant taxation year of the Litigation Trust.

ARTICLE 6 DISTRIBUTIONS

6.1 Distributions; Withholding

Subject to Section 3.4 of this Agreement, the Litigation Trustee shall distribute, in accordance with this Article 6, to the holders of the Litigation Trust Interests the Litigation Trust Proceeds (including, without limitation, all net cash income plus all net cash proceeds from the liquidation of Litigation Trust Assets (including as cash, for this purpose, all cash equivalents), but excluding, for greater certainty, the Litigation Funding Amount or any remaining portion thereof); provided, however, that the Litigation Trustee may retain and not distribute to holders of the Litigation Trust Interests such amounts as determined by the Litigation Trust Board (i) as are reasonably necessary to meet contingent liabilities of the Litigation Trust during liquidation and (ii) to pay reasonable and necessary administrative expenses incurred in connection with liquidation and any taxes imposed on the Litigation Trust or in respect of the Litigation Trust Assets, and provided further that prior to any distribution of Litigation Trust Proceeds to the holders of the Litigation Trust Interests, the Litigation Trustee shall first pay to Newco an amount in cash equivalent to the Litigation Funding Amount (together with any other amounts that may have been advanced by Newco as Litigation Funding Amounts). All distributions and/or payments to be made to the holders of the Litigation Trust Interests pursuant to this Agreement shall be made to the holders of the Litigation Trust Interests pro rata based on the amount of Litigation Trust Interests held by a holder compared with the aggregate amount of the Litigation Trust Interests outstanding, subject, in each case, to the terms of the Plan and this Agreement. The Litigation Trustee may withhold from amounts distributable to any Person any and all amounts, determined in the Litigation Trustee's reasonable sole discretion, to be required by any law, regulation, rule, ruling, directive or other governmental requirement.

6.2 Manner of Payment or Distribution

All distributions to be made by the Litigation Trustee hereunder to the holders of the Litigation Trust Interests shall be made to a disbursing agent acceptable to the Litigation Trust Board for further distribution to the holders of the Litigation Trust Interests and shall be payable to the holders of Litigation Trust Interests of record as of the 20th day prior to the date scheduled for the distribution, unless such day is not a Business Day, then such day shall be the following Business Day. If the distribution shall be in cash, the Litigation Trustee shall distribute such cash by wire, check, or such other method as the Litigation Trustee deems appropriate under the circumstances.

6.3 Cash Distributions

No cash distributions shall be required to be made to any holders of a Litigation Trust Interest in an amount less than \$100.00. Any funds so withheld and not distributed shall be held in reserve and distributed in subsequent distributions. Notwithstanding the foregoing, all cash shall be distributed in the final distribution of the Litigation Trust.

ARTICLE 7 INDEMNIFICATION

7.1 Indemnification of Litigation Trustee and the Litigation Trust Board

- (a) To the fullest extent permitted by law, the Litigation Trust, to the extent of its assets legally available for that purpose, shall indemnify and hold harmless the Litigation Trustee, each of the members of the Litigation Trust Board and each of their respective directors, members, shareholders, partners, officers, agents, employees, counsel and other professionals (collectively, the “**Indemnified Persons**”) from and against any and all losses, costs, damages, reasonable and documented out-of-pocket expenses (including reasonable fees and expenses of counsel and other advisors and any court costs incurred by any Indemnified Person) or liability by reason of anything any Indemnified Person did, does, or refrains from doing for the business or affairs of the Litigation Trust, except to the extent that the loss, cost, damage, expense or liability resulted (i) from the Indemnified Person’s gross negligence, bad faith, wilful misconduct or knowing violation of law or (ii) from an act or omission from which the Indemnified Person derived an improper personal benefit. To the extent reasonable, the Litigation Trust shall pay in advance or reimburse reasonable and documented out-of-pocket expenses (including advancing reasonable costs of defence) incurred by the Indemnified Person who is or is threatened to be named or made a defendant or a respondent in a proceeding concerning the business and affairs of the Litigation Trust. The indemnification provided under this Section 7.1 shall survive the death, dissolution, resignation or removal, as may be applicable, of the Litigation Trustee, the Litigation Trust Board, any Litigation Trust Board member and/or any other Indemnified Person, and shall enure to the benefit of the Litigation Trustee’s, each Litigation Trust Board member’s and each other Indemnified Person’s heirs, successors and assigns.

