

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

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

**AND IN THE MATTER OF A PROPOSED PLAN OF COMPROMISE OR  
ARRANGEMENT WITH RESPECT TO FRASER PAPERS INC./PAPIERS FRASER  
INC., FPS CANADA INC., FRASER PAPERS HOLDINGS INC., FRASER TIMBER  
LIMITED, FRASER PAPERS LIMITED and FRASER N.H. LLC**

Applicants

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**AMENDED CONSOLIDATED PLAN OF COMPROMISE AND  
ARRANGEMENT**

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**PURSUANT TO THE  
*COMPANIES' CREDITORS ARRANGEMENT ACT* (CANADA)**

**concerning, affecting and involving**

**FRASER PAPERS INC./PAPIERS FRASER INC., FPS CANADA INC.,  
FRASER PAPERS HOLDINGS INC., FRASER TIMBER LIMITED,  
FRASER PAPERS LIMITED and FRASER N.H. LLC**

**January 27, 2011**

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# **AMENDED PLAN OF COMPROMISE AND ARRANGEMENT**

## **PURSUANT TO THE COMPANIES' CREDITORS ARRANGEMENT ACT (CANADA)**

### **ARTICLE I INTERPRETATION**

#### **1.01 Definitions**

In the Plan (including the Schedules hereto), unless otherwise stated or unless the subject matter or context otherwise requires:

**“Administration Charge”** means the charge in favour of the Monitor, counsel to the Monitor and the Applicants' Canadian and U.S. counsel granted pursuant to paragraph 35 of the Initial Order, as more particularly set out therein, as amended and extended to include the Claims Officers;

**“Affected Claim”** means any Claim that is not an Unaffected Claim;

**“Affected Creditor”** means any Person having an Affected Claim and includes the transferee or assignee of a transferred or assigned Affected Claim who is recognized as an Affected Creditor by the Applicants and the Monitor in accordance with the Claims Order;

**“Aggregate Implementation Payment Amount”** has the meaning ascribed to it in Section 4.04 herein;

**“Applicable Law”** means in respect of any Person, property, transaction, event or other matter, any law, statute, regulation, code, ordinance, principle of common law or equity, municipal by-law, treaty or order, domestic or foreign, applicable to that Person, property, transaction, event or other matter and all applicable requirements, requests, official directives, rules, consents, approvals, authorizations, guidelines, and policies, in each case, having the force of law, of any Governmental Authority having or purporting to have the authority over that Person, property, transaction, event or other matter and regarded by such Governmental Authority as requiring compliance;

**“Applicants”** means, collectively, Fraser Papers Inc./Papiers Fraser Inc., FPS Canada Inc., Fraser Papers Holdings Inc., Fraser Timber Limited, Fraser Papers Limited and Fraser N.H. LLC;

**“BAM”** means Brookfield Asset Management Inc.;

**“Brookfield US”** means Brookfield US Corporation;

**“Business Day”** means a day, other than a Saturday or a Sunday, on which banks are generally open for business in Toronto, Ontario;

“**Cash**” includes legal tender, cheque, draft or funds received through electronic transfer;

“**CCAA**” means the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, in effect as of the date of the Initial Order;

“**CCAA Charges**” means, collectively, the Administration Charge, the DIP Lender’s Charge, the Directors’ Charge and the Inter-Company Charge, in each case as defined in the Initial Order;

“**CCAA Proceedings**” means the proceedings under the CCAA commenced by the Applicants pursuant to the Initial Order;

“**CDN \$**” means Canadian dollars;

“**Chapter 15 Claims Order**” means an order issued by the U.S. Court dated August 5, 2009 within the Chapter 15 Proceedings recognizing and giving full force and effect to the Claims Order;

“**Chapter 15 Proceedings**” means the proceedings commenced by the Applicants on June 18, 2009 in the U.S. Court under Chapter 15 of the United States Bankruptcy Code Case No. 09-12123 (KJC) in which the CCAA Proceedings were recognized as a foreign main proceeding;

“**Claim**” means:

- (a) a Restructuring Claim;
- (b) a Secured Claim; and/or
- (c) the rights of any Person whatsoever, including any Secured Creditor, against one or more of the Applicants and/or Directors, whether or not asserted and however acquired, in connection with any indebtedness, liability or obligation of any kind of one or more of the Applicants and/or Directors in existence on the Filing Date, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present, future, known or unknown, direct or indirect, by guarantee, surety, insurance deductible or otherwise, and whether or not such claim or right arises out of a contract that is executory or anticipatory in nature, and including any claim of negligence or breach of fiduciary duty relating in any way to pension plan administration or any other claims that would have been claims provable in bankruptcy had the applicable Applicant become bankrupt on the Filing Date and whether or not such right or claim resulted in a Proof of Claim being filed against the Applicants or the Directors under the Claims Order;

“**Claims Bar Date**” means 5:00 p.m. (Eastern Standard Time) on September 30, 2009, or such later date as may be ordered by the Court;

“**Claims Officers**” means John D. Ground, Andrew Diamond and such other Persons as may be designated by the Applicants, acceptable to the Monitor and approved by the Court for the purpose of resolving Unresolved Claims in accordance with the Claims Order;

**“Claims Order”** means the Order of the Court dated July 15, 2009 and recognized in the U.S. Court by the Chapter 15 Claims Order, as such Order may be amended, restated or varied by subsequent Order of the Court from time to time;

**“Claims Process”** means the Claims Process for determining the validity of Claims for voting and distribution purposes as set out in the Claims Order;

**“Common Shares”** means two million, four hundred and one thousand nine hundred and sixty (2,401,960) common shares of Twin Rivers issued to Fraser pursuant to a Share Certificate dated April 28, 2010 representing a 49% interest in the capital stock of Twin Rivers and having a notional value of \$24 million as at April 28, 2010;

**“Continuing Obligations”** has the meaning ascribed to it in the Transaction Agreement;

**“Court”** means the Ontario Superior Court of Justice (Commercial List);

**“Creditor”** means any Person having a Claim and includes, without limitation, the transferee or assignee of a Claim or a trustee, liquidator, receiver, receiver and manager, or other Person acting on behalf of such Person;

**“Creditor Trust”** means the trust to be formed on or before the Plan Implementation Date which shall hold any Promissory Notes, Common Shares and any Cash for the benefit of all Affected Creditors with Proven Distribution Claims other than the NB Hourly Claim and the NB Salaried Claim and except those that are resident in the U.S. pursuant to the creditor trust agreements in the proposed form to be confirmed by the Trust Order;

**“Creditor Trusts”** means, collectively, the Creditor Trust and the U.S. Creditor Trust;

**“DIP Lender”** means, collectively, BAM and Brookfield US;

**“DIP Lender’s Charge”** means the charge in favour of the DIP Lender granted pursuant to paragraph 40 of the Initial Order, as more particularly set out therein;

**“Directors”** means, collectively, those individuals who are or were previously directors or officers of any one or more of the Applicants and **“Director”** means, individually, any one of them;

**“Directors’ Charge”** means the charge in favour of the Directors created under paragraph 25 of the Initial Order, as more particularly set out therein;

**“Distribution Pool”** means the Promissory Notes, the Common Shares and any Cash available to the Affected Creditors with Proven Distribution Claims pursuant to and in accordance with the Plan, which shall be held from and after the Plan Implementation Date in trust for the benefit of the Affected Creditors in one of the Trusts or in the Reserve all as more particularly described herein;

**“Encumbrance”** means any interest, charge, lien, claim, mortgage, lease, sublease, hypothecation, deed of trust, pledge, security interest, option, right of use or possession, right of

first offer or first refusal, right of way, easement, servitude, restrictive covenant, encroachment, encumbrance, or other restriction or limitation of any kind howsoever erected or arising;

“**Equity Interests**” has the meaning ascribed to it in the Transaction Agreement;

“**Filing Date**” means June 18, 2009;

“**Final Determination Date**” means a date not more than seven business (7) days after all Unresolved Claims have been finally determined for distribution purposes pursuant to the Claims Order;

“**FPHI**” means Fraser Papers Holdings Inc.;

“**FPHI Shares**” has the meaning ascribed to it in the Transaction Agreement;

“**Fraser**” means Fraser Papers Inc./Papiers Fraser Inc., a corporation governed by the *Canada Business Corporations Act*;

“**Government Priority Claims**” means all Claims that fall within Section 18.2 of the CCAA;

“**Governmental Authority**” means any domestic or foreign government, including any federal, provincial, state, territorial or municipal government, and any government department, body, ministry, agency, tribunal, commission, board, court, bureau or other authority exercising or purporting to exercise executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, government;

“**Implementation Payment**” has the meaning ascribed to it in Section 4.04 herein;

“**Implementation Payment Date**” means a date not more than seven (7) days after the Plan Implementation Date or such other date as may reasonably be determined by the Applicants in consultation with the Monitor after the Plan Implementation Date;

“**Included Property**” has the meaning ascribed to it in the Transaction Agreement;

“**Initial Order**” means the Order of the Court dated June 18, 2009, as amended, extended, restated or varied by subsequent Order of the Court from time to time;

“**Inter-Company Claim**” means a Claim of an Applicant against one or more of the other Applicants;

“**Meeting**” means the meeting of Affected Creditors to be called and held pursuant to the Meeting Order for the purpose of considering and voting on the Plan pursuant to the CCAA, and includes any adjournment of such meeting;

“**Meeting Order**” means an Order to be obtained in the CCAA Proceedings establishing the terms and procedure for calling the Meeting of Affected Creditors to vote on the Plan and setting the date of the Plan Sanction Hearing, as same may be amended, modified, supplemented, restated or varied by the Court from time to time;



**“Monitor”** means PricewaterhouseCoopers Inc., in its capacity as Court-Appointed Monitor pursuant to the Initial Order;

**“NB Hourly Claim”** means the Claim filed by Morneau Sobeco Limited Partnership (now Morneau Shepell Inc.) in its capacity as Administrator of the NB Hourly Plan in respect of the windup deficit of the NB Hourly Plan as of March 31, 2010, which has been accepted as a Proven Distribution Claim in the amount of \$110,139,269;

**“NB Hourly Plan”** means the Pension Plan for New Brunswick Hourly Paid Employees of Fraser Papers Inc., New Brunswick Registration #0251264;

**“NB Hourly Trust”** means the trust created by the NB Hourly Trust Agreement;

**“NB Hourly Trust Agreement”** means the declaration and agreement of trust made as of April 28, 2010 between Fraser as settler of the trust, Communications, Energy and Paperworkers Union of Canada as the union, and Doris Lavoie, Jean Clavette and Mario Theriault collectively as trustees, as same may be amended from time to time in accordance with its terms;

**“NB Salaried Claim”** means the Claim filed by Morneau Sobeco Limited Partnership (now Morneau Shepell Inc.) in its capacity as Administrator of the NB Salaried Plan in respect of the windup deficit of the NB Salaried Plan as of March 31, 2010, which has been accepted as a Proven Distribution Claim in the amount of \$24,257,074;

**“NB Salaried Plan”** means the Pension Plan for New Brunswick Salaried Employees of Fraser Papers Inc., New Brunswick Registration #0251256;

**“NB Salaried Trust”** means the trust created by the NB Salaried Trust Agreement;

**“NB Salaried Trust Agreement”** means the declaration and agreement of trust made as of December 2, 2010 between Fraser as settler of the trust, and Don Corey, Rino Girard and Mark Fitzherbert collectively as trustees, as same may be amended from time to time in accordance with its terms;

**“Non-Released Claims”** has the meaning given to that term in Section 9.01 herein;

**“Non-Released Parties”** has the meaning given to that term in Section 9.01 herein;

**“Order”** means any order of the Court in the CCAA Proceedings;

**“Permitted Encumbrance”** has the meaning ascribed to it in the Transaction Agreement;

**“Person”** means any individual, corporation, limited or unlimited liability company, general or limited partnership, income fund, association, trust, pension fund, union, unincorporated organization, joint venture, government or any agency, regulatory body or instrumentality thereof, legal personal representative or litigation guardian, pension plan administrator, or any other entity howsoever designated or constituted;

**“Plan”** means this plan of compromise and arrangement filed by the Applicants pursuant to the CCAA, including the Schedules hereto, as same may be amended, varied or supplemented hereinafter and from time to time in accordance with the terms hereof;

**“Plan Implementation Date”** means the Business Day on which the conditions precedent to implementation of the Plan have been satisfied, fulfilled or waived, as applicable, and the Monitor has completed and filed its certificate with the Court in accordance with Section 7.03 of the Plan;

**“Plan Sanction Hearing”** means the Court hearing at which the Applicants’ motion for the Sanction Order will be heard;

**“Plan Sponsor”** means BAM or such other Person or Person as it may designate on or prior to the Closing Date (as defined in the Transaction Agreement), in its capacity as Purchaser and Plan Sponsor under the Transaction Agreement;

**“Post-Filing Claims”** means any indebtedness, liability or obligation of any kind that arises after the Filing Date from or in respect of: (a) any executory contract or unexpired lease that has not been terminated or repudiated by an Applicant; (b) the supply of services, delivery of goods, or monies advanced to any of the Applicants on or after the Filing Date; (c) all amounts to be remitted to a tax authority pursuant to paragraph 9 of the Initial Order during the period from the Filing Date to, but excluding, the Plan Implementation Date; provided that “Post Filing Claim” shall not include any Restructuring Claim;

**“Prior Repayments”** has the meaning given to that term in Section 4.04 herein;

**“Pro Rata Share”** means, in respect of any Affected Creditor of the Unsecured Creditor Class, on the Plan Implementation Date and the Final Determination Date, as applicable, the ratio determined on the date by the following formula:

$$\text{Pro Rata Share} = \frac{\text{Proven Distribution Claim of Affected Creditor in Unsecured Creditor Class} - \text{the Implementation Payment received by that Affected Creditor}}{\text{Aggregate amount of Proven Distribution Claims of all Affected Creditors in Unsecured Creditor Class} + \text{the Unresolved Claims of Affected Creditors in Unsecured Creditor Class} - \text{the cumulative amount of all Implementation Payments ;}}$$

**“Promissory Notes”** means, collectively, a Promissory Note in the principal amount of U.S. \$30 million from Twin Rivers in favour of Fraser dated April 28, 2010 and a Promissory Note in the principal amount of U.S. \$10 million from Twin Rivers in favour of Fraser dated April 28, 2010 as may be adjusted in accordance with the Twin Rivers APA;

**“Proof of Claim”** means the form to be completed and filed by a Creditor setting forth its purported Claim in accordance with the Claims Order;

**“Proven Distribution Claim”** means an Affected Claim in respect of which a Proof of Claim has been or is deemed to have been filed in a proper and timely manner in accordance with the

Claims Order and which has been accepted or finally determined for distribution purposes in accordance with the Claims Order;

**“Proven Voting Claim”** means an Affected Claim in respect of which a Proof of Claim has been or is deemed to have been filed in a proper and timely manner in accordance with the Claims Order and which has been accepted for voting purposes in accordance with the Claims Order;

**“Purchased Companies”** has the meaning ascribed to it in the Transaction Agreement;

**“Released Claims”** has the meaning given to that term in Section 9.01 herein;

**“Released Parties”** has the meaning given to that term in Section 9.01 herein;

**“Representative Counsel”** means Davies Ward Philips & Vineberg LLP appointed as counsel to the Fraser Papers’ Committee of Salaried Employees and Retirees pursuant to the Order of the Court dated September 17, 2009, as amended, extended, restated or varied by subsequent Order of the Court from time to time.

