

SCOTIA PACIFIC LITIGATION TRUST AGREEMENT

This trust agreement (the “Scotia Pacific Litigation Trust Agreement”), dated as of _____, 2008, by and among Scotia Pacific Company LLC (“Scotia Pacific” or “Debtor”), as Settlor (the “Settlor”), and _____, Plan Agent, as Litigation Trustee (the “Litigation Trustee”), is executed pursuant to Article 16 of the Plan (as defined below). The trust created by the Scotia Pacific Litigation Trust Agreement shall be referred to as the “Scotia Pacific Litigation Trust.”

RECITALS

A. **Commencement of the Bankruptcy Case.** On January 18, 2007, the Settlor filed a voluntary petition under the Bankruptcy Code (as defined in the Plan) in the United States Bankruptcy Court for the Southern District of Texas (the “Bankruptcy Court”), Jointly Administered under Case No. 07-20027.

B. **The Plan.** On January 30, 2008, as later modified on March 4, 2008, the First Amended Chapter 11 Plan for Scotia Pacific Company LLC Proposed by the Bank of New York Trust Company, N.A., Indenture Trustee for the Timber Notes (as modified) (the “Plan”) was filed with the Bankruptcy Court. By order entered on _____, 2008, the Bankruptcy Court confirmed the Plan.

C. **Meaning of Terms.** Unless otherwise indicated, capitalized terms used in this Scotia Pacific Litigation Trust Agreement shall have the same meaning ascribed to such terms in the Plan.

D. **Recovery Rights and Beneficiaries.** Pursuant to Article 16 of the Plan, on the Litigation Trust Transfer Date, the Recovery Rights of Scopac (including the Debtors’ Lawsuit Against Regulators), other than Avoidance Actions (the “Recovery Rights”), are to be transferred to and vest in the Scotia Pacific Litigation Trust, which shall hold such rights in its exclusive possession, custody, and control for the benefit of the holders of secured claims in Class 2(b) and holders of Claims in Class 3, 4, 5, and 6 of the Plan as of the Litigation Trust Transfer Date (“Beneficiaries”).

E. **Desire to Create the Scotia Pacific Litigation Trust.** In accordance with the Plan, the parties hereto desire to establish the Scotia Pacific Litigation Trust for the benefit of the Beneficiaries and to apply and distribute the Recovery Rights pursuant to the terms of this Scotia Pacific Litigation Trust Agreement and the Plan.

F. **Litigation Trust for Federal Income Tax Purposes.** For all federal income tax purposes, the Scotia Pacific Litigation Trust is intended to be treated as a liquidating trust pursuant to Treasury Regulations § 301.7701-4(d), and as a grantor trust subject to the provisions of Subchapter J, Part I, Subpart E of the Internal Revenue Code of 1986, as amended (the “Tax Code”), owned by the Beneficiaries as grantors.

NOW, THEREFORE, in consideration of the promises of and the acceptance by the Litigation Trustee of the Scotia Pacific Litigation Trust hereby created, and for other good and

valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

ARTICLE 1.

ESTABLISHMENT OF TRUST

1.1. *Transfer in Trust.* In order to declare the terms and conditions hereof and in consideration of the confirmation of the Plan under the Bankruptcy Code, the Settlor hereby absolutely and irrevocably assigns to the Litigation Trustee and to his or her successors and assigns, all right, title and interest to and in the Recovery Rights to have and to hold unto the Litigation Trustee and his or her successors and assigns forever, *in trust nevertheless*, under and subject to the terms and conditions set forth herein and in the Plan for the benefit of the Beneficiaries, their successors and permitted assigns as provided for herein and in the Plan.

1.2 *Litigation Trustee Acceptance.* The Litigation Trustee hereby accepts the Recovery Rights, and agrees to observe and perform the duties and obligations imposed upon him or her by this Scotia Pacific Litigation Trust Agreement upon and subject to the terms and conditions set forth herein and under the Plan.

1.3 *Title.* The Litigation Trustee shall hold legal title to all Recovery Rights. In no event shall any or all of the Recovery Rights revert to the Settlor.

1.4 *Recovery Rights Held Free and Clear of Claims.* Pursuant to Article 16 of the Plan and the Confirmation Order, all rights transferred to the Scotia Pacific Litigation Trust from the Estate shall be free and clear of all Claims, interests, Liens and encumbrances, except as otherwise expressly provided in the Plan.

1.5 *Purpose.* The sole purpose of this Scotia Pacific Litigation Trust Agreement and the Scotia Pacific Litigation Trust is to prosecute, collect or settle the Recovery Rights in an orderly and timely manner and to distribute those proceeds to the Beneficiaries in accordance with the provisions of this Scotia Pacific Litigation Trust Agreement and the Plan.

ARTICLE 2.

GENERAL POWERS, RIGHTS AND OBLIGATIONS OF THE LITIGATION TRUSTEE

2.1 *General Powers.* The Litigation Trustee shall be vested with all the power and authority granted to a trustee pursuant to sections 1106(a) and 1123(b)(3)(B) of the Bankruptcy Code. In all circumstances, when dealing with the Recovery Rights, the Litigation Trustee shall act as the fiduciary of the Beneficiaries.

2.2 Employment of Attorneys and Other Professionals.

(a) The Litigation Trustee may retain on behalf of the Scotia Pacific Litigation Trust such law firms or attorneys, experts, advisors, consultants, investigators, appraisers, or other professionals as the Litigation Trustee, in his or her sole discretion, may deem necessary or

appropriate to assist the Litigation Trustee in carrying out his or her powers and duties under the Plan and this Scotia Pacific Litigation Trust Agreement.

(b) Employees of the Debtor, at the discretion of the Litigation Trustee, may become employees, contractors or consultants to the Scotia Pacific Litigation Trust pursuant to reasonable terms to be negotiated between the Litigation Trustee and the applicable employee.

(c) The Litigation Trustee may commit the Scotia Pacific Litigation Trust to and shall pay all such Persons retained by the Litigation Trustee reasonable compensation for services rendered and expenses incurred.

(d) The Litigation Trustee shall have the rights and powers and shall perform all the functions, duties and obligations set forth in this Scotia Pacific Litigation Trust Agreement and the Plan.

2.3 Duties of the Litigation Trustee. In particular, and without limitation, the Litigation Trustee shall do the following:

(i) act as custodian of the Recovery Rights and reduce such rights to Cash or otherwise settle those claims at such times as the Litigation Trustee deems appropriate to accomplish the purpose of the Scotia Pacific Litigation Trust, in accordance with the Plan and this Scotia Pacific Litigation Trust Agreement;

(ii) pursue Recovery Rights and other causes of action and claims of the Estates pursuant to this Scotia Pacific Litigation Trust Agreement and the Plan, including, without limitation, analyzing, resolving and, if necessary, prosecuting all known claims and causes of action that the Estates may have against third parties;

(iii) make interim Distributions to Beneficiaries of the Litigation Trust in the exercise of his or her reasonable business judgment;

(iv) carry out the terms of the Plan with respect to payments of the Beneficiaries and the Trust;

(v) upon the settlement or conclusion of litigation and the collection of all of the claims in the Litigation Trust, and after the payment of all costs and expenses of collection, distribute the corpus of the Litigation Trust to the Beneficiaries in accordance with their priority and percentage interests in the Litigation Trust. In the event that all Allowed Claims of the Beneficiaries of the Litigation Trust are paid in full, with interest, then distribute any remaining Cash to the Plan Agent under the Plan as Available Cash under the Plan;

(vi) comply with all applicable laws and file any returns or audits required by federal and state law or regulation; and

(vii) take any and all other actions that may be necessary and appropriate to accomplish the purpose of and carry out the provisions of this Scotia Pacific Litigation Trust Agreement and the Plan.

2.4 No Authority to Conduct Trade or Business. Notwithstanding anything contained herein to the contrary, the Litigation Trustee shall not conduct any trade or business, except to the extent reasonably necessary to, and consistent with, the liquidation purpose of the Scotia Pacific Litigation Trust.