- (b) Any Indemnified Person may waive the benefits of indemnification under this Section 7.1, but only by an instrument in writing executed by such Indemnified Person.
- (c) The rights to indemnification under this Section 7.1 are not exclusive of other rights which any Indemnified Person may otherwise have at law or in equity, including without limitation common law rights to indemnification or contribution. Nothing in this Section 7.1 will affect the rights or obligations of any Person (or the limitations on those rights or obligations) under this Agreement, or any other agreement or instrument to which that Person is a party.

ARTICLE 8 REPORTING OBLIGATIONS OF LITIGATION TRUSTEE

8.1 Reports

- (a) The Litigation Trustee shall prepare such reports as the Litigation Trust Board shall request from time to time, which reports may be marked privileged and confidential at the discretion of the Litigation Trust Board or the Litigation Trustee, and shall distribute such reports to the Litigation Trust Board and, if directed by the Litigation Trust Board, to all holders of the Litigation Trust Interests as provided in this Article 8. For the avoidance of doubt, the holders of the Litigation Trust Interests shall not be entitled to any report, financial or otherwise, unless determined by the Litigation Trust Board in its sole discretion.
- (b) Without limiting the foregoing, the Litigation Trustee shall timely (i) prepare, file and distribute such statements, reports, tax returns and forms, and submissions as may be necessary to cause the Litigation Trust and the Litigation Trustee to be in compliance with all applicable laws (including any quarterly and annual reports to the extent required by applicable law or in order to gain an exemption from compliance with applicable law) and (ii) prepare and file with the CCAA Court such reports and submissions as may be required by the CCAA Court.
- (c) The Litigation Trustee may post any report required to be provided under this Section 8.1 on a web site maintained by the Litigation Trustee in lieu of actual notice, subject to also filing such reports with the CCAA Court when required to do so.

ARTICLE 9 TERM; TERMINATION OF THE LITIGATION TRUST

9.1 Term; Termination of the Litigation Trust

- (a) The Litigation Trust shall commence on the date hereof and terminate no later than the fifth anniversary of the Effective Date; provided, however, that, on or prior to the date that is 90 days prior to such termination, the Litigation Trust Board may extend the term of the Litigation Trust if it is necessary to the efficient and proper administration of the Litigation Trust Assets in accordance with the

purposes and terms of this Agreement. Notwithstanding the foregoing, multiple extensions can be obtained so long as each extension is obtained not less than 90 days prior to the expiration of each extended term; and provided, further, that neither this Agreement nor the continued existence of the Litigation Trust shall prevent SFC from terminating the CCAA Proceeding.

- (b) The Litigation Trust may be terminated earlier than its scheduled termination if:
- (i) the Litigation Trustee has administered all Litigation Trust Assets and performed all other duties required by this Agreement and the Litigation Trust; or
 - (ii) if the Litigation Trustee, in consultation with and subject to the approval of the Litigation Trust Board, determines that it is not in the best interests of the Litigation Trust Beneficiaries to continue pursuing the Litigation Trust Claims. Upon termination of the Litigation Trust pursuant to subsection (ii) hereof, any and all remaining portion of the Litigation Funding Amount shall be paid to Newco in cash by wire, check, or such other method as agreed to by the Litigation Trustee and Newco.

9.2 Continuance of Trust for Winding Up

After the termination of the Litigation Trust and for the purpose of liquidating and winding up the affairs of the Litigation Trust, the Litigation Trustee shall continue to act as such until its duties have been fully performed. Prior to the final distribution of all of the remaining assets of the Litigation Trust and upon approval of the Litigation Trust Board, the Litigation Trustee shall be entitled to reserve from such assets any and all amounts required to provide for its own reasonable costs and expenses, in accordance with Section 3.17, until such time as the winding up of the Litigation Trust is completed. Upon termination of the Litigation Trust, the Litigation Trustee shall retain for a period of two years the books, records and other documents and files that have been delivered to or created by the Litigation Trustee. At the Litigation Trustee's discretion, all of such records and documents may, but need not, be destroyed at any time after two years from the completion and winding up of the affairs of the Litigation Trust. Except as otherwise specifically provided herein, upon the termination of the Litigation Trust, the Litigation Trustee shall have no further duties or obligations hereunder.