**“Required Majority”** means a majority in number of Affected Creditors who represent at least two-thirds in value of the Proven Voting Claims of Affected Creditors who actually vote on the resolution approving the Plan (in person, by proxy or by ballot) at the Meeting;

**“Reserve”** has the meaning given to that term in Section 4.09 herein;

**“Restructuring Claim”** means any right of any Person against one or more of the Applicants in connection with any indebtedness, liability or obligation of any kind owed to such Person arising out of the restructuring, repudiation or termination after the Filing Date of any contract, lease or other agreement whether written or oral, provided however, a **“Restructuring Claim”** shall not include an Unaffected Claim;

**“Restructuring Claims Bar Date”** means 5:00 p.m. (Eastern Standard Time) on the date which is the earlier of thirty (30) calendar days after the event giving rise to the Restructuring Claim or fourteen (14) calendar days after the Plan Implementation Date;

**“Sanction Order”** means an Order made by the Court under the CCAA to, among other things, sanction, authorize and approve the Plan, in a form and substance satisfactory to the Plan Sponsor, acting reasonably, as such Order may be amended by the Court from time to time;

**“Sanction Recognition Order”** means the order to be sought from the U.S. Court recognizing and giving effect to the Sanction Order in the Chapter 15 Proceedings including, without limitation, enforcing the Plan;

**“Secured Claim”** means the portion of a Claim that is: (i) secured by security validly charging or encumbering property or assets of any of the Applicants (including statutory and possessory liens that create security interests) up to the value of such collateral; (ii) duly and properly perfected in accordance with the relevant legislation in the appropriate jurisdiction as of the Filing Date or subsequently in accordance with the Initial Order; and (iii) not an Unaffected Claim;

**“Secured Creditor”** means any Creditor holding a Secured Claim;

**“Share Certificate”** means the share certificate of Twin Rivers issued to Fraser dated April 28, 2010 evidencing the issuance of the Common Shares to Fraser;

**“Substantive Consolidation Order”** means the Order of the Court dated November 3, 2010 authorizing and directing the Applicants to prepare the Plan on the basis of substantive consolidation of all of the Applicants, as recognized and approved by the order of the U.S. Court dated November 3, 2010;

**“Taxes”** means any and all taxes, duties, fees, pending assessments, reassessments and other governmental charges, duties, impositions and liabilities of any kind whatsoever (including any Claims by Her Majesty the Queen in right of Canada, Her Majesty the Queen in right of any Province or Territory of Canada, the Canada Revenue Agency and any similar revenue or taxing authority, including any municipality, of any Province or Territory of Canada), including all interest, penalties, fines and additions with respect to such amounts;

**“Transaction Agreement”** means the Transaction Agreement among the Applicants and the Plan Sponsor dated November 25, 2010 attached hereto as Schedule “A”, as the same may be amended, restated and varied from time to time in accordance with the terms thereof;

**“Terminated Pension Plans”** means the NB Hourly Plan, the NB Salaried Plan, the Fraser Papers Inc. Defined Contribution Pension Plan, the Régime de retraite des salaires de Papiers Fraser Inc. Pates Thurso, the Régime de retraite des syndiqués de Papiers Fraser Inc. Pates Thurso and the Pension Plan for Eligible Employees of Fraser Papers Limited;

**“Trust Order”** means an Order made by the Court within the CCAA Proceedings authorizing Fraser to settle the Creditor Trusts, approving the form and authorizing the execution of the creditor trust agreements and confirming the appointment of the trustees of each of the Creditor Trusts;

**“Trusts”** means, collectively, the Creditor Trusts, the NB Hourly Trust and the NB Salaried Trust;

**“Twin Rivers”** means Twin Rivers Paper Company Inc., a corporation governed by the *Business Corporations Act* (Ontario);

**“Twin Rivers APA”** means the asset purchase agreement between the Applicants and BAM and/or such other Person(s) as it may designate, namely Twin Rivers and Twin Rivers Paper Company LLC dated as of December 22, 2009, as amended;

**“Unaffected Claim”** has the meaning given to that term in Section 2.04 herein;

**“Unaffected Creditor”** means a Person who has an Unaffected Claim, but only in respect of such Unaffected Claim;

**“Unresolved Claim”** means an Affected Claim that was filed on a timely basis in accordance with the Claims Order but that is in dispute for voting and/or distribution purposes as at the date

of the Meeting or as at the Plan Implementation Date, as the case may be, pursuant to the Claims Order;

**“Unsecured Creditor Class”** means a class of Persons consisting of all Affected Creditors with an Affected Claim;

**“U.S.”** means United States of America;

**“U.S. \$”** means U.S. dollars;

**“U.S. Court”** means the United States Bankruptcy Court for the District of Delaware having jurisdiction over the Chapter 15 Proceedings;

**“U.S. Creditor Trust”** means the U.S. trust to be formed on or before the Plan Implementation Date which shall hold any Promissory Notes, Common Shares and any Cash for the benefit of all Affected Creditors with Proven Distribution Claims other than the NB Hourly Claim and the NB Salaried Claim that are resident in the U.S. pursuant to the creditor trust agreements in the proposed form to be confirmed by the Trust Order;

**“U.S. Sale Order”** means the order to be sought from the U.S. Court recognizing and giving effect to the Vesting Order in the Chapter 15 Proceedings and approving such sale, in a form and substance satisfactory to the Plan Sponsor, acting reasonably;

**“Vesting Order”** means one or more Orders made by the Court under the CCAA as contemplated under the Plan and the Transaction Agreement to approve and give effect to the Transaction Agreement and the transactions contemplated therein and, among other things, (i) vesting the FPHI Shares in the Plan Sponsor free and clear of all Encumbrances, (ii) vesting the Included Property in the Purchased Companies free and clear of any and all Encumbrances except Permitted Encumbrances, and (iii) extinguishing and forever barring any and all liabilities, obligations and claims of the Purchased Companies other than the Continuing Obligations, in a form and substance satisfactory to the Plan Sponsor; and

**“Website”** means the website of the Monitor, [www.pwc.com/car-fraserpapers](http://www.pwc.com/car-fraserpapers).

## **1.02 Certain Rules of Interpretation**

In the Plan:

- (a) the division of the Plan into Articles, Sections, subsections and clauses and the use of headings and a table of contents are for convenience of reference only and do not affect the construction or interpretation of the Plan, nor are the descriptive headings of Articles and Sections intended as complete or accurate descriptions of the contents thereof;
- (b) the terms “the Plan”, “hereof”, “hereunder”, “herein” and similar expressions refer to the Plan and not to any particular Article, Section, subsection, clause or Schedule of or to the Plan;

- (c) words importing the singular include the plural and *vice versa* and words importing any gender include all genders;
- (d) where any reference is made to a Person, including but not limited to the Applicants, Directors, DIP Lender, Plan Sponsor and Monitor, such reference shall be deemed to include all officers, directors, affiliates, employees and agents of such Person;
- (e) the words “includes” and “including” and similar terms of inclusions shall not, unless expressly modified by the words “only” or “solely”, be construed as terms of limitation but rather shall mean “includes without limitation”, “including without limitation”, “includes but is not limited to” and “including but not limited to”, as applicable, so that references to included matters shall be regarded as illustrative without being either characterizing or exhaustive;
- (f) the word “or” is not exclusive;
- (g) unless otherwise provided, any reference to a statute or other enactment of parliament or a legislature includes all regulations made thereunder, all amendments to or re-enactments of such statute or regulations in force from time to time, and, if applicable, any statute or regulation that supplements or supersedes such statute or regulation;
- (h) all references to the CCAA are references to the CCAA as it existed on the date of the Initial Order;
- (i) all accounting terms not otherwise defined herein shall have the meanings ascribed to them, from time to time, in accordance with the Canadian generally accepted accounting principles, including those prescribed by the Canadian Institute of Chartered Accountants;
- (j) unless otherwise indicated, all references to currency and to “\$” are U.S. dollars;
- (k) unless otherwise specified, all references to time herein and in any document issued pursuant hereto mean local time in Toronto, Ontario and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day;
- (l) unless otherwise specified, the time periods within or following which any act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next succeeding Business Day if the last day of the period is not a Business Day; and
- (m) whenever any action is to be taken under the Plan on a day other than a Business Day, such action shall be taken on the next succeeding Business Day.

### **1.03 Currency Conversion**

All Affected Claims dominated in a currency other than U.S. dollars shall, for the purposes of the Plan be converted to and shall constitute obligations in U.S. dollars, such calculation to be effected using the Bank of Canada noon spot rate on the Filing Date (exchange rate conversation on such date was: U.S. \$1.00 = CAD \$1.1273).

### **1.04 Interest**

Interest shall not accrue or be paid on any Affected Claims after the Filing Date, and no Affected Claims shall be entitled to interest accruing after or on the Filing Date.

### **1.05 Schedules**

The following are the Schedules to the Plan:

Schedule “A” – Transaction Agreement, without schedules;

Schedule “B” – Promissory Notes; and

Schedule “C” – Share Certificate.

## **ARTICLE II PURPOSE AND EFFECT OF PLAN**

### **2.01 Purpose**

The purpose of the Plan is to implement the consummation of the Transaction Agreement and to settle Affected Claims and effect a compromise and arrangement of all Affected Claims against the Applicants in a manner that provides consistent and equitable treatment among the Affected Creditors of the Applicants and allows for the orderly allocation of the Distribution Pool to the Affected Creditors. Affected Creditors with Proven Distribution Claims will be allocated their Pro Rata Share from the Distribution Pool. The Affected Creditors’ allocated assets of the Distribution Pool will be delivered to one of the Trusts, which have been or will be established on the Plan Implementation Date. The purpose of each of the Trusts is to hold, administer and (subject to the terms of the Common Shares and the Promissory Notes) realize upon the allocated assets of the Distribution Pool held by each trust, to facilitate a future distribution of Cash to the beneficiaries of each trust.

The Plan is presented to the Affected Creditors in the expectation that all Persons with an interest in the Applicants will derive a greater benefit from the implementation of the Plan, with the support of the DIP Lender and the creation and funding of the Creditor Trusts, than would result from a bankruptcy of the Applicants.

### **2.02 Substantively Consolidated Plan**

The Plan is presented by the Applicants to the Affected Creditors on a substantively consolidated basis in accordance with the Substantive Consolidation Order for the sole purpose of permitting

Affected Creditors having Proven Voting Claims to vote on the Plan and Affected Creditors having Proven Distribution Claims to receive distributions under the Plan in accordance with the terms hereof.

Affected Creditors under the substantively consolidated Plan will have one Claim for voting and distribution purposes against the Applicants and will not have individual Claims against each Applicant.

### **2.03 Affected Persons**

The Plan will become effective on the Plan Implementation Date and shall be binding on and enure to the benefit of the Applicants, the Directors, the Plan Sponsor, the Affected Creditors and all other Persons named or referred to in, or subject to the Plan, in accordance with its terms but, subject to Article V herein as it relates only to the transactions contemplated under the Transaction Agreement, shall not affect Unaffected Creditors with respect to and to the extent of their Unaffected Claims.

### **2.04 Unaffected Claims**

Subject to Article V herein as it relates only to the transactions contemplated under the Transaction Agreement, the Plan does not compromise or affect the following Claims and any rights that may exist in respect thereof (collectively, the “**Unaffected Claims**”):

- (a) Claims secured by the CCAA Charges other than in respect of the Inter-Company Charge;
- (b) Claims of the Directors pursuant to an indemnity from any Applicant which are not otherwise covered by the Directors’ Charge;
- (c) any Claim against any Director that cannot be compromised due to the provisions of Section 5.1(2) of the CCAA;
- (d) Government Priority Claims;
- (e) Secured Claims; and
- (f) Post-Filing Claims.

## **ARTICLE III CLASSIFICATION OF CREDITORS AND PROCEDURAL MATTERS**

### **3.01 Classes of Creditors**

For the purposes of considering and voting on the Plan, the Affected Creditors shall constitute a single class, the “**Unsecured Creditor Class**”.



### **3.02 Claims Procedure**

Creditors shall prove their Claims, vote in respect of the Plan and receive distributions provided for under and pursuant to the Plan in accordance with the Claims Order, the Meeting Order and the Plan, as applicable.

### **3.03 Claims Bar Date and Restructuring Claims Bar Date**

Nothing in the Plan extends or shall be interpreted as extending or amending the Claims Bar Date or the Restructuring Claims Bar Date, or gives or shall be interpreted as giving any rights to any Person in respect of Claims that have been barred or extinguished pursuant to the Claims Order, the Meeting Order, the Plan and/or the Sanction Order.

### **3.04 No Vote or Distribution in Respect of Unaffected Claims**

Notwithstanding anything to the contrary herein, no Unaffected Creditor shall be entitled to vote or receive any distributions under the Plan in respect of such Unaffected Claim. Nothing in the Plan shall affect the Applicants' rights and defences with respect to any Unaffected Claim.

### **3.05 Approval by Creditors**

In order to be approved by the Affected Creditors, the Plan must receive an affirmative vote by the Required Majority.

### **3.06 Inter-Company Claims**

Notwithstanding anything to the contrary herein, the Applicants shall not be entitled to vote in respect of the Plan and shall not receive any distributions pursuant to the Plan in respect of any Inter-Company Claims or otherwise.

### **3.07 Meeting of Creditors**

The Meeting shall be held in accordance with the Meeting Order, the Claims Order and any further Order of the Court.

### **3.08 Voting**

Each Affected Creditor who is entitled to vote at the Meeting, pursuant to and in accordance with the Meeting Order, shall be entitled to one vote equal to the dollar value of its Affected Claim determined as a Proven Voting Claim.

### **3.09 Voting of Unresolved Claims**

Subject to Section 3.10, each Affected Creditor holding an Unresolved Claim shall be entitled to attend the Meeting and shall be entitled to one vote as such Meeting. The Monitor shall keep a separate record of votes cast by Affected Creditors holding Unresolved Claims and shall report to the Court with respect thereto at the Plan Sanction Hearing. The votes cast in respect of any Unresolved Claim shall not be counted for any purposes unless, until and only to the extent that

such Unresolved Claim is finally determined to be a Proven Voting Claim in accordance with the Claims Order, the Meeting Order, the Plan and any further Order of the Court.