2.5 Litigation of Claims; Prosecution of Actions.

(a) The Litigation Trustee is authorized to investigate, settle, abandon and/or prosecute all claims, torts, demands, actions, causes of action or choses in action of any kind or nature whatsoever, whether known or unknown, that the Debtor, the Scotia Pacific Liquidating Trust, this Scotia Pacific Litigation Trust or the Estate may have, except to the extent that such rights, claims, and causes of action are expressly released in the Plan. The Recovery Rights shall include, without limitation, (a) all claims arising under state law, (b) all claims arising under federal law, (c) all claims associated with breaches of the Headwaters Agreement, and (d) all claims against any third party on account of an indebtedness or any other claim owed to or in favor of the Debtor or the Estate. Provided, however, the Litigation Trustee is not authorized to investigate, settle, abandon and/or prosecute the Avoidance Actions.

(b) The Litigation Trustee, acting on behalf of the Scotia Pacific Litigation Trust, is authorized to compromise and settle any disputes where the amount in controversy is fifty thousand dollars (\$50,000) or less without the need for Bankruptcy Court approval, unless the Litigation Trustee deems such approval appropriate or the dispute concerns the Litigation Trustee. For disputes where the amount in controversy exceeds fifty thousand dollars (\$50,000) or the dispute concerns the Litigation Trustee, the Litigation Trustee may settle such disputes only after notice to the U.S. Trustee and approval of the Bankruptcy Court.

(c) The Litigation Trustee may commence or continue any litigation or other proceeding in his own name or in the name of the Debtor as he or she deems appropriate and the Litigation Trustee shall not be required to substitute himself or herself as the real party in interest in litigation assigned to the Scotia Pacific Litigation Trust on the Litigation Trust Transfer Date.

ARTICLE 3.

PROSECUTION OF RECOVERY RIGHTS, DISTRIBUTIONS TO BENEFICIARIES, REPORTING AND TAX INFORMATION

3.1 Prosecution of Recovery Rights.

(a) Except as otherwise provided in this Scotia Pacific Litigation Trust Agreement or in the Plan, and subject to the retained jurisdiction of the Bankruptcy Court as provided for in the Plan, but without prior or further authorization, the Litigation Trustee shall be empowered to prosecute, liquidate or otherwise administer any and all Recovery Rights transferred to the Scotia Pacific Litigation Trust. The Litigation Trustee shall control and exercise authority over the Recovery Rights to the same extent as if the Litigation Trustee were the sole owner thereof in his or her own right. No Person dealing with the Scotia Pacific Litigation Trust shall be obligated to inquire into the authority of the Litigation Trustee in connection with the acquisition, management, or disposition of the Recovery Rights.

(b) In connection with the prosecution of the Recovery Rights, the Litigation Trustee, except as otherwise expressly limited in this Scotia Pacific Litigation Trust Agreement, shall, without limitation of his or her power and authority, do the following:

(i) accept the rights transferred and provided to the Scotia Pacific Litigation Trust pursuant to this Scotia Pacific Litigation Trust Agreement and the Plan;

(ii) distribute any proceeds from the Recovery Rights to the Beneficiaries in accordance with the terms of this Scotia Pacific Litigation Trust Agreement and the Plan;

(iii) sell, convey, transfer, assign, liquidate or abandon Recovery Rights or any part thereof or any interest therein, upon such terms and for such consideration as the Litigation Trustee in his or her sole discretion deems desirable;

(iv) remove all or any part of the Recovery Rights of or the situs of administration of the Scotia Pacific Litigation Trust from one jurisdiction to another jurisdiction in the United States at any time or from time to time;

(v) in connection with any property held hereunder which is distributable or payable to a minor, transfer and pay over all or any portion thereof to such minor, or to a guardian of the property of such minor whenever appointed without requiring ancillary guardianship, or to a parent of such minor or the person with whom such minor resides, or to any custodian under any Uniform Gifts to Minors Act or Uniform Transfers to Minors Act with power to select any Person (including any fiduciary hereunder) to be such custodian and with power to extend such custodianship to age twenty-one (21) years, without any obligation to see to the use or application thereof or to make inquiry with respect to any other property available for the use of such minor, the receipt of such minor, guardian, parent, person or custodian to be a complete discharge as to such transfer or payment; and

(vi) borrow such sums of money at any time or from time to time for such periods of time upon such terms and conditions from such Persons or corporations (including any fiduciary hereunder) for such purposes as may be deemed advisable, and secure such loans by the pledge or hypothecation of any property held hereunder.

3.2 General Operating Account. The Litigation Trustee shall maintain in a general operating account all Cash received from the Settlor or arising from the Recovery Rights or obtained at any time or from any source in the future with respect to the Scotia Pacific Litigation Trust.

3.3 Other Accounts. The Litigation Trustee may establish and maintain such other accounts as he or she deems necessary and appropriate to carry forth the terms of the Plan and the Scotia Pacific Litigation Trust.

3.4 Investment Obligations. The Litigation Trustee shall (a) invest all Cash in “government securities” (as such term is defined in Section 2(a)(16) of the Investment Company Act of 1940, as amended) or (b) deposit such Cash in demand deposits at any bank approved as a depository for debtor-in-possession accounts by the U.S. Trustee. The Litigation Trustee shall

make such investments or deposits, as the case may be, in such amounts and at such times as may be deemed necessary by the Litigation Trustee, in his or her sole discretion, to provide funds when needed to make payments from the Scotia Pacific Litigation Trust. If at any time it shall become necessary that some or all of the investments be redeemed or sold in order to raise money necessary to comply with the provisions of this Scotia Pacific Litigation Trust Agreement or the Plan, the Litigation Trustee shall effect such redemption or sale, in such manner and at such time as the Litigation Trustee, in his or her sole discretion, deems reasonable.

3.5 Distributions. The Litigation Trustee may make interim Distributions to Beneficiaries of the Litigation Trust in the exercise of reasonable business judgment. Upon the settlement or conclusion of litigation and the collection of all of the claims in the Litigation Trust, and after the payment of all costs and expenses of collection, the Litigation Trustee must distribute the corpus of the Litigation Trust to the Beneficiaries in accordance with their priority and percentage interests in the Litigation Trust. In the event that all Allowed Claims of the Beneficiaries of the Litigation Trust are paid in full, with interest, then any remaining Cash shall become Available Cash under the Plan.

3.6 Frequency of Distributions; Annual Distribution Obligation; Prohibition on Excess Cash. Notwithstanding the foregoing, the Scotia Pacific Litigation Trust shall distribute at least annually to the Beneficiaries its net income plus all net proceeds from the sale of Recovery Rights, except that the Scotia Pacific Litigation Trust may retain an amount of net income or net proceeds reasonably necessary to continue to prosecute the Recovery Rights. Further, the Scotia Pacific Litigation Trust shall not be permitted to receive or retain cash or cash equivalents in excess of a reasonable amount to meet Claims and contingent liabilities (including Disputed Claims) or to maintain the value of the Recovery Rights during liquidation.

3.7 Reports and Notices.

(a) The Litigation Trustee shall maintain books and records relating to the Recovery Rights, the proceeds thereof, reserves and expenses incurred, to fulfill the reporting requirements hereunder and provide a full and proper accounting thereof. The Litigation Trustee shall produce and furnish to the Bankruptcy Court, as long as the Chapter 11 Case remains pending, and the U.S. Trustee, at periodic intervals not less frequently than once every one-hundred eighty (180) days, commencing no later than one-hundred eighty (180) days after the Effective Date, as the Litigation Trustee shall in his or her sole discretion determine, a report showing all transactions consummated by the Litigation Trustee during the report period, including all dispositions of assets held hereunder, all resolutions of Claims, payments made or received in respect thereof, and all other receipts or disbursements, as well as the time and other resources expended by the Litigation Trustee and his agents, if any, on matters relating to the Scotia Pacific Litigation Trust during the report period. Such reports shall be prepared by the Litigation Trustee in accordance with such accounting principles as may be applicable to an entity such as the Scotia Pacific Litigation Trust.