ARTICLE 10 AMENDMENT AND WAIVER

10.1 Amendment and Waiver

The Litigation Trustee, with the prior approval of the majority of the members of the Litigation Trust Board, may amend, supplement or waive any provision of, this Agreement, without notice to or the consent of the holders of the Litigation Trust Interests or the approval of the CCAA Court to (or on behalf or for the account of) any of the holders of the Litigation Trust Interests: (i) to cure any ambiguity, omission, defect or inconsistency in this Agreement; (ii) to comply with any requirements in connection with the tax status of the Litigation Trust; (iii) to comply with any requirements in connection with maintaining that the Litigation Trust is not subject to registration or reporting requirements; (iv) to make the Litigation Trust a reporting entity and, in such event, to comply with any requirements in connection with satisfying any applicable registration or reporting requirements; (v) to evidence and provide for the acceptance of

appointment hereunder by a successor trustee in accordance with the terms of this Agreement; and (vi) to achieve any other purpose that is not inconsistent with the purpose and intention of this Agreement; provided, that, no such amendment, supplement or waiver shall adversely affect the payments and/or distributions to be made under this Agreement.

ARTICLE 11 MISCELLANEOUS PROVISIONS

11.1 Intention of Parties to Establish the Litigation Trust

This Agreement is intended to create a liquidating trust for U.S. federal income tax purposes and, to the extent provided by law, shall be governed and construed in all respects as such a trust and any ambiguity herein shall be construed consistent herewith and, if necessary, this Agreement may be amended in accordance with Section 10.1 to comply with such federal income tax laws, which amendments may apply retroactively.

11.2 Laws as to Construction

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to whether any conflicts of law would require the application of the law of another jurisdiction.

11.3 Jurisdiction

Without limiting any Person's right to appeal any order of the CCAA Court with regard to any matter, (i) the CCAA Court shall retain exclusive jurisdiction to enforce the terms of this Agreement and to decide any claims or disputes which may arise or result from, or be connected with, this Agreement, any breach or default hereunder, or the transactions contemplated hereby, and (ii) any and all actions related to the foregoing shall be filed and maintained only in the CCAA Court, and the parties, including the holders of the Litigation Trust Interests, and holders of Claims, hereby consent to and submit to the jurisdiction and venue of the CCAA Court.

11.4 Severability

If any provision of this Agreement or the application thereof to any Person or circumstance shall be finally determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Agreement, or the application of such provision to Persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and such provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

11.5 Notices

All notices, requests or other communications to the parties hereto shall be in writing and shall be sufficiently given only if (i) delivered in person; (ii) sent by electronic mail or facsimile communication (as evidenced by a confirmed fax transmission report); (iii) sent by registered or certified mail, return receipt requested; or (iv) sent by commercial delivery service or courier. Until a change of address is communicated, as provided below, all notices, requests and other communications shall be sent to the parties at the following addresses or facsimile numbers:

If to the Litigation Trustee: Cosimo Borrelli
c/o Borrelli Walsh
Level 17, Tower 1, Admiralty Centre
18 Harcourt Road
Hong Kong
Telephone: 852.3761.3800
Facsimile: 852.3761.3889
Email: cb@borrelliwalsh.com

If to the Litigation Trust Board Members: Paul Brough
c/o Blue Willow Limited
11th Floor, Waga Commercial Centre
99 Wellington Street
Central, Hong Kong
Telephone: 852.9109.6469
Facsimile: 852.2319.1001
Email: paulbrough@bluewillowhk.com

And to: Eugene Davis
5 Canoe Brook Dr.
Livingston, NJ
07039-6121, USA
Telephone: 1.973.464.9333
Facsimile: 1.973.535.1843
Email: genedavis@pirinateconsulting.com

And to: Barry Field
140 The Street,
Rushmere St Andrew, Ipswich
IP5 1 DH, UK
Telephone: 44. 14.7348.4437
Email: barry.field2@gmail.com

(with a copy to)