### **3.10 Procedure for Valuing Voting Claims**

The procedure for resolving Unresolved Claims for voting purposes shall be as set forth in the Claims Order, the Meeting Order, the CCAA and the Plan. The Applicants and the Monitor shall have the right to seek the assistance of the Court in valuing any Unresolved Claim in accordance with the Claims Order, the Meeting Order, the CCAA and the Plan, if required, to ascertain the result of any vote on the Plan.

## **ARTICLE IV TREATMENT OF CREDITORS**

### **4.01 Compromise of Affected Claims**

For the purposes of the Plan, Affected Creditors shall receive the treatment as provided in the Plan on account of their Affected Claims and on the Plan Implementation Date all Affected Claims shall be compromised, settled, released and otherwise affected in accordance with the terms of the Plan.

### **4.02 Unaffected Creditors**

Subject to Article V herein as it relates only to the transactions contemplated under the Transaction Agreement, all Unaffected Claims shall be unaffected by the Plan.

### **4.03 Payment of Government Priority Claims**

The Government Priority Claims shall be paid in full in Cash by the Applicants other than the Purchased Companies to Her Majesty in Right of Canada or the applicable province within six (6) months of the date of the Sanction Order, in accordance with the CCAA.

### **4.04 Implementation Payment**

Subject to the Applicants having sufficient Cash available (the “**Aggregate Implementation Payment Amount**”) after repayment of all amounts owing to (i) the DIP Lender and secured under the DIP Lender’s Charge (including a reserve to conclude the CCAA Proceedings) and (ii) the Secured Creditors, (collectively, the “**Prior Repayments**”), a payment shall be made by the Applicants to each Affected Creditor with a Proven Distribution Claim in an amount equal to the lesser of: (i) the full amount of the Affected Creditor’s Proven Distribution Claim (if less than \$500.00); or (ii) \$500.00. If the Applicants have insufficient Cash to fund the Aggregate Implementation Payment Amount in full after repaying the Prior Repayments, the Implementation Payment to each Affected Creditor with a Proven Distribution Claim shall be reduced on an equal basis to ensure that the Aggregate Implementation Payment Amount does not exceed the Cash available to the Applicants to make such payment. If the Cash available to the Applicants to fund a reduced Aggregate Implementation Payment Amount would result in an Implementation Payment of less than \$100.00 to each Affected Creditor with a Proven Distribution Claim, the Applicants shall not be required to incur the cost to make such

distribution (such distribution made under this Section **4.04**, referred to as the “**Implementation Payment**”).

#### **4.05 Delivery of Implementation Payment**

The Implementation Payment to Affected Creditors with Proven Distribution Claims shall be made by prepaid ordinary mail by the Monitor as follows:

- (a) to the addresses set forth in the Proofs of Claim filed by such Affected Creditors in accordance with the Claims Order;
- (b) if applicable, to the addresses set forth in any written notices of address change delivered to the Monitor after the date on which any corresponding Proof of Claim was filed, provided such notice is received by the Monitor at least five (5) Business Days prior to the Plan Implementation Date; or
- (c) if applicable, and to the extent differing from the foregoing, to the address of such Affected Creditors’ respective legal representatives, in trust for such Affected Creditors.

#### **4.06 Unclaimed Distributions**

If any Person entitled to a Implementation Payment cannot be located on the Plan Implementation Date or at any time thereafter or otherwise fails to claim his Implementation Payment hereunder, then such Cash shall be segregated and set aside by the Monitor on behalf of such Person. If such Person is located within two (2) months of the Implementation Payment Date, such Cash shall be distributed to such Person by the Monitor. If such Person cannot be located within two (2) months of the Implementation Payment Date, any segregated Cash shall be added to the Reserve held by the Monitor in respect of Unresolved Claims and such Person shall be deemed to have released its Claim to such Cash and such portion of the Affected Creditors’ Claim shall be discharged and forever barred. Nothing contained in the Plan shall require the Monitor to take any steps to attempt to locate any Affected Creditor.

If any Implementation Payment is not negotiated or deposited by such Affected Creditor within the time period permitted by the Canadian Payment Association rules or other clearing rules applicable to Canadian bank accounts such that the item becomes stale-dated or otherwise not capable of being negotiated, the Applicant shall be under no obligation to re-issue a Implementation Payment to that Affected Creditor. In such event, the Affected Creditor shall be deemed to have released its interest in such Implementation Payment, and the amount of that Affected Creditor’s distribution shall be remitted to the Creditor Trusts.

#### **4.07 Allocation of Distribution Pool to Affected Creditors and Delivery to the Trusts**

On the Plan Implementation Date, the Monitor shall, after establishing the Reserve as contemplated in Section **4.09(2)** herein, allocate to each Affected Creditor in the Unsecured Creditor Class with a Proven Distribution Claim its Pro Rata Share of assets remaining in the Distribution Pool, in full and final satisfaction, compromise, settlement, release and discharge of and exchange for each such Proven Distribution Claim. The Applicants, in consultation with the

Monitor, shall deliver the allocated assets from the Distribution Pool in respect of the Affected Creditors with Proven Distribution Claims in the Unsecured Creditor Class in the manner contemplated in Section **4.08** herein as follows:

- (a) in respect of the NB Hourly Claim to the NB Hourly Trust;
- (b) in respect of the NB Salaried Claim to the NB Salaried Trust; and
- (c) in respect of all other Proven Distribution Claims to the Creditor Trusts in accordance with the terms of the Trust Order and the creditor trust agreements to be confirmed therein.

#### **4.08 Delivery of Allocated Assets from Distribution Pool to the Trusts**

On the Plan Implementation Date, upon being advised by the Monitor of the allocation of the Distribution Pool among the NB Hourly Trust, the NB Salaried Trust and the Creditor Trusts as contemplated in Section **4.07** herein, and establishing the amount of the Reserve as contemplated by Section **4.09** herein, the Applicants shall cause Twin Rivers to exchange the Share Certificate and the Promissory Notes for share certificates and promissory notes in the amount of the allocation in the name of the Trustee for each of the NB Hourly Trust, the NB Salaried Trust and the Creditor Trusts for the benefit of the beneficiaries of such Trusts and in the amount of the Reserve in the name of the Applicants. On the Final Determination Date, upon being advised by the Monitor of the allocation of the Reserve among the NB Hourly Trust, the NB Salaried Trust and the Creditor Trusts, the Applicants shall cause Twin Rivers to exchange the share certificates and promissory note in respect of the Reserve for share certificates and promissory notes in the amount of the allocation in the name of the Trustee for each of the NB Hourly Trust, the NB Salaried Trust and the Creditor Trusts for the benefit of the beneficiaries of the Trusts.

#### **4.09 Unresolved Claims**

(1) A Creditor holding an Unresolved Claim will not be entitled to receive an allocation, delivery or distribution under the Plan in respect thereof unless and until such Unresolved Claim becomes a Proven Distribution Claim.

(2) In the case of any Claim that is an Unresolved Claim on the Plan Implementation Date, the Applicants and the Monitor both acting reasonably (and subject to their rights to seek directions from the Court), will establish a reserve for such Unresolved Claims from the Distribution Pool and the Cash for the Implementation Payment (the “**Reserve**”). The Applicants and the Monitor shall continue to hold the Reserve for the benefit of the Affected Creditors ultimately determined to have Proven Distribution Claims as of the Final Determination Date.

(3) If an Unresolved Claim is ultimately disallowed in whole or in part in accordance with the Claims Order after the Plan Implementation Date, any portion of the Reserve in respect of such Unresolved Claim will become available for allocation to the Affected Creditors with Proven Distribution Claims by making a further allocation to the Affected Creditors with Proven Distribution Claims in accordance with Section **4.07** herein of their Pro Rata Share of the

Distribution Pool from the portion of the Reserve for such Unresolved Claims on the Final Determination Date and deliver it to the Trusts in accordance with Section **4.08** herein.

(4) On the Final Determination Date, the Monitor shall (i) allocate to the Affected Creditors with Unresolved Claims that become Proven Distribution Claims, their Pro Rata Share of the Distribution Pool from the Reserve and deliver it to the Creditor Trusts in accordance with Section **4.08** herein, (ii) pay the Implementation Payment to such Affected Creditor, and (iii) remit any remaining Cash in the Reserve to the Creditor Trusts.

#### **4.10 Withholding Requirements**

In connection with the Plan, any Implementation Payment made hereunder by the Applicants or the Monitor shall be made net of all applicable Taxes. Notwithstanding any other provision of the Plan, each Affected Creditor that is to receive an Implementation Payment pursuant to the Plan shall have sole and exclusive responsibility for the satisfaction and payment of any Tax obligations imposed by any Governmental Authority (including income, withholding and other Tax obligations on account of such distribution). The Applicants and the Monitor, as necessary, shall be authorized to take any and all actions as may be necessary or appropriate to comply with such withholding and reporting requirements. All amounts withheld on account of Taxes shall be treated for all purposes as having been paid to the Affected Creditor in respect of which such withholding was made, provided such withheld amounts are remitted to the appropriate Governmental Authority.

## **ARTICLE V TRANSACTION AGREEMENT**

### **5.01 Incorporation of Transaction Agreement**

The Plan is to be implemented, and all Court orders and other actions relating to this Plan are to be made or taken, in conjunction with the implementation of the transactions contemplated by the Transaction Agreement. The Plan shall be deemed to incorporate the terms and conditions of the Transaction Agreement as they relate to the Applicants and their respective: (a) property, assets and undertaking; and (b) debts, obligations, claims and liabilities of any kind whatsoever.

### **5.02 Included Property**

For greater certainty, and notwithstanding any other provision of the Plan, upon implementation of the Plan and the Transaction Agreement all right, title and interest in and to: (a) the Included Property shall be held by and vest in the Purchased Companies; and (b) the Equity Interests of FPHI shall be transferred to and vest in the Plan Sponsor; in each case free and clear of any and all charges, liens and encumbrances whatsoever.

### **5.03 Continuing Obligations & Release**

For greater certainty, and notwithstanding any other provision of the Plan, upon implementation of the Plan and the Transaction Agreement: (a) the Purchased Companies shall have no debts,

obligations, claims or liabilities whatsoever other than the Continuing Obligations; and (b) any and all debts, obligations, claims or liabilities of the Purchased Companies other than Continuing Obligations, whenever and howsoever incurred or arising, shall be deemed to have been released, waived, extinguished and forever barred as against the Purchased Companies, the Plan Sponsor, and the Plan Sponsor's Affiliates (as defined in the Transaction Agreement).

## **ARTICLE VI SANCTION ORDER AND VESTING ORDER**

### **6.01 Application for Sanction Order and Vesting Order**

A motion shall be brought by the Applicants seeking the Sanction Order and the Vesting Order that is to be heard by the Court as soon as reasonably practicable following the approval of the Plan by the Required Majority of the Affected Creditors.

### **6.02 Effect of Sanction Order and Vesting Order**

In addition to approving and sanctioning the Plan, and subject to the discretion of the Court, the Sanction Order and Vesting Order shall, among other things and without limitation:

- (a) declare that (i) the Plan has been approved by the Required Majority of Affected Creditors in conformity with the CCAA; (ii) the Applicants have complied with the provisions of the CCAA and the Orders made in the CCAA Proceedings in all respects; (iii) the Court is satisfied that the Applicants have not done nor purported to do anything that is not authorized by the CCAA; and (iv) the Plan and the transactions contemplated thereby are fair and reasonable;
- (b) direct and authorize the Applicants and the Monitor to fulfill the obligations under the Plan, including to complete the transactions and distributions contemplated under the Plan free and clear of all Claims;
- (c) confirm the effect of the Claims Order, including, without limitation, the effect of the Claims Bar Date, the Restructuring Claims Bar Date and the releases, injunctions and prohibitions provided thereunder;
- (d) confirm the effect of the Meeting Order;
- (e) effective on the Plan Implementation Date, permanently stay all Claims and declare that the compromises effected hereby are approved, binding and effective as herein set out upon all Creditors and other Persons affected by the Plan;
- (f) effective on the Plan Implementation Date, declare that the compromises, releases and injunctions effected hereby are approved, binding and effective as of the Plan Implementation Date upon all Affected Creditors and all other Persons affected by the Plan and shall inure to the benefit of the Applicants, the Directors, the Plan Sponsor, the Monitor and all Persons affected by the Plan;

- (g) continue the stay of proceedings under the Initial Order until the CCAA Proceedings are terminated by Order of the Court;
- (h) effective on the Plan Implementation Date, declare that each of the Charges and the Unaffected Claims shall be terminated, discharged and released as against the FPHI Shares, the Purchased Companies and Included Property;
- (i) effective on the Plan Implementation Date, declare that all right, title and interest of the Applicants in and to the FPHI Shares shall vest in the Plan Sponsor free and clear of all Encumbrances;
- (j) effective on the Plan Implementation Date, declare that all right, title and interest of the Applicants (other than the Purchased Companies) in and to the Included Property shall vest in the Purchased Companies, free and clear of all Encumbrances (other than Permitted Encumbrances);
- (k) effective on the Plan Implementation Date, discharge and extinguish all Encumbrances (other than Permitted Encumbrances) on the Purchased Companies and the Included Property;
- (l) subject to Section 5.1(2) of the CCAA, effective on the Plan Implementation Date, stay any and all steps or proceedings, including, without limitation, administrative orders, declarations or assessments, commenced, taken or proceeded with against the Directors or that could have been commenced, taken or proceeded with against the Directors save for the stay of proceedings, and discharge the Directors from any liability arising as a result of their acting as a director and/or officer of any of the Applicants;
- (m) confirm the releases contemplated by Section **9.01** of the Plan;
- (n) effective on the Plan Implementation Date, permanently enjoin the commencement or prosecution, whether directly, derivatively or otherwise, of any demands, claims, actions, counterclaims, suits, judgments, or other remedy or recovery with respect to any indebtedness, liability, obligation or cause of action released, discharged or terminated pursuant to the Plan;
- (o) confirm that the Monitor and the Applicants' advisors shall continue to have the benefit of the Administration Charge and the Directors shall continue to have the benefit of the Directors Charge, as provided in the Initial Order until such time as the CCAA Proceedings are terminated and all obligations secured thereby are paid in full; and
- (p) effective on the Plan Implementation Date, discharge the Inter-Company Charge and the DIP Lender Charge and, except as against the FPHL Shares and the Purchased Companies, continue the Administration Charge and the Directors' Charge until the CCAA Proceedings are terminated and all obligations secured thereby are paid in full.