(b) Within forty-five (45) days after the end of each calendar year following the Effective Date, and after termination of the Scotia Pacific Litigation Trust, the Litigation Trustee shall issue an annual report to the Post-Confirmation Board and the Beneficiaries, which report shall include the following information:

(i) a general report regarding the actions of the Litigation Trustee to maintain and collect the claims of the Litigation Trust, including any changes in the Recovery Rights which have not been previously reported, and any action taken by the Litigation Trustee in the performance of his or her duties under this Scotia Pacific Litigation Trust Agreement, which have not been previously reported, and which, in the opinion of the Litigation Trustee, materially affects the Recovery Rights; and

(ii) a statement of the assets and liabilities of the Scotia Pacific Litigation Trust as of the end of such period, and the receipts and disbursements for such period, each prepared using generally accepted accounting principles. The Litigation Trustee may submit similar reports for such interim periods as the Litigation Trustee deems advisable.

(c) The Litigation Trustee shall prepare and provide to or file with the appropriate Persons such notices, tax returns, and other filings as may be required by applicable law.

3.8 Income Tax Information.

(a) The Litigation Trustee shall ensure that, for all federal income tax purposes, consistent valuations are used by the Litigation Trustee and holders of Claims and Interests for all transferred Recovery Rights. For all federal income tax purposes, all parties shall treat the Scotia Pacific Litigation Trust as a liquidating trust pursuant to Treasury Regulations § 301.7701-4(d), and as a grantor trust subject to the provisions of Subchapter J, Part I, Subpart E of the Tax Code, owned by the Beneficiaries as grantors. Regardless of whether a reserve is established for Disputed Claims, any and all items of income, deduction, credit, or loss of the Scotia Pacific Litigation Trust shall be treated as subject to federal income tax on a current basis. The Litigation Trustee is authorized to take any action that may be necessary or appropriate to minimize any potential tax liability of the Beneficiaries arising out of the operations of the Scotia Pacific Litigation Trust.

(b) In accordance with Treasury Regulations § 1.671-4(a), the Litigation Trustee shall cause to be prepared and filed, at the cost and expense of the Scotia Pacific Litigation Trust, an annual information tax return (Form 1041) with the IRS, with a schedule attached showing the item of income, deduction, and credit attributable to the Scotia Pacific Litigation Trust and detailing the allocation of such items of income, deduction, and credit among the Beneficiaries as required pursuant to the Form 1041 instructions for grantor trusts. Copies of such Form 1041 and attached schedules will be mailed promptly to each Beneficiary. In addition, the Litigation Trustee shall cause to be prepared and filed in a timely manner, such other state or local tax returns as are required by applicable law by virtue of the existence and operation of the Scotia Pacific Litigation Trust and shall pay any taxes shown as due thereon. Within thirty (30) days after the end of each calendar year, the Litigation Trustee shall cause to be prepared and mailed to a Beneficiary such other information as may be requested by such Beneficiary in writing to enable such Beneficiary to complete and file his, her or its federal, state and/or local income and other tax returns. In addition, the Litigation Trustee shall furnish to the Beneficiaries such information and returns with respect to any federal or state tax as shall be required by law.

(c) In connection with the Scotia Pacific Litigation Trust and all distributions made pursuant hereto, the Litigation Trustee and the Scotia Pacific Litigation Trust shall comply with

all withholding and reporting requirements imposed by any federal, state, local or foreign taxing authority, and all distributions hereunder shall be subject to any such withholding and reporting requirements provided, however, that no further reporting by the Scotia Pacific Litigation Trust shall be required under the Security and Exchange Act of 1934, applicable resolution, or other security laws.

(d) The Litigation Trustee may require any Beneficiary to furnish to the Litigation Trustee its Employer or Taxpayer Identification Number as assigned by the IRS, and the Litigation Trustee may condition any distribution to any Beneficiary upon receipt of such identification number.

(e) The taxable year of the Scotia Pacific Litigation Trust shall, unless otherwise required by the Tax Code, be the calendar year.

(f) The Litigation Trustee shall file, or cause to be filed, any other statements, returns, or disclosures relating to the Scotia Pacific Litigation Trust that are required by any governmental unit or applicable law.

ARTICLE 4.

THE LITIGATION TRUSTEE

4.1 Appointment of Trustee. The initial Litigation Trustee of the Scotia Pacific Litigation Trust shall be the Plan Agent appointed under the Plan. The Litigation Trustee shall report to the Post-Confirmation Board created under the Plan.

4.2 Resignation. The Litigation Trustee may resign as such at any time by executing an instrument in writing and filing that instrument with the Bankruptcy Court, and giving notice promptly to the U.S. Trustee; *provided, however*, such resignation shall not be effective until the time when the appointment of a successor Litigation Trustee shall become effective in accordance with Section 4.4 hereof.

4.3 Removal. For cause, the Post-Confirmation Board may remove and replace the Litigation Trustee.

4.4 Appointment of Successor Litigation Trustee. In the event of the death (in the case of a trustee that is a natural person), dissolution (in the case of a trustee that is a corporation or other entity), resignation, incompetency or removal of a Litigation Trustee, replacements shall be appointed by the Post-Confirmation Board. Every successor Litigation Trustee appointed shall execute, acknowledge and deliver to the Bankruptcy Court and to the resigning or removed Litigation Trustee, if applicable, an instrument accepting such appointment, and thereupon such successor Litigation Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the resigning or removed Litigation Trustee.

4.5 Trust Continuance. The death, dissolution, resignation, incompetency or removal of a Litigation Trustee shall not operate to terminate the Scotia Pacific Litigation Trust created by this Scotia Pacific Litigation Trust Agreement or to revoke any existing agency created pursuant to the terms of this Scotia Pacific Litigation Trust Agreement or invalidate any action theretofore

taken by the Litigation Trustee. In the event of the resignation or removal of the Litigation Trustee, such Litigation Trustee shall promptly:

(a) execute and deliver such documents, instruments and other writings as may be requested by the Bankruptcy Court or reasonably requested by the successor Litigation Trustee to effect the termination of the Litigation Trustee's capacity under this Scotia Pacific Litigation Trust Agreement and the conveyance of the Recovery Rights then held by the Litigation Trustee to the successor Litigation Trustee;

(b) deliver to the Bankruptcy Court or the successor Litigation Trustee all documents, instruments, records and other writings related to the Scotia Pacific Litigation Trust as may be in the possession of the Litigation Trustee; and

(c) otherwise assist and cooperate in effecting the assumption of his obligations and functions by such successor Litigation Trustee.

4.6 Compensation. The Litigation Trustee, including any successor Litigation Trustee, shall be paid a reasonable hourly rate and shall be entitled to reimbursement for reasonable expenses incurred in fulfilling his duties and obligations under this Scotia Pacific Litigation Trust Agreement without the need for filing fee applications with the Bankruptcy Court. Compensation and reimbursement pursuant to this Section 4.6 shall be deemed to be trust administrative expenses and paid from the Recovery Rights in accordance with the terms of this Scotia Pacific Litigation Trust Agreement and the Plan. The Litigation Trustee shall notify the U.S. Trustee at least five (5) business days prior to receiving any compensation from the Scotia Pacific Litigation Trust; *provided, however*, that no additional notice shall be required. The compensation set forth in this Section 4.6 shall be the only compensation the Litigation Trustee shall receive for his or her services in such position.

4.7 Standard of Care; Exculpation. Notwithstanding anything contained herein to the contrary, the Litigation Trustee shall perform the duties and obligations imposed on the Litigation Trustee by this Scotia Pacific Litigation Trust Agreement and the Plan with reasonable diligence and care under the circumstances. The Litigation Trustee shall not be personally liable, however, to this Scotia Pacific Litigation Trust or to any other Person, except for such of his or her own acts as shall constitute bad faith, willful misconduct, gross negligence or willful disregard of duties or breach of this Scotia Pacific Litigation Trust Agreement. Subject to the foregoing, the Litigation Trustee shall be defended, held harmless and indemnified from time to time from the Recovery Rights against any and all losses, claims, costs, expenses and liabilities to which the Litigation Trustee may be subject by reason of the Litigation Trustee's execution in good faith of his or her duties under the Plan or this Scotia Pacific Litigation Trust Agreement. The officers, employees and agents of the Litigation Trustee shall be likewise defended, held harmless and indemnified. The Litigation Trustee may obtain for his or her benefit and the benefit of his or her officers, agents and employees, if any, and for the benefit of the Scotia Pacific Litigation Trust, at the expense of the Scotia Pacific Litigation Trust, insurance against Claims of liability, damage awards and settlement that may be indemnified hereunder. The Litigation Trustee shall not be obligated to give any bond or surety or other security for the performance of any of his duties, unless otherwise ordered by the Bankruptcy Court; and if so

ordered, all costs and expenses of procuring any such bond shall be deemed trust administrative expenses and paid from the Plan Administrative Account.