Hogan Lovells LLP
11th Floor, One Pacific Place
88 Queensway
Hong Kong
Telephone: 852.2840.5002
Facsimile: 852.2219.0222
Email: neil.mcdonald@hoganlovells.com
Attn: Neil McDonald

All notices shall be effective and shall be deemed delivered (i) if by personal delivery, delivery service or courier, on the date of delivery; (ii) if by electronic mail or facsimile communication, on the date of receipt or confirmed transmission of the communication; and (iii) if by mail, on the date of receipt. Any Person from time to time may change his, her or its address, facsimile number, or other information for the purpose of notices to that Person by giving notice specifying such change to the Litigation Trustee and the Persons who are at the time of such notice members of the Litigation Trust Board.

11.6 Fiscal Year

The fiscal year of the Litigation Trust will begin on the first day of January and end on the last day of December of each calendar year.

11.7 Construction; Usage

- (a) Interpretation. In this Agreement, unless a clear contrary intention appears:
- (i) the singular number includes the plural number and vice versa;
 - (ii) reference to any Person includes such Person's successors and assigns but, if applicable, only if such successors and assigns are not prohibited by this Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity or individually;
 - (iii) reference to any gender includes each other gender;
 - (iv) reference to any agreement, document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof;
 - (v) reference to any applicable law means such applicable law as amended, modified, codified, replaced or re-enacted, in whole or in part, and in effect from time to time, including rules and regulations promulgated thereunder, and reference to any section or other provision of any applicable law means that provision of such applicable law from time to time in effect and constituting the substantive amendment, modification, codification, replacement or re-enactment of such section or other provision;

- (vi) “hereunder,” “hereof,” “hereto,” and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Article, Section or other provision hereof;
 - (vii) reference to Articles, Sections, Schedules or Exhibits herein shall be deemed to be references to the Articles, Sections, Schedules and Exhibits to this Agreement unless otherwise specified;
 - (viii) “including” means including without limiting the generality of any description preceding such term; and
 - (ix) references to documents, instruments or agreements shall be deemed to refer as well to all addenda, exhibits, schedules or amendments thereto.
- (b) Legal Representation of the Parties. This Agreement was negotiated by the parties and beneficiaries hereto with the benefit of legal representation and any rule of construction or interpretation otherwise requiring this Agreement to be construed or interpreted against any party hereto shall not apply to any construction or interpretation hereof.
- (c) Headings. The headings contained in this Agreement are for the convenience of reference only, shall not be deemed to be a part of this Agreement and shall not be referred to in connection with the construction or interpretation of this Agreement.

11.8 Counterparts; Facsimile; PDF

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument. Any facsimile or portable document format copies hereof or signature hereon shall, for all purposes, be deemed originals.

11.9 Confidentiality

The Litigation Trustee and each successor trustee and each member of the Litigation Trust Board and each successor member of the Litigation Trust Board (each a “**Covered Person**”) shall, during the period that they serve in such capacity under this Agreement and following either the termination of this Agreement or such individual’s removal, incapacity, or resignation hereunder, hold strictly confidential and not use for personal gain any material, non-public information of or pertaining to any Person to which any of the assets of the Litigation Trust relates or of which it has become aware in its capacity (the “**Information**”), including without limitation, the identity of any Holder of Litigation Trust Interests and the extent of their holdings thereof, except to the extent disclosure of any such information is required by applicable law, order, regulation or legal process. In the event that any Covered Person is requested or required (by oral questions, interrogatories, requests for information or documents, subpoena, civil investigation, demand or similar legal process) to disclose any Information, such Covered Person shall notify the Litigation Trust Board reasonably promptly (unless prohibited by law) so that the Litigation Trust Board may seek an appropriate protective order or other appropriate remedy or, in its discretion, waive compliance with the terms of this Section 11.9 (and if the Litigation Trust

Board seeks such an order, the relevant Covered Person will provide cooperation as the Litigation Trust Board shall reasonably request). In the event that no such protective order or other remedy is obtained, or that the Litigation Trust Board waives compliance with the terms of this Section 11.9 and that any Covered Person is nonetheless legally compelled to disclose the Information, the Covered Person will furnish only that portion of the Information, which the Covered Person, advised by counsel, is legally required and will give the Litigation Trust Board written notice (unless prohibited by law) of the Information to be disclosed as far in advance as practicable and exercise all reasonable efforts to obtain reliable assurance that confidential treatment will be accorded the Information.