**ARTICLE VII**  
**CONDITIONS PRECEDENT**

**7.01 Conditions Precedent to Implementation of Plan**

The implementation of the Plan is conditional upon the fulfilment, satisfaction or waiver by the Applicants, the Plan Sponsor and the DIP Lenders, as applicable, of the following conditions on or before the Plan Implementation Date:

- (a) the Plan being approved by the Required Majority;
- (b) the Plan terms being acceptable to the Plan Sponsor;
- (c) the Sanction Order and Vesting Order being issued by the Court on or before February 10, 2011 or such later date as may be agreed by the Applicants and the Monitor;
- (d) the Sanction Recognition Order and the U.S. Sale Order being issued by the U.S. Court on or before February 11, 2011 or such later date as may be agreed by the Applicants and the Monitor;
- (e) all applicable appeal periods in respect of the Sanction Order, the Sanction Recognition Order, the Vesting Order and the U.S. Sale Order having expired and any appeals therefrom having been finally disposed of by the applicable appellate tribunal;
- (f) the transactions, events and actions contemplated under the Transaction Agreement having been completed and the Applicants and the Plan Sponsor being in compliance with all of their obligations and agreements under the Transaction Agreement, the Plan, the Sanction Order, the Sanction Recognition Order, the Vesting Order and the U.S. Sale Order;
- (g) arrangements satisfactory to the Applicants and the DIP Lender having been made for the repayment of all amounts secured under the DIP Lender's Charge;
- (h) the resolution of Secured Claims on terms acceptable to the Applicants and the Monitor or pursuant to an Order of the Court;
- (i) the issuance of replacement Promissory Notes and the resolution and release of the holdback in accordance with the Twin Rivers APA;
- (j) the establishment and funding of the Creditor Trusts to hold the Promissory Notes and the Common Shares for the benefit of the Affected Creditors with Proven Distribution Claims (other than in respect of the NB Hourly Claim and the NB Salaried Claim) from and after the Plan Implementation Date as contemplated under the Trust Order; and



- (k) the execution of releases satisfactory to the Applicants and the Directors by the administrators of the Terminated Pension Plans, the Superintendent of Pensions for New Brunswick and the Regie des rentes du Quebec; and
- (l) all relevant Persons having executed, delivered and filed all documents and other instruments and the Applicants having obtained all consents and approvals that, in the opinion of the Applicants, acting reasonably, are necessary to implement the provisions of the Plan.

## **7.02 Waiver**

Any waiver of the conditions in Section **7.01** hereof capable of being waived shall be in writing by the Applicants, the Plan Sponsor or the DIP Lender, as applicable.

## **7.03 Monitor's Certificate**

Upon being advised by the Applicants and the Plan Sponsor that the conditions set out in Section **7.01** hereof have been satisfied or waived, the Monitor shall file with the Court a certificate that states that all conditions precedent set out in Section **7.01** of the Plan have been satisfied or waived.

# **ARTICLE VIII EFFECT OF PLAN**

## **8.01 Effect of Plan Generally**

The Plan (including, without limitation, the releases and injunctions contained in the Plan), upon being sanctioned and approved by the Court pursuant to the Sanction Order and the Sanction Order being recognized by the U.S. Court pursuant to the Sanction Recognition Order, shall be binding as of the Plan Implementation Date on all Persons irrespective of the jurisdiction in which the Persons reside or in which the Claims arose and shall constitute:

- (a) a full, final and absolute settlement of all rights of the holders of all Claims; and
- (b) an absolute release and discharge of all indebtedness, liabilities and obligations of the Applicants of or in respect of the Claims.

## **8.02 Consents, Waivers and Agreements**

On the Plan Implementation Date, each Affected Creditor shall be deemed to have consented and to have agreed to all of the provisions of the Plan in its entirety. In particular, each Affected Creditor shall be deemed:

- (a) to have executed and delivered to the Monitor and the Applicants all consents, releases, assignments and waivers, statutory or otherwise, required to implement and carry out the Plan in its entirety; and

- (b) to have waived any and all defaults then existing or previously committed by the Applicants in any covenant, warranty, representation, term, provision, condition or obligation, expressed or implied, in any contract, agreement, mortgage, security agreement, indenture, trust indenture, loan agreement, commitment letter, agreement for sale, lease or other agreement, written or oral and any and all amendments or supplements thereto, existing between any such Affected Creditor and the Applicants and any and all notices of default and demands for payment under any instrument, including, without limitation any guarantee, shall be deemed to have been rescinded.

## ARTICLE IX RELEASES AND INJUNCTIONS

### 9.01 Release and the Released Parties

For good and valuable consideration, including, without limitation, the settlement by the Applicants of the Creditor Trusts and the distributions to be made pursuant to the Plan, every Person, (regardless of whether or not such person is a Creditor), and save and except for Unaffected Creditors with respect to their Unaffected Claims (other than as it relates to the Included Property or the Purchased Companies pursuant to the Transaction Agreement), on the Person's own behalf and on behalf of the Person's respective affiliates, present and former officers, directors, employees, associated individuals, auditors, beneficiaries, financial advisors, legal counsel, other professionals, sureties, insurers, indemnities, agents, dependents, heirs, representatives and assigns, as applicable, hereby fully, finally, irrevocably and unconditionally releases and forever discharges each of the Applicants, the Directors, the Monitor, the Plan Sponsor, the DIP Lender, Representative Counsel and all current and former members of all pension committees together with each of their and their affiliates' respective current and former legal representatives, directors, officers, predecessors, heirs, spouses, dependants, administrators, executors, subsidiaries, affiliates, related companies, member companies, partners, shareholders, employees, solicitors, attorneys, auditors, contractors, consultants, financial advisors, servants, agents and assigns (collectively, the **"Released Parties"** and individually, a **"Released Party"**), of and from any and all claims, including, without limitation, all claims in respect of statutory liabilities of Directors and any alleged fiduciary (whether acting as a director, officer, member of pension committee or acting in any other capacity in connection with the administration of the Terminated Pension Plans or any other pension or benefit plans or trusts of any of the Applicants) and any and all past, present and future claims, rights, interests, actions, rights of indemnity, liabilities, demands, duties, injuries, damages, expenses, fees (including solicitors' fees and liens), costs, compensation, or causes of action of whatsoever kind or nature whether foreseen or unforeseen, known or unknown, asserted or unasserted, contingent or actual, liquidated or unliquidated, whether in tort or contract, whether statutory, at common law or in equity, based on, in connection with, arising out of, or in any way related to, in whole or in part, directly or indirectly, any act, inaction or omission existing or taking place on or prior to the Plan Implementation Date relating to or otherwise in connection with the Applicants including, without limitation, the business and operations of the Applicants, the property of the Applicants, the CCAA Proceedings, the Chapter 15 Proceedings, all pension plans administered by the Applicants, including the Terminated Pension Plans, or in respect of which the Released Parties had any role, whether in their capacity as Directors or in any other capacity, including as or on

behalf of the administrators of the Terminated Pension Plans and any other employee benefit or retirement savings plan, including without limitation any post-employment benefits and as trustees of the health and welfare trust, and all agreements with the DIP Lender (collectively, the “**Released Claims**”); and each Person shall not make or continue any claims or proceedings whatsoever based on, in connection with, arising out of, or in any way related to, in whole or in part, directly or indirectly, the substance of the facts giving rise to any matter herein released (including, without limitation, any action, cross-claim, counter-claim, third party action or application) against any Person who claims or might reasonably be expected to claim in any manner or forum against one or more of the Released Parties, including, without limitation, by way of contribution or indemnity, in common law, or in equity, breach of trust or breach of fiduciary duty or under the provisions of any statute or regulation, and that in the event that any of the Released Parties are added to such claim or proceeding, it will immediately discontinue any such claim or proceeding. Notwithstanding the foregoing, nothing herein shall release or discharge a Released Party from its obligations, if any, under the Plan. This Section **9.01** does not release: (i) any Unaffected Claims; (ii) any claim referred to in Section 5.1(2) of the CCAA or (iii) any claim against any actuarial firm or record keeper/third party administrator affiliated with such actuarial firm, whether such firm operates as a partnership, limited partnership or corporation (which for greater certainty shall not include the Released Parties) of the Terminated Pension Plans (the “**Non-Released Parties**”) solely for the several liability for such Non-Released Party’s contribution to any loss or damages (those matters included in subparagraphs (i), (ii) and (iii) being collectively referred to herein as the “**Non-Released Claims**”). For greater certainty, and notwithstanding anything else contained herein, any Non-Released Claim that may be asserted by any Person against any Non-Released Parties expressly excludes any right of such Non-Released Party to claim over, claim against or otherwise assert or pursue any rights or any claim against any of the Released Parties at any time, all of which are hereby released.

## **9.02 Injunction**

All Persons, along with their respective affiliates, present and former officers, directors, employees, associated individuals, auditors, financial advisors, legal counsel, other professionals, sureties, insurers, indemnities, agents, dependents, heirs, representatives and assigns, as applicable, are permanently and forever barred, estopped, stayed and enjoined, on and after the Plan Implementation Date, with respect to the Released Claims, from:

- (a) commencing, conducting or continuing in any manner, directly or indirectly, any action, suits, demands or other proceedings of any nature or kind whatsoever (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against the Released Parties;
- (b) enforcing, levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, decree or order against the Released Parties or their property;
- (c) commencing, conducting or continuing in any manner, directly or indirectly, any action, suits or demands, including without limitation, by way of contribution or indemnity or other relief, in common law, or in equity, breach of trust or breach of

fiduciary duty or under the provisions of any statute or regulation, or other proceedings of any nature or kind whatsoever (including, without limitation, any proceeding in a judicial, arbitral, administrative, regulatory or other forum) against any Person who makes such a claim or might reasonably be expected to make such a claim in any manner or forum, against one or more of the Released Parties;

- (d) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any lien or encumbrance of any kind; or
- (e) taking any actions to interfere with the implementation or consummation of the Plan, the Transaction Agreement or rights under the Trusts.

This Section 9.02 does not apply to any Non-Released Claims or to the enforcement of any obligations under the Plan. For greater certainty, and notwithstanding anything else contained herein, any Non-Released Claim that may be asserted by any Person against any Non-Released Parties expressly excludes any right of such Non-Released Party to claim over, claim against or otherwise assert or pursue any rights or any claim against any of the Released Parties at any time, all of which are hereby enjoined.

### **9.03 Carve Out to Release and Injunction**

For greater certainty: (i) nothing in the Plan shall release, enjoin or compromise the Non-Released Claims; and (ii) any Non-Released Claim that may be asserted by any Person against any Non-Released Parties expressly excludes any right of such Non-Released Party to claim over, claim against or otherwise assert or pursue any rights or any claim against any of the Released Parties at any time.

### **9.04 Inter-Company Claims**

For greater certainty and for good and valuable consideration including, without limitation, the terms of the Plan and the release of all Claims as against the Applicants, each of the Applicants has agreed and shall be deemed to have agreed that, conditional only upon the implementation of the Plan on the Plan Implementation Date:

- (a) it shall not prove, nor vote, nor receive a distribution under the Plan on account of its Inter-Company Claims, if any; and
- (b) its Inter-Company Claims, if any, are hereby fully, finally, irrevocably and unconditionally waived and released and each of the other Applicants stands fully and finally released, remised and forever discharged of any and all liability in connection with such Inter-Company Claims.

## **ARTICLE X PLAN AMENDMENTS OR TERMINATION**

### **10.01 Plan Amendment**

Prior to and during the Meeting, the Applicants, in consultation with the Monitor, may at any time and from time to time (subject to the approval of the Plan Sponsor) amend, modify and/or supplement the Plan by written instrument, and the Monitor shall post such amendment on the Website. The Applicants will give reasonable written notice to all Affected Creditors present at the Meeting of the details of any such amendment prior to the vote being taken to approve the Plan.

Following the Sanction Order, any amendment, modification or supplement to the Plan may be made by the Applicants by written instrument with the consent of the Monitor and the Plan Sponsor or approved by the Court provided that it concerns a matter which, in the opinion of the Applicants, the Monitor and the Plan Sponsor, each acting reasonably, is of an administrative nature required to better give effect to the implementation of the Plan and to the Sanction Order and is not adverse or prejudicial to the financial or economic interests of the Affected Creditors. The Monitor shall post such amendment on the Website and the Applicants shall file the amendment to the Plan with the Court, but no additional vote of the Affected Creditors will be necessary in order to give effect to such amendment to the Plan.

Any amended, modified or supplementary plan or plans of compromise or arrangement filed with the Court and, if required by this Section **10.01**, approved by the Court, shall, for all purposes, be and be deemed to be a part of, and be incorporated in the Plan.

### **10.02 Termination of the Plan**

At any time prior to the Plan Implementation Date, the Applicants may, subject to further order of the Court, determine not to proceed with the Plan notwithstanding any prior approvals given at the Meeting or the obtaining of the Sanction Order.

If the conditions precedent to implementation of the Plan are not satisfied or waived, if the Applicants determine not to proceed with the Plan, or if the Sanction Order are not issued by the Court: (a) the Plan shall be null and void in all respects; (b) any document or agreement executed pursuant to the Plan shall be deemed null and void; and (c) nothing contained in the Plan, and no act taken in preparation of the consummation of the Plan, shall constitute or be deemed to constitute a waiver or release of any Claims or any defences thereto by or against any of the Applicants or any other Person.

## **ARTICLE XI GENERAL PROVISIONS**

### **11.01 Severability of Plan Provisions**

If, prior to the Plan Implementation Date, any term or provision of the Plan is held by the Court to be invalid, void or unenforceable, the Court, at the request of the Applicants, may: (a) sever such term or provision from the balance of the Plan and provide the Applicants with the option to

proceed with the implementation of the balance of the Plan as of and with effect from the Plan Implementation Date; or (b) alter or interpret such term or provision to make it valid and enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such severing, holding, alteration or interpretation, and provided the Applicants proceed with the implementation of the Plan, the remainder of the terms and provisions of the Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such severing, holding, alteration or interpretation. Notwithstanding the foregoing, no such severance, alteration or interpretation shall affect Unaffected Claims and the rights of Creditors with Unaffected Claims.

### **11.02 Advice and Directions**

The Applicants and the Monitor shall each be entitled to apply to the Court from time to time for advice and directions concerning the implementation, operation and administration of the Plan.

### **11.03 Paramountcy**

From and after the Plan Implementation Date, any conflict between the Plan and the covenants, warranties, representations, terms, conditions, provisions or obligations, expressed or implied, of any contract, credit document, agreement for sale, by-laws of the Applicants, lease or other agreement, written or oral and any and all amendments or supplements thereto existing between one or more of the Creditors and the Applicants as at the Plan Implementation Date will be deemed to be governed by the terms, conditions and provisions of the Plan and the Sanction Order, which shall take precedence and priority.

### **11.04 Responsibilities of the Monitor**

The Monitor is acting solely in its capacity as Monitor in the CCAA Proceedings and shall not be responsible or liable for any obligations of the Applicants hereunder. The Monitor shall have those powers and protections granted to it by the Plan, the CCAA and by any Order of the Court in the CCAA Proceedings, including the Initial Order, the Claims Order, the Meeting Order and the Sanction Order.