4.8 Reliance by Litigation Trustee. The Litigation Trustee may rely on, and shall be fully protected personally in acting upon, any resolution, statement, certificate, instrument, opinion, report, notice, request, consent, order or other instrument or document which he or she has no reason to believe to be other than genuine and to have been signed or presented other than by the proper Person or Persons or, in the case of digital facsimile transmissions, to have been sent other than by the proper Person or Persons, in each case without obligation to satisfy him or her that the same was given in good faith and without responsibility for errors in delivery, transmission or receipt. In the absence of bad faith, willful misconduct, gross negligence, willful disregard of duties or breach of this Scotia Pacific Litigation Trust Agreement, the Litigation Trustee may rely on the truth of statements and correctness of the facts and opinions expressed therein and shall be fully protected personally in acting thereon. The Litigation Trustee may consult with legal counsel and shall be fully protected in respect of any action taken or suffered by him or her in accordance with the written opinion of legal counsel. The Litigation Trustee may at any time seek instructions from the Bankruptcy Court concerning the management, prosecution or disposition of the Recovery Rights.

ARTICLE 5.

RETENTION OF JURISDICTION, MODIFICATION

5.1 Retention of Jurisdiction.

The Bankruptcy Court shall retain jurisdiction for all lawful purposes, as provided for in Article 19 of the Plan, including, without limitation, the determination of all controversies and disputes arising under or in connection with this Scotia Pacific Litigation Trust Agreement.

5.2 Modification of The Scotia Pacific Litigation Trust.

For cause, any party in interest may move the Bankruptcy Court to modify the terms of this Scotia Pacific Litigation Trust Agreement in a manner not materially inconsistent with the Plan. Any such motion shall be served on the U.S. Trustee and the Litigation Trustee.

ARTICLE 6.

TERMINATION

The Scotia Pacific Litigation Trust shall continue until thirty (30) days after the date on which termination of the Scotia Pacific Litigation Trust occurs. The Scotia Pacific Litigation Trust shall automatically terminate upon the completion of the purpose of the Scotia Pacific Litigation Trust as defined in Section 1.5 herein, but no later than the fifth (5th) anniversary of the Effective Date. Notwithstanding the foregoing, upon a motion by the Litigation Trustee, or a party-in-interest, filed with the Bankruptcy Court, no later than three (3) months prior to the fifth (5th) anniversary of the Effective Date and upon a showing of necessity to complete the purpose of the Scotia Pacific Litigation Trust, the Litigation Trustee or a party-in-interest may extend the term of the Scotia Pacific Litigation Trust for one (1) year; *provided, however*, that such

extension must be approved by the Bankruptcy Court within six (6) months of the beginning of the extended term. Upon termination of the Scotia Pacific Litigation Trust, the Litigation Trustee shall advise the Bankruptcy Court, if the Chapter 11 Case remains open, and the U.S. Trustee in writing of its termination. Notwithstanding the foregoing, after the termination of the Scotia Pacific Litigation Trust, the Litigation Trustee shall have the power to exercise all powers, authorities and discretions herein conferred until the complete distribution of the Recovery Rights to the Beneficiaries. Upon termination, the Litigation Trustee shall provide a final distribution and final report to Beneficiaries and the U.S. Trustee. Notwithstanding the foregoing, the Litigation Trustee shall not unduly prolong the duration of the Scotia Pacific Litigation Trust and shall at all times endeavor to dispose of and resolve all Recovery Rights and Claims to effect a final distribution of the Recovery Rights to the Beneficiaries as soon as practicable.

ARTICLE 7.

MISCELLANEOUS

7.1 Notices.

(a) All notices, requests or other communications required or permitted to be made in accordance with this Scotia Pacific Litigation Trust Agreement shall be in writing and shall be mailed by first class mail:

(i) if to the Litigation Trustee, at:

Fax No.:

Phone No.:

with a copy to:

Zack A. Clement
R. Andrew Black
Fulbright & Jaworski, LLP
1301 McKinney, Suite 5100
Houston, Texas 77010
Telephone: (713) 651-5151
Facsimile: (713) 651-5246

Notices sent by first class mail shall be deemed delivered three (3) business days after mailing.

(b) Any Person or entity may change the address at which it is to receive notices under this Scotia Pacific Litigation Trust Agreement by furnishing written notice in accordance with this section to the Person to be charged with knowledge of such change. In addition, upon the appointment of a successor trustee the address listed above for the Litigation Trustee is subject to change.

7.2 Effectiveness. This Scotia Pacific Litigation Trust Agreement shall become effective on the Litigation Trust Transfer Date.

7.3 Counterparts. This Scotia Pacific Litigation Trust Agreement may be executed in one or more counterparts, each of which shall be deemed an original but which together shall constitute but one and the same instrument.

7.4 Governing Law. This Scotia Pacific Litigation Trust Agreement shall be governed by, construed under and interpreted in accordance with the laws of the State of Texas without giving effect to its conflicts of laws provisions to the extent not inconsistent with United States Bankruptcy Law.

7.5 Headings. Sections, subheadings, and other headings used in this Scotia Pacific Litigation Trust Agreement are for convenience only and shall not affect the construction of this Scotia Pacific Litigation Trust Agreement.

7.6 Severability. Any provision of this Scotia Pacific Litigation Trust Agreement that is prohibited or unenforceable in any jurisdiction shall not invalidate the remaining provisions hereof provided that such remaining provisions do not alter the rights or obligations set forth herein, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable any such provision in any other jurisdiction.

7.7 Successors. This Scotia Pacific Litigation Trust Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and assigns.

7.8 Incorporation of Plan. The Plan is hereby incorporated into this Scotia Pacific Litigation Trust Agreement by this reference, provided however, in the event of any conflict between the terms of the Plan and this Scotia Pacific Litigation Trust Agreement, the terms of the Plan will control.

IN WITNESS WHEREOF, the parties hereto have executed this Scotia Pacific Litigation Trust Agreement or caused this Scotia Pacific Litigation Trust Agreement to be duly executed by their respective officers thereunto duly authorized as of the day and year first above written.

SETTLORS
Scotia Pacific Company LLC

By: _____
Name: _____
Title: Plan Agent

LITIGATION TRUSTEE

SCOTIA PACIFIC LIQUIDATING TRUST AGREEMENT

This trust agreement (the “Scotia Pacific Liquidating Trust Agreement”), dated as of _____, 2008, by and among Scotia Pacific Company LLC (“Scotia Pacific” or “Debtor”), as Settlor (the “Settlor”), and _____, Plan Agent, as Liquidating Trustee (the “Liquidating Trustee”), is executed pursuant to Article 18 of the Plan (as defined below). The trust created by the Scotia Pacific Liquidating Trust Agreement shall be referred to as the “Scotia Pacific Liquidating Trust.”

RECITALS

A. **Commencement of the Bankruptcy Case.** On January 18, 2007, the Settlor filed a voluntary petition under the Bankruptcy Code (as defined in the Plan) in the United States Bankruptcy Court for the Southern District of Texas (the “Bankruptcy Court”), Jointly Administered under Case No. 07-20027.

B. **The Plan.** On January 30, 2008, as later modified on March 4, 2008, the First Amended Chapter 11 Plan for Scotia Pacific Company LLC Proposed by the Bank of New York Trust Company, N.A., Indenture Trustee for the Timber Notes (as modified) (the “Plan”) was filed with the Bankruptcy Court. By order entered on _____, 2008, the Bankruptcy Court confirmed the Plan.

C. **Meaning of Terms.** Unless otherwise indicated, capitalized terms used in this Scotia Pacific Liquidating Trust Agreement shall have the same meaning ascribed to such terms in the Plan.