11.10 Entire Agreement

This Agreement (including the Recitals), the Plan, and the Plan Sanction Order constitute the entire agreement by and among the parties hereto and there are no representations, warranties, covenants or obligations except as set forth herein or therein. This Agreement, the Plan and the Plan Sanction Order supersede all prior and contemporaneous agreements, understandings, negotiations, discussions, written or oral, of the parties hereto, relating to any transaction contemplated hereunder. Except as otherwise specifically provided herein, in the Plan or in the Plan Sanction Order, nothing in this Agreement is intended or shall be construed to confer upon or to give any Entity or Person other than the parties hereto and their respective heirs, administrators, executors, permitted successors, or permitted assigns any right to remedies under or by reason of this Agreement, except that (i) the Persons identified in Article 7 hereof are intended third party beneficiaries of Article 7 hereof and shall be entitled to enforce the provisions thereof as if they were parties hereto and (ii) the members (and former members) of the Litigation Trust Board are intended third party beneficiaries of Article 4 hereof and shall be entitled to enforce the provisions thereof as if they were parties hereto.

11.11 No Bond

Notwithstanding any state or federal law to the contrary, the Litigation Trustee (including any successor trustee) shall be exempt from giving any bond or other security in any jurisdiction.

11.12 Effectiveness

This Agreement shall become effective on the Effective Date.

11.13 Successor and Assigns

This Agreement shall inure to the benefit of the parties hereto and the intended third party beneficiaries identified in Section 11.10 hereof (to the extent specified therein), and shall be binding upon the parties hereto, and each of their respective successors and assigns to the extent permitted by this Agreement and applicable law.

11.14 No Execution

All funds in the Litigation Trust shall be deemed in *custodia legis* until such times as the funds have actually been paid to or for the benefit of a holder of a Litigation Trust Interest, and no holder of a Litigation Trust Interest or any other Person can execute upon, garnish or attach the assets of the Litigation Trust in any manner or compel payment from the Litigation Trust except

by an order of the CCAA Court. Distributions from the Litigation Trust will be governed solely by the Plan and this Agreement.

11.15 Irrevocability

The Litigation Trust is irrevocable, but is subject to amendment and waiver as provided for in this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have either executed and acknowledged this Agreement, or caused it to be executed and acknowledged on their behalf by their duly authorized officers all as of the date first above written.

SINO-FOREST CORPORATION:

By: _____
Name:
Title:

LITIGATION TRUSTEE:

Name: Cosimo Borrelli, solely in his
capacity as the Litigation Trustee and not in
his personal capacity

6148079

SCHEDULE A

Index of Defined Terms

Term	Location
Agreement	Introduction
Cause	Section 4.9(c)
Causes of Action	Preliminary Statement
CCAA	Preliminary Statement
CCAA Court	Preliminary Statement
Covered Person	Section 11.9
Effective Date	Section 1.2(b)
Excluded Litigation Trust Claims	Section 1.3(b)
Filing Date	Preliminary Statement
Indemnified Persons	Section 7.1(a)
Information	Section 11.9
Interim Trustee	Section 3.5(g)
Litigation Trust Assets	Preliminary Statement
Litigation Trust Beneficiary	Preliminary Statement
Litigation Trust Board	Section 4.1
Litigation Trust Claims	Preliminary Statement
Litigation Trust Claims Transferors	Section 1.4(a)
Litigation Trust Proceeds	Section 3.1
Litigation Trustee	Introduction
Plan	Preliminary Statement
Privileges	Section 1.3(a)
Registrar	Section 2.5(b)
Settlement Funds	Section 1.1
SFC	Introduction
SFC Litigation Trust	Section 1.2(a)
Third Party Disclosers	Section 1.3(f)
Transfer	Section 2.5(a)
Trust Register	Section 2.5(c)

SCHEDULE B

Form of Promissory Note for Litigation Trust Funding Amount

SCHEDULE C

Initial Members of the Litigation Trust Board

Paul Brough

Gene Davis

Barry Field