### **11.05 Deeming Provisions**

In the Plan, the deeming provisions are not rebuttable and are conclusive and irrevocable.

### **11.06 Notices**

Any notice or communication to be delivered hereunder shall be in writing and shall reference the Plan and may, subject as hereinafter provided, be made or given by personal delivery, mail or by facsimile addressed to the respective parties as follows:

- (i) if to the Applicants:

Fraser Papers Inc.  
Box 762, Suite 200

Brookfield Place, 181 Bay Street  
Toronto, ON M5J 2T4

Attention: Glen McMillan, CRO  
Facsimile: (416) 359-8606

with a copy to:

Thornton Grout Finnigan LLP  
Suite 3200, Canadian Pacific Tower,  
100 Wellington St. West, P.O. Box 329  
Toronto Dominion Centre  
Toronto, ON M5K 1K7

Attention: D.J. Miller  
Facsimile: 416-304-1313

(ii) if to the Monitor:

PricewaterhouseCoopers Inc.  
Royal Trust Tower  
20th Floor, 77 King Street West  
Toronto, ON M5K 1G8

Attention: John McKenna  
Facsimile: (416) 941-8378

with a copy to:

Goodmans LLP  
333 Bay Street, Suite 3400  
Toronto ON M5H 2S7

Attention: Robert Chadwick  
Facsimile: (416) 979-1234

or to such other address as any party may from time to time notify the others in accordance with this Section **11.06**. All such notices and communications that are hand delivered shall be deemed to have been received on the date of delivery, provided same is a Business Day. Any such notices and communications that are faxed shall be deemed to be received on the date faxed if sent before 5:00 p.m. on a Business Day and otherwise shall be deemed to be received on the Business Day next following the day upon which such fax was sent. Any notice or other communication sent by mail shall be deemed to have been received on the fifth Business Day after the date of mailing if mailed within Canada and on the ninth Business Day after the date of mailing if mailed outside of Canada. The unintentional failure by the Applicants to give a notice contemplated hereunder shall not invalidate any action taken by any Person pursuant to the Plan.

**11.07 Successors and Assigns**

The rights, benefits and obligations of any Person named or referred to in the Plan shall be binding on, and shall inure to the benefit of, any heir, executor, trustee, administrator, successor or assign of such Person.

**11.08 Further Assurances**

Notwithstanding that the transactions and events set out in the Plan shall be deemed to occur without any additional act or formality other than as set out herein, each of the Persons affected hereby shall make, do and execute or cause to be made, done or executed all such further acts, deeds, agreements, transfers, assurances, instruments, documents or discharges as may be reasonably required by the Applicants in order to implement and give effect to the Plan.

**11.09 Governing Law**

The Plan shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. In the event of any dispute or issue in connection with, or related to, the interpretation, application or effect of the Plan, such dispute or issue shall be subject to the exclusive jurisdiction of the Court.

Dated at **Toronto, Ontario** this 27<sup>th</sup> day of January, 2011.



**Schedule “A” – Transaction Agreement, without schedules**

**TRANSACTION AGREEMENT**

**BY AND AMONG**

**FRASER PAPERS INC., FRASER PAPERS LIMITED, FPS CANADA INC., FRASER  
PAPERS HOLDINGS INC., FRASER TIMBER LIMITED AND FRASER N.H. LLC**

**As the Vendors and Plan Proponents**

**AND**

**THE PLAN SPONSOR, AS HEREIN DEFINED**

**As the Purchaser and Plan Sponsor**

**DATED AS OF NOVEMBER 25, 2010**

## TRANSACTION AGREEMENT

TRANSACTION AGREEMENT, dated as of November 25, 2010 (the "Effective Date") by and among Fraser Papers Inc. ("FPI"), a corporation incorporated under the federal laws of Canada, Fraser Papers Limited ("Fraser Madawaska"), a corporation incorporated under the laws of the State of Maine, FPS Canada Inc., a corporation incorporated under the federal laws of Canada ("FPS Canada"), Fraser Papers Holdings Inc. ("FPHI"), a corporation incorporated under the laws of the State of Delaware, Fraser Timber Limited ("FTL"), a corporation incorporated under the laws of the State of Maine, and Fraser N.H. LLC ("FNHL"), a limited liability company formed under the laws of the State of Delaware (collectively, the "Vendors") and Brookfield Asset Management Inc., a corporation amalgamated under the laws of the Province of Ontario.

### RECITALS:

WHEREAS, on June 18, 2009, the Vendors commenced proceedings (the "CCAA Proceedings") in the Ontario Superior Court of Justice (Commercial List) (the "Canadian Court") under the *Companies' Creditors Arrangement Act* (Canada), R.S.C. 1985, c.C-36, as amended (the "CCAA"), pursuant to which, *inter alia*, PricewaterhouseCoopers Inc. was appointed as monitor (the "Monitor");

AND WHEREAS, on June 19, 2009, the Vendors sought and obtained recognition and provisional relief in an ancillary proceeding (the "Bankruptcy Case") pursuant to Chapter 15 of Title 11 of the *United States Code* 11 U.S.C. §§ 101-1532C, as amended (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court");

AND WHEREAS, the Vendors desire to propose a plan of arrangement or compromise on a substantively consolidated basis in the CCAA Proceedings, to be recognized and ratified in the Bankruptcy Case;

AND WHEREAS, in conjunction with their proposed plan of arrangement or compromise, the Vendors wish to sell to the Plan Sponsor all of the FPHI Shares (as hereinafter defined) on the basis that the Purchased Companies (as hereinafter defined) will at Closing (as hereinafter defined) hold all right, title and interest in the Included Property (as hereinafter defined) and will have no Liabilities (as hereinafter defined) other than the Continuing Obligations (as hereinafter defined), and on the other terms and conditions of this Agreement;

AND WHEREAS, the Plan Sponsor wishes to purchase from the Vendors all of the FPHI Shares on the basis that the Purchased Companies will at Closing hold all right, title and interest in the Included Property and will have no Liabilities other than the Continuing Obligations, and on the other terms and conditions of this Agreement;

AND WHEREAS, Plan Sponsor wishes to facilitate the plan of arrangement or compromise to be proposed by the Vendors in conjunction with the transactions contemplated by this Agreement;

**AND WHEREAS**, the boards of directors of each of the Vendors have determined that it is advisable and in the best interests of each of the Vendors' estates and the beneficiaries of such estates to proceed with the Plan (as hereinafter defined) and to consummate the transactions provided for herein pursuant to the Canadian Orders (as hereinafter defined) and the U.S. Orders (as hereinafter defined), and have approved the Plan and this Agreement;

**AND WHEREAS**, the Plan and the transactions contemplated by this Agreement and the Ancillary Agreements are subject to the approval of the Canadian Court and the Bankruptcy Court and will be consummated only subject to the terms and conditions set forth herein and in accordance with the Canadian Orders (as hereinafter defined) and the U.S. Orders (as hereinafter defined) to be entered in the CCAA Proceedings and the Bankruptcy Case, respectively;

**NOW, THEREFORE**, in consideration of the premises, representations and warranties and the mutual covenants and agreements set forth herein and other good, valuable and sufficient consideration, the receipt of which is hereby acknowledged, the Parties, agree as follows:

## **ARTICLE 1**

### **DEFINITIONS; INTERPRETATION**

#### **Section 1.1 Definitions.**

As used herein, the following terms shall have the following meanings:

**"Accounts Receivable"** shall mean any and all accounts receivable, notes receivable, book debts, trade debts, rebates, refunds and other debts or receivables due or accruing due, together with all interest accrued on such items, and the full benefit of any security therefor, but excluding any Intercompany Receivable.

**"Affiliate"** shall mean, with respect to any Person, any other Person which Controls, is Controlled by or is under common Control with, directly or indirectly, such Person, and, if such Person is a natural person, includes any member of such Person's immediate family, or, if such Person is an entity, includes any trustee, member, general partner, manager, director or executive officer of, or any Person performing similar functions for, such Person.

**"Agreement"** shall mean this Transaction Agreement, including the Schedules and the Exhibits hereto, in each case as amended or supplemented from time to time.

**"Ancillary Agreements"** shall mean any and all agreements or documents entered into or executed by the Parties on or prior to Closing in connection with or pursuant to the terms of this Agreement and the transactions contemplated herein, all in form and substance satisfactory to the Plan Sponsor, acting reasonably.

**"Ashland Assets"** shall mean the property and assets of every kind and description used in the operation of or relating to the Ashland Mill.

**"Ashland Mill"** shall mean the lumber mill owned and operated by the Vendors at 100 Levesque Mill Road, Ashland, Maine 04732 and the operations carried on thereat.

"Assets" shall mean collectively the Ashland Assets, the Masardis Assets and the Gorham Assets. If the Gorham Assets and the Gorham Mill become Excluded Property in accordance with the terms set out in Section 2.3 of this Agreement, the term "Assets" shall mean collectively the Ashland Assets and the Masardis Assets.

"Bankruptcy Case" shall have the meaning given to such term in the recitals.

"Bankruptcy Code" shall have the meaning given to such term in the recitals.

"Bankruptcy Court" shall have the meaning given to such term in the recitals.

"Benefit Plans" shall mean all oral or written plans, arrangements, agreements, programs, policies, practices or undertakings of the Vendors with respect to some or all of the Employees and which provide for or relate to:

(a) bonus, profit sharing or deferred profit sharing, performance compensation, deferred or incentive compensation, supplemental retirement arrangements, share compensation, share purchase or share option, share appreciation rights, phantom stock, vacation or vacation pay, sick pay, employee loans, or any other compensation in addition to salary; or

(b) insured or self-insured benefits for or relating to income continuation or other benefits during absence from work (including short term disability, long term disability and workers compensation), hospitalization, health, welfare, legal costs or expenses, medical or dental treatments or expenses, life insurance, accident, death or survivor's benefits, supplementary employment insurance, day care, tuition or professional commitments or expenses or similar employment benefits.

"Books and Records" shall mean any and all books of account, legal, financial and accounting information and records, production reports and records, equipment logs, operating guides, manuals and marketing and advertising materials and all other files, correspondence and other information (whether written, printed, electronic or computer print out form, or saved on computer disc or other data and software storage and media devices), in any form, but excluding for greater certainty any books and records pertaining solely to the Excluded Property.

"Brookfield" shall mean Brookfield Asset Management Inc.

"Brookfield DIP Facility" shall mean the court approved senior secured superpriority revolving loan facility of up to a maximum amount of US\$25,000,000 provided to the Vendors by the DIP Lender.

"Brookfield Letters of Credit" shall mean the letters of credit or letters of guarantee issued or provided for the benefit of the Vendors under the Brookfield DIP Facility or otherwise by the DIP Lender, the Plan Sponsor or the Plan Sponsor's Affiliates.

"Budget" shall mean the rolling 19 week cash flow projection as at October 22, 2010 and attached as Exhibit B to the affidavit of Glen McMillan sworn October 28, 2010, as amended, updated, modified and supplemented pursuant to and in accordance with the terms of the Brookfield DIP Facility.

"Business" shall mean collectively, the Gorham Business and the Lumber Mill Business. If the Gorham Assets and the Gorham Mill become Excluded Property in accordance with the terms set out in Section 2.3 of this Agreement, the term "Business" shall mean the Lumber Mill Business.

"Business Day" shall mean any day of the year other than (a) any Saturday or Sunday, or (b) any other day on which the banks located in the Province of Ontario are required by Law to be closed for business.

"Canadian Approval and Vesting Order" shall mean one or more Orders of the Canadian Court in form and substance satisfactory to the Plan Sponsor, acting reasonably, approving and giving effect to this Agreement and the transactions contemplated herein and, among other things, (i) vesting the FPHI Shares in the Plan Sponsor free and clear of any and all Encumbrances except Permitted Encumbrances, (ii) vesting the Included Property in the Purchased Companies free and clear of any and all Encumbrances except Permitted Encumbrances, and (iii) extinguishing and forever barring any and all Liabilities of the Purchased Companies other than the Continuing Obligations.

"Canadian Court" shall have the meaning given to such term in the recitals.

"Canadian Orders" shall mean collectively, the Canadian Approval and Vesting Order, the Canadian Sanction Order, and any other Order of the Canadian Court, in form and substance satisfactory to the Plan Sponsor, acting reasonably, issued and entered in the CCAA Proceedings in respect of the transactions contemplated in this Agreement and the Plan.

"Canadian Sanction Order" shall mean an Order of the Canadian Court sanctioning the Plan in form and substance satisfactory to the Plan Sponsor, acting reasonably.

"CCAA" shall have the meaning given to such term in the recitals.

"CCAA Proceedings" shall have the meaning given to such term in the recitals.

"Closing" shall have the meaning given to such term in Section 12.1.

"Closing Date" shall have the meaning given to such term in Section 12.1.

"Consents and Approvals" shall mean all consents, approvals, notifications, waivers and/or filings from Third Parties (including any Governmental Authority and counter parties under any Contracts of the Purchased Companies) as may be necessary or desirable to effectuate the transactions contemplated by this Agreement including, without limitation all consents, approvals, notifications, waivers and/or filings required: (a) by the terms of (or which are necessary or desirable to avoid breach, contravention, violation, forfeiture, or termination of) the Contracts, the Permits, and the Timber Licences of the Purchased Companies; (b) to avoid the triggering of any Third Party rights resulting from the transactions contemplated by this Agreement, the Plan, the CCAA Proceedings or the Bankruptcy Case; and (c) by Order of the Canadian Court in the CCAA Proceedings pursuant to Section 11.3 of the CCAA, as such Order is recognized by the Bankruptcy Court in the Bankruptcy Case (all such Orders being to the satisfaction of the Plan Sponsor, acting reasonably).

"Continuing Employees" shall mean the Designated Employees who continue to be employed by the Purchased Companies as at the Closing Date. For greater certainty, Unionized Employees are not Continuing Employees.

"Continuing Obligations" shall have the meaning given to such term in Section 3.1.

"Contracts" means any and all contracts, agreements, leases instruments and other legally binding commitments or arrangements, written or oral.

"Control" means:

(a) when applied to the relationship between a Person and a corporation, the beneficial ownership by such Person at the relevant time of shares of such corporation carrying more than the greater of 50% of the voting rights ordinarily exercisable at meetings of shareholders of such corporation and the percentage of voting rights ordinarily exercisable at meetings of shareholders of such corporation that are sufficient to elect a majority of the directors of such corporation;

(b) when applied to the relationship between a Person and a partnership, joint venture or other unincorporated entity, the beneficial ownership by such Person at the relevant time of more than 50% of the ownership interests of the partnership, joint venture or other unincorporated entity in circumstances where it can reasonably be expected that such Person directs or has the power to direct the affairs of the partnership, joint venture or other unincorporated entity; and

(c) in the case of any Person, the right to directly or indirectly (i) exercise a majority of the voting rights in respect of that Person, (ii) otherwise control that Person by virtue of provisions contained in its constating documents, or (iii) manage all or substantially all of the assets of that Person pursuant to any contract or arrangement;

"Court Orders" shall mean the Canadian Orders and the U.S. Orders.