D. **Trust Assets and Beneficiaries.** Pursuant to Article 18.2.2 of the Plan, all Estate Property remaining after the distributions contemplated in Section 17.2 of the Plan, including but not limited to all tangible and intangible property, all personal and real property, all contract rights, all causes of action not otherwise provided for in the Scotia Pacific Litigation Trust, and all other assets and rights of every kind whatsoever owned or possessed by the Debtor (including any such property of the Estate that may be ascertained, located, or acquired after the creation of the Scotia Pacific Liquidating Trust), but excluding funds in the Distribution Account and the Reserves and the Recovery Rights, as defined in the Scotia Pacific Litigation Trust (collectively, the “Trust Assets”), shall be transferred to and shall vest in the Scotia Pacific Liquidating Trust, which shall hold such property in its exclusive possession, custody, and control for the benefit of the holders of Claims entitled to payment under the Plan who have not otherwise been paid in full, as provided in the Plan (“Beneficiaries”).

E. **Desire to Create the Scotia Pacific Liquidating Trust.** In accordance with the Plan, the parties hereto desire to establish the Scotia Pacific Liquidating Trust for the benefit of the Beneficiaries and to apply and distribute the Trust Assets pursuant to the terms of this Scotia Pacific Liquidating Trust Agreement and the Plan.

F. **Liquidating Trust for Federal Income Tax Purposes.** For all federal income tax purposes, the Scotia Pacific Liquidating Trust is intended to be treated as a liquidating trust pursuant to Treasury Regulations § 301.7701-4(d), and as a grantor trust subject to the provisions

of Subchapter J, Part I, Subpart E of the Internal Revenue Code of 1986, as amended (the “Tax Code”), owned by the Beneficiaries as grantors.

NOW, THEREFORE, in consideration of the promises of and the acceptance by the Liquidating Trustee of the Scotia Pacific Liquidating Trust hereby created, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

ARTICLE 1.

ESTABLISHMENT OF TRUST

1.1. *Transfer in Trust.* In order to declare the terms and conditions hereof and in consideration of the confirmation of the Plan under the Bankruptcy Code, the Settlor hereby absolutely and irrevocably assigns to the Liquidating Trustee and to his or her successors and assigns, all right, title and interest to and in the Trust Assets to have and to hold unto the Liquidating Trustee and his or her successors and assigns forever, *in trust nevertheless*, under and subject to the terms and conditions set forth herein and in the Plan for the benefit of the Beneficiaries, their successors and permitted assigns as provided for herein and in the Plan.

1.2 *Liquidating Trustee Acceptance.* The Liquidating Trustee hereby accepts the Trust Assets, and agrees to observe and perform the duties and obligations imposed upon him or her by this Scotia Pacific Liquidating Trust Agreement upon and subject to the terms and conditions set forth herein and under the Plan.

1.3 *Title.* The Liquidating Trustee shall hold legal title to all Trust Assets provided that the Liquidating Trustee may cause legal title or evidence of title to any of the Trust Assets (except for any causes of action, including any Avoidance Actions) to be held by any nominee or other Person, on such terms, in such manner, and with such power as the Liquidating Trustee may determine in his or her sole and absolute discretion. In no event shall any or all of the Trust Assets revert to the Settlor.

1.4 *Trust Assets Held Free and Clear of Claims.* Pursuant to Article 12.2.3 of the Plan and the Confirmation Order, except for the Liens of Class 2 Claimants and the rights of Beneficiaries hereunder, all property transferred to the Scotia Pacific Liquidating Trust from the Estate shall be free and clear of all Claims, interests, Liens and encumbrances, except as otherwise expressly provided in the Plan.

1.5 *Purpose.* The sole purpose of this Scotia Pacific Liquidating Trust Agreement and the Scotia Pacific Liquidating Trust is to liquidate the Trust Assets in an orderly and timely manner and to distribute those assets to the Beneficiaries in accordance with the provisions of this Scotia Pacific Liquidating Trust Agreement and the Plan.

ARTICLE 2.

**GENERAL POWERS, RIGHTS AND OBLIGATIONS
OF THE LIQUIDATING TRUSTEE**

2.1 General Powers. The Liquidating Trustee shall be vested with all the power and authority granted to a trustee pursuant to sections 1106(a) and 1123(b)(3)(B) of the Bankruptcy Code. In all circumstances, when dealing with the Trust Assets, the Liquidating Trustee shall act as the fiduciary of the Beneficiaries.

2.2 Employment of Attorneys and Other Professionals.

(a) The Liquidating Trustee may retain on behalf of the Scotia Pacific Liquidating Trust such law firms or attorneys, experts, advisors, consultants, investigators, appraisers, auctioneers, corporate management services or other professionals as the Liquidating Trustee, in his or her sole discretion, may deem necessary or appropriate to assist the Liquidating Trustee in carrying out his or her powers and duties under the Plan and this Scotia Pacific Liquidating Trust Agreement.

(b) Employees of the Debtor, at the discretion of the Liquidating Trustee, may become employees, contractors or consultants to the Scotia Pacific Liquidating Trust pursuant to reasonable terms to be negotiated between the Liquidating Trustee and the applicable employee.

(c) The Liquidating Trustee may commit the Scotia Pacific Liquidating Trust to and shall pay all such Persons retained by the Liquidating Trustee reasonable compensation for services rendered and expenses incurred.

(d) The Liquidating Trustee shall have the rights and powers and shall perform all the functions, duties and obligations set forth in this Scotia Pacific Liquidating Trust Agreement and the Plan.

2.3 Duties of the Liquidating Trustee. In particular, and without limitation, the Liquidating Trustee shall do the following:

(i) carry out the terms of the Plan with respect to payments of the Beneficiaries and the Trust;

(ii) pay Administrative Expense Claims, including those of the Estate's Professionals and Priority Claims, as provided in the Plan and this Scotia Pacific Liquidating Trust Agreement;

(iii) provide distributions to holders of unpaid Allowed Claims in holders of Classes 2(b), 3, 4, 5, and 6 as they become Allowed, in accordance with the terms of the Plan and this Scotia Pacific Liquidating Trust Agreement;

(iv) act as custodian of the Trust Assets and liquidate and reduce such assets to Cash at such times as the Liquidating Trustee deems appropriate to accomplish the

purpose of the Scotia Pacific Liquidating Trust, in accordance with the Plan and this Scotia Pacific Liquidating Trust Agreement;

(v) prosecute objections to Claims in his or her name or the name of the Debtor;

(vi) provide distributions of available Cash upon Distribution Dates and periodically thereafter to Beneficiaries, as provided in the Plan and this Scotia Pacific Liquidating Trust Agreement;

(vii) pursue Recovery Rights and other causes of action and claims of the Estates pursuant to this Scotia Pacific Liquidating Trust Agreement and the Plan, including, without limitation, analyzing, resolving and, if necessary, prosecuting all known claims and causes of action that the Estates may have against third parties;

(viii) enter into and consummate agreements to liquidate the Trust Assets and such other agreements as the Liquidating Trustee deems appropriate;

(ix) enforce contract rights in favor of the Scotia Pacific Liquidating Trust as the Liquidating Trustee deems appropriate;

(x) enter into modifications or terminate existing contracts as the Liquidating Trustee deems appropriate;

(xi) comply with all applicable laws and file any returns or audits required by federal and state law or regulation;

(xii) pay amounts owed to the Office of the U.S. Trustee when due; and

(xiii) take any and all other actions that may be necessary and appropriate to accomplish the purpose of and carry out the provisions of this Scotia Pacific Liquidating Trust Agreement and the Plan, including, without limitation, retaining and maintaining the books and records of the Debtor and making such books and records available to other parties in interest, upon reasonable request.

2.4 No Authority to Conduct Trade or Business. Notwithstanding anything contained herein to the contrary, the Liquidating Trustee shall not conduct any trade or business, except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the Scotia Pacific Liquidating Trust.

2.5 Litigation of Claims; Prosecution of Actions.

(a) The Liquidating Trustee is authorized to investigate, settle, abandon and/or prosecute any and all objections to Claims, to investigate and prosecute claims, causes of action, choses of action and the like, of any nature whatsoever, that arise or exist on behalf of the Estates, and may defend and/or settle all counterclaims, if any.

(b) The Liquidating Trustee, acting on behalf of the Scotia Pacific Liquidating Trust, is authorized to compromise and settle any disputes where the amount in controversy is fifty

thousand dollars (\$50,000) or less without the need for Bankruptcy Court approval, unless the Liquidating Trustee deems such approval appropriate or the dispute concerns the Liquidating Trustee. For disputes where the amount in controversy exceeds fifty thousand dollars (\$50,000) or the dispute concerns the Liquidating Trustee, the Liquidating Trustee may settle such disputes only after notice to the U.S. Trustee and approval of the Bankruptcy Court.

(c) The Liquidating Trustee may commence or continue any litigation or other proceeding in his own name or in the name of the Debtor as he or she deems appropriate and the Liquidating Trustee shall not be required to substitute himself or herself as the real party in interest in litigation assigned to the Scotia Pacific Liquidating Trust on the Scotia Pacific Liquidating Trust Transfer Date.

ARTICLE 3.

MANAGEMENT OF TRUST ASSETS, DISTRIBUTIONS TO BENEFICIARIES, REPORTING AND TAX INFORMATION

3.1 Management and Sale of Trust Assets.

(a) Except as otherwise provided in this Scotia Pacific Liquidating Trust Agreement or in the Plan, and subject to the retained jurisdiction of the Bankruptcy Court as provided for in the Plan, but without prior or further authorization, the Liquidating Trustee shall be empowered to administer and liquidate any and all Trust Assets transferred to the Scotia Pacific Liquidating Trust. The Liquidating Trustee shall control and exercise authority over the Trust Assets, over the acquisition, management, and disposition thereof, and over the management and conduct of the business of the Scotia Pacific Liquidating Trust to the same extent as if the Liquidating Trustee were the sole owner thereof in his or her own right. No Person dealing with the Scotia Pacific Liquidating Trust shall be obligated to inquire into the authority of the Liquidating Trustee in connection with the acquisition, management, or disposition of Trust Assets.

(b) In connection with the management and use of the Trust Assets, the Liquidating Trustee, except as otherwise expressly limited in this Scotia Pacific Liquidating Trust Agreement, shall, without limitation of his or her power and authority, do the following:

(i) accept the assets transferred and provided to the Scotia Pacific Liquidating Trust pursuant to this Scotia Pacific Liquidating Trust Agreement and the Plan;

(ii) distribute proceeds from liquidation of the Trust Assets to the Beneficiaries in accordance with the terms of this Scotia Pacific Liquidating Trust Agreement and the Plan;

(iii) sell, convey, transfer, assign, liquidate or abandon Trust Assets or any part thereof or any interest therein, upon such terms and for such consideration as the Liquidating Trustee in his or her sole discretion deems desirable;

(iv) endorse the payment of notes or other obligations of any Person or to make contracts with respect thereto;

(v) engage in all acts that could constitute ordinary course of business in performing the obligations of a trustee under a trust of this type;

(vi) remove all or any part of the Trust Assets of or the situs of administration of the Scotia Pacific Liquidating Trust from one jurisdiction to another jurisdiction in the United States at any time or from time to time;

(vii) in connection with any property held hereunder which is distributable or payable to a minor, transfer and pay over all or any portion thereof to such minor, or to a guardian of the property of such minor whenever appointed without requiring ancillary guardianship, or to a parent of such minor or the person with whom such minor resides, or to any custodian under any Uniform Gifts to Minors Act or Uniform Transfers to Minors Act with power to select any Person (including any fiduciary hereunder) to be such custodian and with power to extend such custodianship to age twenty-one (21) years, without any obligation to see to the use or application thereof or to make inquiry with respect to any other property available for the use of such minor, the receipt of such minor, guardian, parent, person or custodian to be a complete discharge as to such transfer or payment; and

(viii) borrow such sums of money at any time or from time to time for such periods of time upon such terms and conditions from such Persons or corporations (including any fiduciary hereunder) for such purposes as may be deemed advisable, and secure such loans by the pledge or hypothecation of any property held hereunder.

(c) When the Liquidating Trustee deems it appropriate in order to maximize the value of Trust Assets, the Liquidating Trustee shall liquidate any or all Trust Assets to Cash in order to effectuate the purpose of the Scotia Pacific Liquidating Trust as set forth in Section 1.5 herein.

(d) Prior to liquidating any Trust Assets for an aggregate value of greater than \$500,000, the Liquidating Trustee shall market those assets in such a way as to insure the Scotia Pacific Liquidating Trust is receiving the best price under the circumstances. The Liquidating Trustee may, in his or her sole discretion, employ consultants, brokers, investment bankers and other professionals to assist in the marketing of the assets, and the Liquidating Trustee may sell the assets by means of a private sale, public sale or auction with overbidding as the Liquidating Trustee deems appropriate.

(e) Notwithstanding anything contained herein to the contrary, prior to selling any Trust Assets for consideration in excess of \$500,000, the Liquidating Trustee shall obtain the consent of a majority of the Post Confirmation Board.

3.2 Control Over Accounts Established Under the Plan. Pursuant to Article 12 of the Plan, the Plan Agent has established various reserve accounts, including the Disputed Claim Reserve Account and the Administrative Expense Reserve Account. Upon execution of the Scotia Pacific Liquidating Trust Agreement, the rights of the Post-Confirmation Debtor in all bank accounts shall be transferred to the Scotia Pacific Liquidating Trust and the Liquidating Trustee shall have authority and control over and be empowered to act as a signatory on all such accounts.

3.3 Other Accounts. The Liquidating Trustee may establish and maintain such other accounts as he or she deems necessary and appropriate to carry forth the terms of the Plan and the Scotia Pacific Liquidating Trust.

3.4 Treatment of Accounts. For purposes of this Scotia Pacific Liquidating Trust Agreement, the Liquidating Trustee may pool for investment purposes any funds required to be “maintained” in “a separate account,” but, in such event, the Liquidating Trustee shall treat such funds as existing within a segregated account in the books and records of the Scotia Pacific Liquidating Trust. In addition, notwithstanding any requirement that distributions hereunder to any Person on a single day be made from a separate account, the Liquidating Trustee may make distributions from pooled funds to such Person, but, in such event, the Liquidating Trustee shall treat the funds so distributed as having been distributed from the applicable segregated account in the Scotia Pacific Liquidating Trust’s books and records.

3.5 Investment Obligations. The Liquidating Trustee shall (a) invest all Cash in “government securities” (as such term is defined in Section 2(a)(16) of the Investment Company Act of 1940, as amended) or (b) deposit such Cash in demand deposits at any bank approved as a depository for debtor-in-possession accounts by the U.S. Trustee. The Liquidating Trustee shall make such investments or deposits, as the case may be, in such amounts and at such times as may be deemed necessary by the Liquidating Trustee, in his or her sole discretion, to provide funds when needed to make payments from the Scotia Pacific Liquidating Trust. If at any time it shall become necessary that some or all of the investments constituting Trust Assets be redeemed or sold in order to raise money necessary to comply with the provisions of this Scotia Pacific Liquidating Trust Agreement or the Plan, the Liquidating Trustee shall effect such redemption or sale, in such manner and at such time as the Liquidating Trustee, in his or her sole discretion, deems reasonable.

3.6 Distributions. The Liquidating Trustee shall make distributions of Trust Assets in the same manner and in the same priority as provided for in the Plan. The Liquidating Trustee shall make distributions as the Liquidating Trustee deems appropriate but, in any event, not less frequently than once every twelve (12) months and continuing until the termination of the Scotia Pacific Liquidating Trust, provided, however, in an effort to save costs, (i) no distribution shall be required where the aggregate distribution to all Beneficiaries is less than \$250,000; or (ii) no individual Claimant shall be entitled to a distribution where his, her or its individual distribution would be less than \$200. Any distribution not made as a result of these provisions will be accrued and accumulated for future distributions.

3.7 Frequency of Distributions; Annual Distribution Obligation; Prohibition on Excess Cash. Notwithstanding the foregoing, the Scotia Pacific Liquidating Trust shall distribute at least annually to the Beneficiaries its net income plus all net proceeds from the sale of Trust Assets, except that the Scotia Pacific Liquidating Trust may retain an amount of net income or net proceeds reasonably necessary to maintain the value of the Trust Assets or to meet Claims and contingent liabilities (including Disputed Claims). Further, the Scotia Pacific Liquidating Trust shall not be permitted to receive or retain cash or cash equivalents in excess of a reasonable amount to meet Claims and contingent liabilities (including Disputed Claims) or to maintain the value of the Trust Assets during liquidation.