"Designated Employees" shall mean the Employees who are not Unionized Employees and who are designated by the Plan Sponsor on a schedule to be delivered by the Plan Sponsor to the Vendors on or before Closing and which, when delivered, shall form Schedule A hereto, which schedule shall include all or substantially all Employees at the Closing Date who are not Unionized Employees.

"DIP Lender" shall mean Brookfield (US) Corporation.

"Employee" shall mean an individual who is employed by the Vendors in the Business, whether on a full-time or a part-time basis.

"Encumbrance" means any interest, charge, lien, claim, mortgage, lease, sublease, hypothecation, deed of trust, pledge, security interest, option, right of use or possession, right of first offer or first refusal, right of way, easement, servitude, restrictive covenant, encroachment, encumbrance, or other restriction or limitation of any kind howsoever erected or arising.

"Equity Interests" of a Person shall mean capital stock, capital stock equivalents (including stock options, restricted stock units, stock appreciation rights, any securities convertible into or exchangeable or exercisable for any such capital stock, and phantom stock), partnership interests, membership interests, participations, shares and other equity interests of any class or kind (however designated) of such Person.

"Excluded Property" shall have the meaning given to such term in Section 2.3.

"Existing Collective Agreement" shall mean the Labour Agreement dated as of May 31, 2002 between Fraser NH LLC and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union A.F.L.-C.I.O. and its Local Union No. 4-0075 (extended by agreement until August 29, 2010).

"Filing Date" shall mean the date of the commencement of the CCAA Proceedings, being June 18, 2009.

"Final Order" shall mean an order, judgment or other decree: (i) the operation or effect of which has not been reversed, stayed, modified or amended; (ii) as to which any and all appeal periods with respect to such order, judgment or decree have expired; and (iii) as to which no appeal or any extension thereof shall then be pending or, if an appeal has been sought, such appeal has been withdrawn, discontinued, dismissed with prejudice, or affirmed by the highest court to which it was appealed, and the time to appeal under any extension thereof has expired.

"Fixed Assets" means any and all equipment and machinery, improvements, office equipment, furniture, fixtures, signage, tools, storage systems, furnishings and supplies of all kinds of the Vendors.

"FNHL Shares" shall mean any and all of the issued and outstanding shares and other Equity Interests of FNHL.

"Former Landfill" shall mean Former Landfill LLC, a limited liability company formed under the laws of the State of New Hampshire.

"FPHI Shares" shall mean any and all of the issued and outstanding shares and other Equity Interests of FPHI.

"Fraser Madawaska Shares" shall mean any and all of the issued and outstanding shares and other Equity Interests of Fraser Madawaska.

"FTL Shares" shall mean any and all of the issued and outstanding shares and other Equity Interests of FTL.

"Gorham APA" shall mean the asset purchase agreement dated November 3, 2010 between M&M Consulting and Contracting LLC and FNHL.

"Gorham Assets" shall mean the property and assets of every kind and description used in the operation of or relating to the Gorham Mill.



**"Gorham Business"** shall mean the business of manufacturing and selling paper products and related activities carried on with the Gorham Assets or otherwise in relation to the Gorham Mill.

**"Gorham Mill"** means the paper mill owned and operated by the Vendors at 72 Cascade Flats, Gorham, New Hampshire, U.S., 03581 and the operations carried on thereat.

**"Governmental Authority"** shall mean any government (including any Canadian, US or foreign, federal, provincial, state, city, municipal or county government), any political subdivision thereof and any governmental, administrative, ministerial, regulatory, central bank, self-regulatory, quasi-governmental, taxing, executive or legislative department, commission, body, agency, authority or instrumentality of any thereof, including any Judicial Authority.

**"Included Property"** shall mean the Assets and any and all other direct or indirect businesses, property and assets of each of the Purchased Companies other than the Excluded Property, and shall include, without limitation, any and all: (i) Accounts Receivable, Inventory, Fixed Assets, Lands, Contracts, Permits, Timber Licenses, Equity Interests (including, without limitation, the FTL Shares, the Fraser Madawaska Shares and, unless excluded pursuant to Section 2.3(a) hereof, the FNHL Shares), Intellectual Property, Prepaid Expenses and Books and Records; (ii) the Mills; and (iii) the Katahdin Preferred Shares.

**"Intellectual Property"** shall mean all intellectual property including, without limitation, issued patents, inventions, pending applications for patents, copyrights, copyright registrations and applications, industrial designs and process, royalty rights, or other proprietary rights (and any applications related thereto), ISO registrations, dedicated computer software other than commercial off-the-shelf software, (including licences to use such computer software), engineering drawings and plans, technical specifications and ratings data, know-how, trade secrets, instruction manuals, formulae, industrial and production technology, process control technology, quality specifications, and similar rights including, without limitation, URLs and world wide web domain names.

**"Intercompany Liabilities"** shall mean any and all Liabilities owing by any Vendor or any of such Vendor's Affiliates or Subsidiaries, respectively, to any other Vendor or any of such other Vendor's Affiliates or Subsidiaries, respectively.

**"Intercompany Receivables"** shall mean any and all Accounts Receivables owing to any Vendor or any of such Vendor's Affiliates or Subsidiaries, respectively, from any other Vendor or any of such other Vendor's Affiliates or Subsidiaries, respectively.

**"Inventory"** shall mean any and all inventory including, without limitation: (i) raw materials, including all wood, fiber supplies, chemicals and fillers; (ii) operating supplies, including fuel and other consumables; (iii) all spare parts, mill stores, supplies and equipment including, but not limited to, those described in Schedule B, (iii) all goods or materials in the process of being manufactured or otherwise characterized as work in process; (iv) all finishing supplies utilized in the wrapping and transportation of the finished product as at the Closing Date; and (v) all finished goods as at the Closing Date.

"Judicial Authority" shall mean any court, arbitrator, special master, receiver, tribunal or similar body of any kind entitled to exercise judicial authority including without limitation the Canadian Court and the Bankruptcy Court.

"Katahdin Preferred Shares" shall mean the 10,000 convertible, term units of Katahdin Paper Company LLC owned by Fraser Madawaska.

"Lands" shall mean any and all freehold property and interests therein, and all buildings and other structures, facilities or improvements currently or hereafter located thereon, all fixtures, systems and items of personal property attached or appurtenant thereto and any and all rights of way, licences or rights of occupation, easements or other similar rights, as applicable, in connection with such freehold property, including without limitation the freehold property municipally known as:

- (a) 100 Levesque Mill Road, Ashland, Maine;
- (b) Route 11, 1220 Masardis Road, Masardis, Maine; and
- (c) to the extent that the Gorham Assets and the Gorham Mill do not become Excluded Property in accordance with the terms set out in Section 2.3 of this Agreement, 75 Cascade Flats, Gorham, New Hampshire.

"Law" shall mean any treaty, code, statute, law (including common law), rule, regulation, or ordinance of any kind of any Governmental Authority.

"Liability" shall mean, with respect to any Person, any liability or obligation of such Person of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise, and whether or not the same is required to be accrued on the financial statements of such Person.

"Lumber Mills" shall mean collectively, the Ashland Mill and the Masardis Mill.

"Lumber Mills Business" shall mean the business of manufacturing and selling lumber and related activities carried on with the Ashland Assets and the Masardis Assets or otherwise in relation to the Lumber Mills.

"Masardis Assets" shall mean the property and assets of every kind and description used in the operation of or relating to the Masardis Mill.

"Masardis Mill" shall mean the lumber mill owned and operated by the Vendors at Route 11, 1220 Masardis Road, Masardis, Maine 04732 and the operations carried on thereat.

"Material Adverse Effect" shall mean any change, event or occurrence, or any material worsening of any current circumstance, event or occurrence, that individually or in the aggregate (taking into account all other such changes, events or occurrences or material worsening) has had, or would in the reasonable opinion of the Plan Sponsor be likely to have (i) a material

adverse change in or material adverse effect on the business, operations, performance, prospects, liabilities, results of operations, assets, properties or condition (financial or otherwise) of any of the Vendors, the Purchased Companies, the Business or the Included Property (excluding the Excluded Property and the Excluded Liabilities) or the Plan Sponsor's use and enjoyment of the Purchased Companies or the Included Property, in each case taken as a whole, or (ii) a material adverse change in or to the ability of the Vendors to consummate the transactions contemplated by this Agreement or to perform their obligations hereunder, or (iii) a material adverse change to or deviation from the Budget; or (iv) a material adverse change to the CCAA Proceedings or the Bankruptcy Case; or (v) the result or consequence that the Plan Sponsor or the Purchased Companies shall be deemed or required to assume or discharge any debt, liability or obligation other than as may be specifically provided for in this Agreement, but excluding, in any case (i) effects resulting from changes in general economic, regulatory, political or industry conditions or from acts of terror or war, (ii) effects resulting from changes in (or proposals to change) any Laws after the date hereof; (iii) effects resulting from the identity of, or acts attributable to, or omissions by the Plan Sponsor, the Plan Sponsor's Affiliates or the Purchased Companies, (iv) effects resulting from changes in commodity or energy prices, in interest or currency exchange rates or in capital market conditions, (v) effects resulting from circumstances that affect the industries in which the Vendors operate generally, or (vi) effects resulting from changes in generally accepted accounting principles after the date hereof. For greater certainty and without limiting the generality of the foregoing, each of the following events shall constitute a Material Adverse Effect: (a) any change, event or occurrence, or any material worsening of any current circumstance, event or occurrence, that individually or in the aggregate reduces the reasonable market value of the FPHI Shares, the Included Property or the Business by \$1,500,000 or more; and (ii) a Default or an Event of Default (as such terms are defined in the Brookfield DIP Facility) occurs under the Brookfield DIP Facility.

"Mills" shall mean collectively, the Gorham Mill and the Lumber Mills. If the Gorham Assets and the Gorham Mill become Excluded Property in accordance with the terms set out in Section 2.3 of this Agreement, the term "Mills" shall mean the Lumber Mills.

"Monitor" shall have the meaning given to such term in the recitals.

"Monitor's Certificate" means the certificate of the Monitor confirming that all matters to be completed prior to the consummation of the purchase transactions contemplated hereby have been completed, substantially in the form attached to the Canadian Approval and Vesting Order.

"Net Working Capital" shall mean the sum of all of the following that is Included Property in relation to the Lumber Mills Business: (a) Accounts Receivable; (b) Prepaid Expenses; (c) Inventory that is in good and useful condition for its purpose; minus the Continuing Accounts Payable in relation to the Lumber Mills Business.

"Order" shall mean any judgment, writ, decree, directive, decision, injunction, ruling, award or order (including any consent decree or cease and desist order) of any kind of any Governmental Authority or Judicial Authority.

"Ordinary Course" shall mean, with respect to any action to be taken by a Vendor or a Purchased Company, that such action is consistent with the past customs and practices (including

with respect to quantity and frequency) of such Vendor or Purchased Company and is taken in the ordinary course of the normal day-to-day business, operations and activities of the Vendor or the Purchased Company in respect of the Business, taking into account the commencement of the CCAA Proceedings and the Bankruptcy Case.

"Organizational Documents" of a Person at any time shall mean (a) all certificates, articles or agreements of any kind filed with any Governmental Authority or Judicial Authority to form or organize such Person, and (b) all agreements, documents or instruments creating, organizing or governing the internal affairs of such Person, including trust agreements, by-laws, codes of regulations, memoranda of incorporation or association, partnership agreements, limited liability company agreements, articles, charters and operating agreements, in each case, as in effect at such time.

"Party" shall mean a party to this Agreement and any reference to a Party includes its successors and permitted assigns and "Parties" means every Party.

"Permits" means any and all authorizations, registrations, permits, certificates of approval, approvals, grants, licences, quotas, consents, commitments, rights or privileges (other than those relating to the Intellectual Property) issued or granted by any Governmental Authority.

"Permitted Encumbrances" shall mean (i) easements, leases, reservations, or other rights of others in, or minor defects and irregularities in title that do not materially impair the use of the encumbered property or assets for the purposes for which they are held; (ii) mechanics', materialmen's, carriers', workers', repairers' and similar statutory liens arising in the Ordinary Course which liens have not had and are not reasonably likely to have a material impact on the FPHI Shares or the Included Property; (iii) any Encumbrance or privilege vested in any lessor, licensor or permittor for rent or other obligations solely related to the period after Closing in respect of any Contract; (iv) licenses of or other grants of rights to use Intellectual Property entered into prior to the Filing Date in the ordinary course of business consistent with past practice of the Vendors (and from and after the Filing Date, in the Ordinary Course) that do not materially impair the use of the encumbered property or assets for the purposes for which they are held; (v) Encumbrances, title exceptions or other imperfections of title caused by or resulting from acts of the Plan Sponsor or any of the Plan Sponsor's Affiliates, employees, officers, directors, agents, contractors, invitees or licensees of the Plan Sponsor; and (vi) such other Liens as permitted by the Plan Sponsor, in its sole discretion.

"Person" shall mean an individual, a partnership, a sole proprietorship, a company, a firm, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization, a union, a group acting in concert, a Judicial Authority, a Governmental Authority or any other entity or association of any kind.

"Plan" shall mean the plan of compromise or arrangement under the CCAA in respect of all of the Vendors on a substantively consolidated basis that, among other things, is consistent with and gives effect to the transactions contemplated by this Agreement, and is otherwise in form and substance satisfactory to the Plan Sponsor, acting reasonably, substantially in the form attached as Exhibit A, as recognized by the Bankruptcy Court in the Bankruptcy Case, as

amended, modified, varied, or restated from time to time in a manner acceptable to the Plan Sponsor, acting reasonably.

"Plan Sponsor" shall mean Brookfield or such other Person or Persons as it may designate on or prior to Closing.

"Plan Sponsor's Affiliates" shall mean any and all Affiliates of the Plan Sponsor other than the Vendors and the Subsidiaries of the Vendors.

"Plan Sponsor's Solicitors" means Torys LLP.

"Premises" means all real property, buildings and facilities, including Lands and any part of any property, building or facility owned, leased, or operated.

"Prepaid Expenses" shall mean any and all prepaid expenses and deposits at any time.

"Purchase Price" shall have the meaning given to such term in Section 4.1(a).

"Purchased Companies" shall mean collectively, FPHI, Fraser Madawaska, FTL and, unless the FNHL Shares, the Gorham Assets and the Gorham Mill become Excluded Property pursuant to Section 2.3 hereof, FNHL.

"Representatives" of a Person shall mean controlling persons, partners, directors, officers, managers, trustees, including any trustee-in-bankruptcy, employees, agents, representatives, consultants, affiliates, advisors, counsel or nominees of such Person.