3.8 Reports and Notices.

(a) The Liquidating Trustee shall maintain books and records relating to the Trust Assets, the proceeds thereof, reserves and expenses incurred, to fulfill the reporting requirements hereunder and provide a full and proper accounting thereof. The Liquidating Trustee shall produce and furnish to the Bankruptcy Court, as long as the Chapter 11 Case remains pending, and the U.S. Trustee, at periodic intervals not less frequently than once every one-hundred eighty (180) days, commencing no later than one-hundred eighty (180) days after the Scotia Pacific Liquidating Trust Transfer Date, as the Liquidating Trustee shall in his or her sole discretion determine, a report showing all transactions consummated by the Liquidating Trustee during the report period, including all dispositions of assets held hereunder, all resolutions of Claims, payments made or received in respect thereof, and all other receipts or disbursements, as well as the time and other resources expended by the Liquidating Trustee and his agents, if any, on matters relating to the Scotia Pacific Liquidating Trust during the report period. Such reports shall be prepared by the Liquidating Trustee in accordance with such accounting principles as may be applicable to an entity such as the Scotia Pacific Liquidating Trust.

(b) Within forty-five (45) days after the end of each calendar year following the Scotia Pacific Liquidating Trust, and after termination of the Scotia Pacific Liquidating Trust, the Liquidating Trustee shall issue an annual report to the Post-Confirmation Board and the Beneficiaries, which report shall include the following information:

(i) a general report regarding the actions of the Liquidating Trustee to maintain and collect the assets of the Liquidating Trust, including any changes in the Trust Assets which have not been previously reported, and any action taken by the Liquidating Trustee in the performance of his or duties under this Scotia Pacific Liquidating Trust Agreement, which have not been previously reported, and which, in the opinion of the Liquidating Trustee, materially affects the Trust Assets; and

(ii) a statement of the assets and liabilities of the Scotia Pacific Liquidating Trust as of the end of such period, and the receipts and disbursements for such period, each prepared using generally accepted accounting principles. The Liquidating Trustee may submit similar reports for such interim periods as the Liquidating Trustee deems advisable.

(c) The Liquidating Trustee shall prepare and provide to or file with the appropriate Persons such notices, tax returns, and other filings as may be required by applicable law.

3.9 Income Tax Information.

(a) The Liquidating Trustee shall ensure that, for all federal income tax purposes, consistent valuations are used by the Liquidating Trustee and holders of Claims and Interests for all transferred Trust Assets. For all federal income tax purposes, all parties shall treat the Scotia Pacific Liquidating Trust as a liquidating trust pursuant to Treasury Regulations § 301.7701-4(d), and as a grantor trust subject to the provisions of Subchapter J, Part I, Subpart E of the Tax Code, owned by the Beneficiaries as grantors. Regardless of whether a reserve is established for Disputed Claims, any and all items of income, deduction, credit, or loss of the Scotia Pacific

Liquidating Trust shall be treated as subject to federal income tax on a current basis. The Liquidating Trustee is authorized to take any action that may be necessary or appropriate to minimize any potential tax liability of the Beneficiaries arising out of the operations of the Scotia Pacific Liquidating Trust.

(b) In accordance with Treasury Regulations § 1.671-4(a), the Liquidating Trustee shall cause to be prepared and filed, at the cost and expense of the Scotia Pacific Liquidating Trust, an annual information tax return (Form 1041) with the IRS, with a schedule attached showing the item of income, deduction, and credit attributable to the Scotia Pacific Liquidating Trust and detailing the allocation of such items of income, deduction, and credit among the Beneficiaries as required pursuant to the Form 1041 instructions for grantor trusts. Copies of such Form 1041 and attached schedules will be mailed promptly to each Beneficiary. In addition, the Liquidating Trustee shall cause to be prepared and filed in a timely manner, such other state or local tax returns as are required by applicable law by virtue of the existence and operation of the Scotia Pacific Liquidating Trust and shall pay any taxes shown as due thereon. Within thirty (30) days after the end of each calendar year, the Liquidating Trustee shall cause to be prepared and mailed to a Beneficiary such other information as may be requested by such Beneficiary in writing to enable such Beneficiary to complete and file his, her or its federal, state and local income and/or other tax returns. In addition, the Liquidating Trustee shall furnish to the Beneficiaries such information and returns with respect to any federal or state tax as shall be required by law.

(c) In connection with the Scotia Pacific Liquidating Trust and all distributions made pursuant hereto, the Liquidating Trustee and the Scotia Pacific Liquidating Trust shall comply with all withholding and reporting requirements imposed by any federal, state, local or foreign taxing authority, and all distributions hereunder shall be subject to any such withholding and reporting requirements provided, however, that no further reporting by the Scotia Pacific Liquidating Trust shall be required under the Security and Exchange Act of 1934, applicable resolution, or other security laws.

(d) The Liquidating Trustee may require any Beneficiary to furnish to the Liquidating Trustee its Employer or Taxpayer Identification Number as assigned by the IRS, and the Liquidating Trustee may condition any distribution to any Beneficiary upon receipt of such identification number.

(e) The taxable year of the Scotia Pacific Liquidating Trust shall, unless otherwise required by the Tax Code, be the calendar year.

(f) The Liquidating Trustee shall file, or cause to be filed, any other statements, returns or disclosures relating to the Scotia Pacific Liquidating Trust that are required by any governmental unit or applicable law.

ARTICLE 4.

THE LIQUIDATING TRUSTEE

4.1 *Appointment of Trustee.* The initial Liquidating Trustee of the Scotia Pacific Liquidating Trust shall be _____. The Liquidating Trustee shall report to the Post-Confirmation Board created under the Plan.

4.2 Resignation. The Liquidating Trustee may resign as such at any time by executing an instrument in writing and filing that instrument with the Bankruptcy Court, and giving notice promptly to the U.S. Trustee; *provided, however*, such resignation shall not be effective until the time when the appointment of a successor Liquidating Trustee shall become effective in accordance with Section 4.4 hereof.

4.3 Removal. For cause, the Post-Confirmation Board may remove and replace the Liquidating Trustee.

4.4 Appointment of Successor Liquidating Trustee. In the event of the death (in the case of a trustee that is a natural person), dissolution (in the case of a trustee that is a corporation or other entity), resignation, incompetency or removal of a Liquidating Trustee, replacements shall be appointed by the Post-Confirmation Board. Every successor Liquidating Trustee appointed shall execute, acknowledge and deliver to the Bankruptcy Court and to the resigning or removed Liquidating Trustee, if applicable, an instrument accepting such appointment, and thereupon such successor Liquidating Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the resigning or removed Liquidating Trustee.

4.5 Trust Continuance. The death, dissolution, resignation, incompetency or removal of a Liquidating Trustee shall not operate to terminate the Scotia Pacific Liquidating Trust created by this Scotia Pacific Liquidating Trust Agreement or to revoke any existing agency created pursuant to the terms of this Scotia Pacific Liquidating Trust Agreement or invalidate any action theretofore taken by the Liquidating Trustee. In the event of the resignation or removal of the Liquidating Trustee, such Liquidating Trustee shall promptly:

(a) execute and deliver such documents, instruments and other writings as may be requested by the Bankruptcy Court or reasonably requested by the successor Liquidating Trustee to effect the termination of the Liquidating Trustee's capacity under this Scotia Pacific Liquidating Trust Agreement and the conveyance of the Trust Assets then held by the Liquidating Trustee to the successor Liquidating Trustee;

(b) deliver to the Bankruptcy Court or the successor Liquidating Trustee all documents, instruments, records and other writings related to the Scotia Pacific Liquidating Trust as may be in the possession of the Liquidating Trustee; and

(c) otherwise assist and cooperate in effecting the assumption of his obligations and functions by such successor Liquidating Trustee.

4.6 Compensation. The Liquidating Trustee, including any successor Liquidating Trustee, shall be paid a reasonable hourly rate and shall be entitled to reimbursement for reasonable expenses incurred in fulfilling his duties and obligations under this Scotia Pacific Liquidating Trust Agreement without the need for filing fee applications with the Bankruptcy Court. Compensation and reimbursement pursuant to this Section 4.6 shall be deemed to be trust administrative expenses and paid from the Trust Assets in accordance with the terms of this Scotia Pacific Liquidating Trust Agreement and the Plan. The Liquidating Trustee shall notify the U.S. Trustee at least five (5) business days prior to receiving any compensation from the

Scotia Pacific Liquidating Trust; *provided, however*, that no additional notice shall be required. The compensation set forth in this Section 4.6 shall be the only compensation the Liquidating Trustee shall receive for his or her services in such position.