"Subsidiary" means, with respect to any specified Person, any other Person of which such specified Person is, at the time, directly or indirectly, (a) owns at least 50% of the outstanding capital stock (or other shares of beneficial interest) entitled to vote generally, (b) holds at least 50% of the partnership, limited liability company, joint venture or similar interests, or (c) is a general partner, managing member or joint venturer.

"Targeted Net Working Capital" shall mean Three Million, Eight Hundred and Forty Thousand Dollars (\$3,840,000.00), representing the targeted Net Working Capital of the Lumber Mills Business as at the Closing Date.

"Tax" shall mean all taxes including all income, sales, use, goods and services, harmonized sales, value added, capital, capital gains, alternative, net worth, transfer, profits, withholding, payroll, employer health, excise, franchise, real property and personal property taxes, and any other taxes, customs duties, fees, levies, imposts and other assessments or similar charges in the nature of a tax, together with any installments with respect thereto, and any interest, fines and penalties, in all cases imposed by any Governmental Authority in respect thereof and whether disputed or not.

"Termination Date" shall have the meaning given to such term in Section 13.2(b).

"Third Party" shall mean any Person other than a Party or any of its Affiliates.

"Timber Licences" shall mean any and all rights to harvest timber from lands issued by a Governmental Authority or otherwise.

"Transaction" shall mean the transactions contemplated by this Agreement.

"Transactional Costs" shall mean all filing fees, recording fees, surveys, notarial fees, software license fees and all other similar fees and costs arising out of this Agreement, the transfer, assignment, conveyance or delivery of property and assets pursuant hereto, and the other transactions contemplated by this Agreement.

"Unionized Employees" shall mean the Employees who are governed by the Existing Collective Agreement and who are employees of FNHL as of the Closing Date.

"United States" or "U.S." shall mean the United States of America

"U.S. Orders" shall mean collectively, the U.S. Sale Order, the U.S. Sanction Recognition Order and any other Order of the Bankruptcy Court issued and entered in the Bankruptcy Case in respect of the transactions contemplated in this Agreement and the Plan.

"U.S. Sale Order" shall mean an Order of the Bankruptcy Court recognizing and giving effect to the Canadian Approval and Vesting Order and approving the transactions contemplated by this Agreement, in form and substance satisfactory to the Plan Sponsor, acting reasonably.

"U.S. Sanction Recognition Order" shall mean an Order of the Bankruptcy Court recognizing the Canadian Sanction Order, in form and substance satisfactory to the Plan Sponsor, acting reasonably.

"Vendors" shall have the meaning given to such term in the introductory paragraph.

"Vendors' Affiliates" shall mean an Affiliate of the Vendors, which Affiliate for greater certainty shall exclude the Plan Sponsor and any of the Plan Sponsor's Affiliates.

"Vendors' Solicitors" means Thornton Grout Finnigan LLP.

"Workers Compensation Obligations" shall mean obligations of the Purchased Companies to present or past employees of either Lumber Mill pursuant to the Maine Workers Compensation Law (39 A.M.R.S. § 101 et seq. or predecessor or successor statutes) and which are subject to insurance policies that are Included Property, including without limitation the claims listed on Schedule C. For greater certainty, any claims under or in relation to insurance policies that are not Included Property and do not remain with the Purchased Companies following Closing are not Workers Compensation Obligations for purposes of this Agreement.

## **Section 1.2 Headings and Table of Contents.**

The inclusion of headings and a table of contents in this Agreement is for convenience of reference only and shall not affect the construction or interpretation hereof. The terms "hereof", "hereunder" and similar expressions refer to this Agreement and not to any particular Article,

Section or other portion hereof. Unless otherwise provided, references herein to Articles, Sections and Schedules are to Articles, Sections and Schedules to this Agreement.

**Section 1.3 Gender and Number and Extended Meanings.**

In this Agreement, unless the context otherwise requires, words importing the singular include the plural and *vice versa*, words importing gender include all genders or the neuter, and words importing the neuter include all genders. The term "includes" and "including" means "includes without limitation" and "including without limitation".

**Section 1.4 Statutory References.**

In this Agreement, unless the context otherwise requires or except as otherwise provided herein, a reference to any statute is to that statute as now enacted or as the same may from time to time be amended, re-enacted or replaced and includes any regulations made thereunder.

**Section 1.5 Currency.**

Except where otherwise expressly provided, all amounts in this Agreement are stated and shall be paid in U.S. currency.

**Section 1.6 Generally Accepted Accounting Principles.**

In this Agreement, except to the extent otherwise expressly provided, references to "generally accepted accounting principles" mean, for all principles stated in the Handbook of the Canadian Institute of Chartered Accountants, such principles so stated.

**Section 1.7 Interpretation.**

The Parties acknowledge and agree that: (i) each Party and its counsel reviewed and negotiated the terms and provisions of this Agreement and have contributed to their revision; (ii) the rule of construction to the effect that any ambiguities are resolved against the drafting party shall not be employed in the interpretation of this Agreement; and (iii) the terms and provisions of this Agreement shall be construed fairly as to the Parties hereto and not in favour of or against any Party, regardless of which Party was generally responsible for the preparation of this Agreement.

**Section 1.8 Invalidity of Provisions.**

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof. To the extent permitted by Law, the Parties waive any provision of Law which renders any provision of this Agreement invalid or unenforceable in any respect. The Parties shall engage in good faith negotiations to replace any provision which is declared invalid or unenforceable with a valid and enforceable provision, the economic effect of which comes as close as possible to that of the invalid or unenforceable provision which it replaces.

**Section 1.9 Entire Agreement.**

This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter of this Agreement. There are no warranties, conditions, or representations (including any that may be implied by statute) and there are no agreements in connection with such subject matter except as specifically set forth or referred to in this Agreement. No reliance is placed on any warranty, representation, opinion, advice or assertion of fact made either prior to, contemporaneous with, or after entering into this Agreement, or any amendment or supplement thereto, by any Party to this Agreement or its directors, officers, employees or agents, to any other party to this Agreement or its directors, officers, employees or agents, except to the extent that the same has been reduced to writing and included as a term of this Agreement, and none of the Parties to this Agreement has been induced to enter into this Agreement or any amendment or supplement by reason of any such warranty, representation, opinion, advice or assertion of fact. Accordingly, there shall be no liability, either in tort or in contract, assessed in relation to any such warranty, representation, opinion, advice or assertion of fact, except to the extent contemplated above.

**Section 1.10 Waiver, Amendment.**

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement shall be binding unless executed in writing by the Party to be bound thereby. No waiver of any provision of this Agreement shall constitute a waiver of any other provision nor shall any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided.

**Section 1.11 Governing Law.**

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

**Section 1.12 Schedules and Exhibits.**

The following are the Schedules and Exhibits attached to this Agreement:

Exhibit A	—	Form of Plan
Exhibit B	—	Form of U.S. Tax Certificate
Exhibit C	—	Form of Notice Re U.S. Tax Certificate
Schedule A	—	Designated Employees
Schedule B	—	Inventory
Schedule C	—	Workers Compensation Obligations
Schedule 3.1	—	Continuing Obligations
Schedule 3.1(a)	—	Continuing Accounts Payable
Schedule 7.1	—	Capitalization
Schedule 7.5	—	Compliance with Laws
Schedule 7.6	—	Permits



Schedule 7.7	— Title
Schedule 7.8	— Lands

## **ARTICLE 2**

### **AGREEMENT OF PURCHASE AND SALE AND PLAN PROPOSAL**

#### **Section 2.1 Agreement to Purchase and Sell the FPHI Shares.**

Upon the terms and subject to the conditions contained in this Agreement, at Closing the Vendors shall sell, convey, transfer, assign and deliver to the Plan Sponsor, and the Plan Sponsor shall purchase and accept from the Vendors, free and clear of any and all Encumbrances, all right, title and interest of the Vendors in and to the FPHI Shares.

#### **Section 2.2 Release and Assignment of Interests in Included Property.**

Upon the terms and subject to the conditions contained in this Agreement, at Closing the Vendors other than the Purchased Companies shall release, sell, convey, transfer, assign and deliver to the Purchased Companies, and the Purchased Companies shall purchase and accept from such other Vendors, free and clear of any and all Encumbrances (other than Permitted Encumbrances), any and all right, title and interest they may have in and to the Included Property. For greater certainty, all right, title and interest in and to the Included Property shall on and after Closing be held by the Purchased Companies free and clear of any and all Encumbrances other than Permitted Encumbrances and free and clear of any and all Liabilities other than Continuing Obligations.

#### **Section 2.3 Excluded Property.**

Notwithstanding anything contained herein to the contrary, subject to the terms and conditions contained in this Agreement, the Included Property shall not include any of the following (collectively, the "Excluded Property"):

(a) the Gorham Assets, the Gorham Mill and the FNHL Shares if, prior to Closing, the Vendors complete the sale or the liquidation of the Gorham Assets and the Gorham Mill to one or more arm's length third party Plan Sponsors for cash consideration and on terms and conditions satisfactory to the Plan Sponsor, acting reasonably, whether pursuant to the Gorham APA or otherwise; and

(b) any Assets or other property and assets of the Purchased Companies that the Plan Sponsor designates as Excluded Property by written notice given to the Vendors at any time on or before Closing.

#### **Section 2.4 The Plan.**

The purchase and sale transactions contemplated by this Agreement shall be implemented in conjunction with the implementation of the Plan in respect of all of the Vendors. The Plan, and all Court Orders and other documents relating to the Plan, shall among other things extinguish and forever bar any and all Liabilities of the Purchased Companies as of

Closing other than the Continuing Obligations, and shall give effect to and be consistent with the terms and conditions of this Agreement and the Ancillary Agreements and be otherwise in form and content satisfactory to the Plan Sponsor, acting reasonably.

### ARTICLE 3 CONTINUING OBLIGATIONS

#### Section 3.1 Continuing Obligations.

(a) For greater certainty, and notwithstanding anything else in this Agreement or in the Ancillary Agreements: (i) none of the Plan Sponsor and the Plan Sponsor's Affiliates shall assume or be deemed to assume, agree to become responsible for, perform, discharge or pay when due, any Liabilities whatsoever of the Purchased Companies or the other Vendors including, without limitation, the Continuing Obligations and the Excluded Liabilities; and (ii) none of the Purchased Companies shall assume or be deemed to assume, agree to become responsible for, perform, discharge or pay when due any Continuing Obligations of any other Purchased Company.

(b) As a result of the implementation of the Plan, the Court Orders, and other events contemplated by this Agreement, and as a condition precedent to completion of the transactions contemplated by this Agreement, on and immediately after Closing the Purchased Companies shall have no Liabilities whatsoever except for the Liabilities described in Schedule 3.1 attached hereto (collectively, the "Continuing Obligations").

(c) For greater certainty, on Closing the Purchased Companies shall only be liable for accounts payable that constitute Continuing Accounts Payable set out in Schedules 3.1 and 3.1(a) delivered by the Vendors on Closing and mutually agreed to by the Parties. The Purchased Companies shall have no liability whatsoever for any Liabilities with respect to the Ordinary Course accounts payable and trade payables that are to be paid by the Vendors in the Ordinary Course before the Closing. For greater certainty, the Continuing Accounts Payable shall be limited to the post-Filing Date amounts owing to the Person(s) listed in Schedule 3.1(a).

(d) Without limiting the generality of the foregoing, and for greater certainty, the Continuing Obligations will not include any of the following (collectively, the "Excluded Liabilities"):

- (i) any and all Liabilities relating to Excluded Property;
- (ii) any and all Intercompany Liabilities owing by any of the Purchased Companies to any of the other Vendors;
- (iii) any and all Liabilities incurred under or in relation to the Vendors' CCAA Proceedings or Bankruptcy Case;
- (iv) any and all Liabilities of any of the Purchased Companies or other Vendors arising prior to, or relating to events or any operations occurring prior to, the Filing Date (except for the Liabilities expressly set out in clause (ii) and (iii) of Schedule 3.1);

- (v) any and all Liabilities with respect to any current or former Employees of the Purchased Companies who are neither Continuing Employees nor Unionized Employees (regardless of when such Liability arises), and any and all Liabilities with respect to any current or former Employees of any of the other Vendors;
- (vi) any and all Liabilities with respect to the Workers Compensation Obligations if, on or prior to Closing, the Vendors implement Alternative LC Arrangements as defined in Section 4.2 of this Agreement; and
- (vii) any and all Liabilities of the Vendors arising under this Agreement or the Ancillary Agreements.

#### ARTICLE 4 PURCHASE PRICE AND RELATED MATTERS

##### Section 4.1 Purchase Price.

(a) Subject to Section 4.1(b), the aggregate purchase price (the "Purchase Price") payable by the Plan Sponsor to the Vendors in respect of the purchase and sale transactions contemplated by this Agreement shall be Fifteen Million Dollars (\$15,000,000) in cash (the "Cash Component"), subject to adjustment in accordance with Section 4.5 of this Agreement.

(b) If the Gorham Assets, the Gorham Mill and the FNHL Shares become Excluded Property in accordance with the terms set out in Section 2.3 of this Agreement, the Cash Component will be reduced by an amount equal to the lesser of: (i) the aggregate net proceeds realized from the sale or liquidation of the Gorham Assets and the Gorham Mill; or (ii) \$2,695,722 million.

##### Section 4.2 Payment of Purchase Price.

(a) On Closing, the Plan Sponsor shall pay the Cash Component, as adjusted in accordance with Section 4.5 of this Agreement, as follows:

- (i) Payment to the DIP Lender of such amount as may be required to fully and finally repay and satisfy any and all debts, obligations and liabilities under or in respect of the Brookfield DIP Facility. For greater certainty, subject to Section 4.3, the Vendors' obligations in respect of the Brookfield Letters of Credit shall be satisfied by irrevocable and unconditional payment to the DIP Lender of cash in an amount equal to the full amount which may be payable, contingent or otherwise, to recipients or beneficiaries of the Brookfield Letters of Credit (the "Brookfield LC Amount").
- (ii) The balance of the Cash Component, if any, to the Monitor in trust for the benefit of the Vendors other than the Purchased Companies (the "Balance").

(b) The Vendors may make such alternative arrangements as may be available to them prior to Closing, and as may be satisfactory to the Plan Sponsor acting reasonably, to terminate, cancel and surrender the Brookfield Letters of Credit without payment or other obligation, contingent or otherwise, on the part of the DIP Lender, Brookfield, the Plan Sponsor or the Plan Sponsor's Affiliates (the "Alternative LC Arrangements"). In that event, the amount payable under Section 4.2(a)(i) of this Agreement shall be adjusted accordingly so that no amount shall be payable to the DIP Lender in respect of the Brookfield Letters of Credit and the Workers Compensation Obligations shall be Excluded Liabilities.