4.7 Standard of Care; Exculpation. Notwithstanding anything contained herein to the contrary, the Liquidating Trustee shall perform the duties and obligations imposed on the Liquidating Trustee by this Scotia Pacific Liquidating Trust Agreement and the Plan with reasonable diligence and care under the circumstances. The Liquidating Trustee shall not be personally liable, however, to this Scotia Pacific Liquidating Trust or to any other Person, except for such of his or her own acts as shall constitute bad faith, willful misconduct, gross negligence or willful disregard of duties or breach of this Scotia Pacific Liquidating Trust Agreement. Subject to the foregoing, the Liquidating Trustee shall be defended, held harmless and indemnified from time to time from the Trust Assets against any and all losses, claims, costs, expenses and liabilities to which the Liquidating Trustee may be subject by reason of the Liquidating Trustee's execution in good faith of his or her duties under the Plan or this Scotia Pacific Liquidating Trust Agreement. The officers, employees and agents of the Liquidating Trustee shall be likewise defended, held harmless and indemnified. The Liquidating Trustee may obtain for his or her benefit and the benefit of his or her officers, agents and employees, if any, and for the benefit of the Scotia Pacific Liquidating Trust, at the expense of the Scotia Pacific Liquidating Trust, insurance against Claims of liability, damage awards and settlement that may be indemnified hereunder. The Liquidating Trustee shall not be obligated to give any bond or surety or other security for the performance of any of his duties, unless otherwise ordered by the Bankruptcy Court; and if so ordered, all costs and expenses of procuring any such bond shall be deemed trust administrative expenses and paid from the Trust Assets.

4.8 Reliance by Liquidating Trustee. The Liquidating Trustee may rely on, and shall be fully protected personally in acting upon any resolution, statement, certificate, instrument, opinion, report, notice, request, consent, order or other instrument or document which he or she has no reason to believe to be other than genuine and to have been signed or presented other than by the proper Person or Persons or, in the case of digital facsimile transmissions, to have been sent other than by the proper Person or Persons, in each case without obligation to satisfy him or her that the same was given in good faith and without responsibility for errors in delivery, transmission or receipt. In the absence of bad faith, willful misconduct, gross negligence, willful disregard of duties or breach of this Scotia Pacific Liquidating Trust Agreement, the Liquidating Trustee may rely on the truth of statements and correctness of the facts and opinions expressed therein and shall be fully protected personally in acting thereon. The Liquidating Trustee may consult with legal counsel and shall be fully protected in respect of any action taken or suffered by him or her in accordance with the written opinion of legal counsel. The Liquidating Trustee may at any time seek instructions from the Bankruptcy Court concerning the acquisition, management, or disposition of the Trust Assets.

ARTICLE 5.

RETENTION OF JURISDICTION, MODIFICATION

5.1 Retention of Jurisdiction.

The Bankruptcy Court shall retain jurisdiction for all lawful purposes, as provided for in Article 19 of the Plan, including, without limitation, the determination of all controversies and disputes arising under or in connection with this Scotia Pacific Liquidating Trust Agreement.

5.2 Modification of The Scotia Pacific Liquidating Trust.

For cause, any party in interest may move the Bankruptcy Court to modify the terms of this Scotia Pacific Liquidating Trust Agreement in a manner not materially inconsistent with the Plan. Any such motion shall be served on the U.S. Trustee and the Liquidating Trustee.

ARTICLE 6.

TERMINATION

The Scotia Pacific Liquidating Trust shall continue until thirty (30) days after the date on which termination of the Scotia Pacific Liquidating Trust occurs. The Scotia Pacific Liquidating Trust shall automatically terminate upon the completion of the purpose of the Scotia Pacific Liquidating Trust as defined in Section 1.5 herein, but no later than the fifth (5th) anniversary of the Scotia Pacific Liquidating Trust Transfer Date. Notwithstanding the foregoing, upon a motion by the Liquidating Trustee, or a party-in-interest, filed with the Bankruptcy Court no later than three (3) months prior to the fifth (5th) anniversary of the Scotia Pacific Liquidating Trust Transfer Date and upon a showing of necessity to complete the purpose of the Scotia Pacific Liquidating Trust, the Liquidating Trustee or a party-in-interest may extend the term of the Scotia Pacific Liquidating Trust for one (1) year; *provided, however*, that such extension must be approved by the Bankruptcy Court within six (6) months of the beginning of the extended term. Upon termination of the Scotia Pacific Liquidating Trust, the Liquidating Trustee shall advise the Bankruptcy Court, if the Chapter 11 Case remains open, and the U.S. Trustee in writing of its termination. Notwithstanding the foregoing, after the termination of the Scotia Pacific Liquidating Trust, the Liquidating Trustee shall have the power to exercise all powers, authorities and discretions herein conferred until the complete distribution of the Trust Assets to the Beneficiaries. Upon termination, the Liquidating Trustee shall provide a final distribution and final report to Beneficiaries and the U.S. Trustee. Notwithstanding the foregoing, the Liquidating Trustee shall not unduly prolong the duration of the Scotia Pacific Liquidating Trust and shall at all times endeavor to dispose of and resolve all Trust Assets and Claims to effect a final distribution of the Trust Assets to the Beneficiaries as soon as practicable.

ARTICLE 7.

MISCELLANEOUS

7.1 Notices.

(a) All notices, requests or other communications required or permitted to be made in accordance with this Scotia Pacific Liquidating Trust Agreement shall be in writing and shall be mailed by first class mail:

(i) if to the Liquidating Trustee, at:

Fax No.:

Phone No.:

with a copy to:

Zack A. Clement
R. Andrew Black
Fulbright & Jaworski, LLP
1301 McKinney, Suite 5100
Houston, Texas 77010
Telephone: (713) 651-5151
Facsimile: (713) 651-5246

Notices sent by first class mail shall be deemed delivered three (3) business days after mailing.

(b) Any Person or entity may change the address at which it is to receive notices under this Scotia Pacific Liquidating Trust Agreement by furnishing written notice in accordance with this section to the Person to be charged with knowledge of such change. In addition, upon the appointment of a successor trustee the address listed above for the Liquidating Trustee is subject to change.

7.2 Effectiveness. This Scotia Pacific Liquidating Trust Agreement shall become effective on the Trust Transfer Date.

7.3 Counterparts. This Scotia Pacific Liquidating Trust Agreement may be executed in one or more counterparts, each of which shall be deemed an original but which together shall constitute but one and the same instrument.

7.4 Governing Law. This Scotia Pacific Liquidating Trust Agreement shall be governed by, construed under and interpreted in accordance with the laws of the State of Texas without giving effect to its conflicts of laws provisions to the extent not inconsistent with United States Bankruptcy Law.

7.5 Headings. Sections, subheadings, and other headings used in this Scotia Pacific Liquidating Trust Agreement are for convenience only and shall not affect the construction of this Scotia Pacific Liquidating Trust Agreement.

7.6 Severability. Any provision of this Scotia Pacific Liquidating Trust Agreement that is prohibited or unenforceable in any jurisdiction shall not invalidate the remaining provisions hereof provided that such remaining provisions do not alter the rights or obligations set forth herein, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable any such provision in any other jurisdiction.

7.7 Successors. This Scotia Pacific Liquidating Trust Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and assigns.

7.8 Incorporation of Plan. The Plan is hereby incorporated into this Scotia Pacific Liquidating Trust Agreement by this reference, provided however, in the event of any conflict between the terms of the Plan and this Scotia Pacific Liquidating Trust Agreement, the terms of the Plan will control.

IN WITNESS WHEREOF, the parties hereto have executed this Scotia Pacific Liquidating Trust Agreement or caused this Scotia Pacific Liquidating Trust Agreement to be duly executed by their respective officers thereunto duly authorized as of the day and year first above written.

SETTLORS

Scotia Pacific Company LLC

By: _____

Name: _____

Title: Plan Agent

LIQUIDATING TRUSTEE