#### **Section 4.3 Contingent Reimbursement Obligation**

If:

(a) at Closing the Vendors satisfy their obligations in respect of the Brookfield Letters of Credit by irrevocable and unconditional payment to the DIP Lender of the Brookfield LC Amount, pursuant to and as contemplated by Section 4.2(a)(i) of this Agreement; and

(b) the cumulative aggregate payments, out-of-pocket costs and expenses, and other third party out-of-pocket amounts paid or payable by the DIP Lender, the Purchased Companies, the Plan Sponsor or the Plan Sponsor's Affiliates to fully and finally satisfy and terminate all obligations and liabilities in respect of the Brookfield Letters of Credit and Workers Compensation Obligations (the "Actual WCB/LC Liability") is less than the Brookfield LC Amount;

the Plan Sponsor shall, as soon as practicable, make to or for the benefit of the Vendors (other than the Purchased Companies) a cash reimbursement payment in an amount equal to the amount by which the Actual WCB/LC Liability is less than the Brookfield LC Amount. The Purchased Companies, the Plan Sponsor and the DIP Lender shall at any time following Closing be entitled to enter into reasonable agreements and arrangements for the satisfaction of any or all liabilities and obligations in respect of the Brookfield Letters of Credit and Workers Compensation Obligations. On or before Closing, the Vendors, the Plan Sponsor, the DIP Lender and the Monitor, each acting reasonably, shall enter into a further agreement detailing the administration of the obligations in this Section 4.3.

#### **Section 4.4 Closing Date Estimated Balance Sheet**

Not less than two (2) Business Days before the Closing Date, the Vendors shall deliver to the Plan Sponsor a balance sheet of the Business as at the Closing Date which shall reflect a good faith estimate by the Vendors of the (a) balance sheets of the Business and the Purchased Companies as at the Closing Date, and (b) the Net Working Capital of the Purchased Companies (the "Closing Date Estimated Balance Sheet"). The Closing Date Estimated Balance Sheet shall be accompanied by a certificate of the chief restructuring officer of FPI, or other senior officer of FPI acceptable to the Plan Sponsor, to the effect that such officer has reviewed the Closing Date Estimated Balance Sheet; that the Closing Date Estimated Balance Sheet represents the best estimate, made in good faith, of the financial position of the Business as at the Closing Date, prepared in accordance with this Agreement, and that such officer has no reason to believe that such estimate may not be relied upon for purposes of the Closing. The Closing Date Estimated

Balance Sheet shall also be accompanied by a copy of the working papers of the Vendors used in the preparation thereof, together with such other evidence supporting the amounts specified therein as the Plan Sponsor may reasonably request.

#### **Section 4.5 Adjustment to Cash Component**

(a) Within three (3) Business Days of the Closing Date, the Vendors shall notify the Plan Sponsor of any revisions to the Closing Date Estimated Balance Sheet (the "Final Closing Date Balance Sheet"), accompanied by an updated certificate and other materials referred to in Section 4.3 hereof. If, and to the extent that, the Net Working Capital is disclosed in the Final Closing Balance Sheet as being less or more than the Targeted Net Working Capital, the Cash Component will be adjusted accordingly.

(b) For greater certainty: (a) if the Final Closing Date Balance Sheet discloses that the Net Working Capital is greater than the Targeted Net Working Capital, the Cash Component will be increased by the same amount as such difference; and (b) if the Final Closing Date Balance Sheet discloses that the Net Working Capital is less than the Targeted Net Working Capital, the Cash Component will be decreased by the same amount as such shortfall.

(c) Absent patent error, inconsistencies or other defects, the Final Closing Date Balance Sheet shall be used for purposes of determining the Cash Component on Closing and for otherwise completing the transactions contemplated by this Agreement on Closing.

(d) The Purchase Price shall be held and not distributed by the Vendors and the Monitor until the Final Closing Date Balance Sheet has been delivered to the Plan Sponsor and the payment contemplated by Section 4.5(b) hereof, if any, has been made. Notwithstanding the foregoing, the Vendors shall on the Closing Date use any portion of the Purchase Price required to fully repay and satisfy the Brookfield DIP Facility as contemplated by this Agreement.

#### **Section 4.6 Financial Statements**

All financial statements and financial information required to be prepared and provided pursuant to this Agreement shall be prepared in accordance with generally accepted accounting principles applied on a basis consistent with previous fiscal periods, except as otherwise provided in this Agreement.

### **ARTICLE 5 REPRESENTATIONS AND WARRANTIES REGARDING THE PLAN SPONSOR**

The Plan Sponsor hereby represents and warrants to the Vendors as of the date hereof as follows:

#### **Section 5.1 Organization.**

The Plan Sponsor is a corporation, partnership, limited liability company or other entity that is duly organized, validly existing and in good standing under the Laws of its jurisdiction of formation. The Plan Sponsor has the corporate power and authority necessary to (a) execute,

deliver and perform its obligations under this Agreement and the Ancillary Agreements, (b) consummate the transactions contemplated hereby and thereby to be consummated by it, and (c) conduct its business as currently conducted by it. The Plan Sponsor is duly qualified or licensed and in good standing as a foreign corporation authorized to do business under the Laws of each jurisdiction in which the ownership, leasing or use of assets by it or the conduct of business by it requires such licensing or qualification, except where the failure to be so licensed or qualified and in good standing would not have a material adverse effect on the Plan Sponsor, the execution, delivery or performance of this Agreement, or any of the Ancillary Agreements by the Plan Sponsor or the consummation of the transactions contemplated hereby and thereby to be consummated by it. The Plan Sponsor is not in violation of any provision of its Organizational Documents.

#### **Section 5.2 Authorization, Execution and Enforceability.**

The execution and delivery of this Agreement and the Ancillary Agreements in each case to which the Plan Sponsor is a party, by the Plan Sponsor, the performance by the Plan Sponsor of its obligations hereunder and thereunder and the consummation by the Plan Sponsor of the transactions contemplated hereby and thereby to be consummated by it have been duly authorized by all necessary corporate action on the part of the Plan Sponsor. This Agreement constitutes and, as of the Closing each of the Ancillary Agreements will constitute, a legal, valid and binding obligation of the Plan Sponsor, enforceable against the Plan Sponsor in accordance with its respective terms, except insofar as enforceability may be limited by bankruptcy, insolvency, moratorium or other Laws which may affect creditors' rights and remedies generally and by principles of equity (regardless of whether such enforceability is considered in a Proceeding in equity or at law). This Agreement has been, and, as of the Closing each Ancillary Agreement will have been, duly executed and delivered by the Plan Sponsor.

#### **Section 5.3 Financing.**

The Plan Sponsor has sufficient funds available on hand to enable the Plan Sponsor (a) to pay the Purchase Price and all fees and expenses related to the transactions contemplated hereby, to the extent that this Agreement or the Ancillary Agreements requires it to pay such fees and expenses, and (b) to pay and discharge all of its other liabilities and obligations when due.

#### **Section 5.4 Brokers; Finders.**

No finder, broker or similar intermediary acting on behalf of the Plan Sponsor or any of the Plan Sponsor's Affiliates is entitled to a commission, fee or other compensation in connection with the negotiation, execution or delivery of this Agreement or the Ancillary Agreements or the consummation of any of the transactions contemplated hereby or thereby.

#### **Section 5.5 Vendors' Acknowledgment; Exclusivity of Representations and Warranties.**

The Vendors acknowledge and agree that except for the representations and warranties expressly set forth herein or in any Ancillary Agreement, the Vendors have not relied on any representation or warranty from the Plan Sponsor or any of the Plan Sponsor's Affiliates or any employee, officer, director, accountant, financial, legal or other Representative of the Plan Sponsor or the Plan Sponsor's Affiliates in determining whether to enter into this Agreement.

**ARTICLE 6**  
**REPRESENTATIONS AND WARRANTIES OF THE VENDORS**

Each of the Vendors represents and warrants to the Plan Sponsor, as of the date hereof, as follows:

**Section 6.1 Organization.**

Each of the Vendors is a corporation, partnership, limited liability company or other entity that is duly organized, validly existing and in good standing under the Laws of its jurisdiction of formation. Each of the Vendors has the corporate power and authority necessary to conduct the Business as currently conducted by it. Subject to requisite Canadian Court and Bankruptcy Court approval, each of the Vendors has the corporate power and authority necessary to (a) execute, deliver and perform its obligations under this Agreement and the Ancillary Agreements, and (b) consummate the transactions contemplated hereby and thereby to be consummated by it. Each of the Vendors is duly qualified or licensed and in good standing as a foreign corporation authorized to do business under the Laws of each jurisdiction in which the current ownership, leasing or use of assets by it or the current conduct of business by it requires such licensing or qualification, except where the failure to be so licensed or qualified and in good standing would not, individually or in the aggregate, have a Material Adverse Effect on any of the Vendors, the execution, delivery or performance of this Agreement, or any of the Ancillary Agreements by each of the Vendors or the consummation of the transactions contemplated hereby and thereby to be consummated by each of them. Each of the Vendors is not in violation of any provision of its Organizational Documents except where such violation would not, individually or in the aggregate, have a Material Adverse Effect.

**Section 6.2 Authorization, Execution and Enforceability.**

Subject to requisite Canadian Court approval and Bankruptcy Court approval, the execution and delivery of this Agreement and the Ancillary Agreements by each of the Vendors, the performance by each of the Vendors of its obligations hereunder and thereunder and the consummation by each of the Vendors of the transactions contemplated hereby and thereby to be consummated by it have been duly authorized by all necessary corporate action on the part of each of the Vendors. Subject to requisite Canadian Court approval and Bankruptcy Court approval, this Agreement constitutes, and, as of the Closing each of the Ancillary Agreements will constitute, a legal, valid and binding obligation of each of the Vendors, enforceable against each of the Vendors in accordance with its respective terms, except insofar as enforceability may be limited by general principles of equity. This Agreement has been, and, as of the Closing each Ancillary Agreement will have been, duly executed and delivered by each of the Vendors.

**Section 6.3 No Conflict.**

Subject to approval of the Canadian Court and the Bankruptcy Court and receipt of the Consents and Approvals, the execution, delivery and performance by each Vendor of this Agreement and the Ancillary Agreements to which such Vendor is, or on the Closing Date will be, a party do not and will not conflict with or result in a breach of the terms, conditions or provisions of, constitute a default under, result in a violation of, give to any Person any right of

termination, amendment, modification, acceleration or cancellation or any preemptive right or right to the payment of any penalty under, or result in the creation or imposition of any Encumbrance upon any of the assets or property of the Vendors, or require any consent or other action by or declaration or notice to any Government Authority pursuant to (i) the Organizational Documents of the Vendors, (ii) any material contract to which the Vendors are a party or to which any of their assets or property are subject, (iii) any order of any Government Authority or Judicial Authority applicable to any Vendor or by which any of their assets or property are bound, or (iv) any Laws to which any of the Vendors, or any of their assets or property are subject, except for such defaults, violations and notifications that would not, individually or in the aggregate, materially hinder, delay or impair the performance by the Vendors of any of their obligations under the Ancillary Agreements.

**Section 6.4 Brokers; Finders.**

No finder, broker or similar intermediary acting on behalf of the Vendors is entitled to a commission, fee or other compensation in connection with the negotiation, execution or delivery of this Agreement or the Ancillary Agreements or the consummation of any of the transactions contemplated hereby or thereby.

**Section 6.5 Non Resident.**

FPI is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada).

**Section 6.6 Title to the FPHI Shares.**

FPI is the beneficial owner of record of the FPHI Shares with good title thereto. The FPHI Shares are not subject to any voting trust, shareholder agreement or voting agreement. Upon completion of the transactions contemplated by this Agreement, all of the FPHI Shares will be owned by the Plan Sponsor as the beneficial owner of record, with good title thereto, and, at the Time of Closing, will be free and clear of all Encumbrances, except for Permitted Encumbrances.

**Section 6.7 Title to the FTL Shares and the Fraser Madawaska Shares.**

FPHI is the beneficial owner of record of the FTL Shares and the Fraser Madawaska Shares, in each case, with good title thereto. None of the FTL Shares or the Fraser Madawaska Shares is subject to any voting trust, shareholder agreement or voting agreement. Upon completion of the transactions contemplated by this Agreement, all of the FTL Shares and the Fraser Madawaska Shares will be owned by the Plan Sponsor as the beneficial owner of record, with good title thereto, and, at the Time of Closing, will be free and clear of all Encumbrances, except Permitted Encumbrances.

**Section 6.8 Title to the FNHL Shares.**

Fraser Madawaska is the beneficial owner of record of the FNHL Shares with good title thereto. The FNHL Shares are not subject to any voting trust, shareholder agreement or voting agreement. Unless excluded pursuant to Section 2.3(a) hereof, upon completion of the transactions contemplated by this Agreement, all of the FNHL Shares will be owned by Fraser



Madawaska as the beneficial owner of record, with good title thereto, and, at the Time of Closing, will be free and clear of all Encumbrances, except for Permitted Encumbrances.

**ARTICLE 7**  
**REPRESENTATIONS AND WARRANTIES IN RESPECT OF THE PURCHASED**  
**COMPANIES, THE INCLUDED ASSETS AND THE BUSINESS**

Each of the Vendors represents and warrants to the Plan Sponsor, as of the date hereof, as follows:

**Section 7.1 Capitalization.**

Schedule 7.1 sets out the particulars of the authorized and issued capital of each of the Purchased Companies, the names of the beneficial owners of such securities, and if such beneficial owners are not the registered owners of such securities, the names of the Persons shown on the securities register of the applicable Purchased Company. The owners have good and marketable title, free of all Encumbrances, to the securities which are owned by them, as set out in Schedule 7.1. All of the securities listed in Schedule 7.1 as being issued and outstanding have been validly issued in compliance with all applicable Law and are outstanding as fully paid and non-assessable securities.

**Section 7.2 Subsidiaries.**

Except for the Katahdin Preferred Shares, FNHL and Former Landfill, none of the Purchased Companies has any other direct or indirect subsidiaries or hold, directly or indirectly, any shares or other ownership, equity or proprietary interests in any other Person or have any agreement of any nature to acquire, directly or indirectly, any shares or other ownership, equity or proprietary interests in any other Person.

**Section 7.3 No Other Agreements to Purchase or Sell.**

Except as set out in this Agreement and the transactions contemplated thereby and hereby, and except for the Gorham APA, no Person has any written or oral agreement, option or warrant or any right or privilege (whether by applicable Law, pre-emptive or contractual) capable of becoming such for the purchase, subscription, allotment or issuance of any interests in any of the Purchased Companies, the FPHI Shares or any of the Included Property.

**Section 7.4 Records.**

The Books and Records of each of the Purchased Companies are complete and accurate in all material respects and all corporate proceedings and actions reflected in such Books and Records have been conducted or taken in compliance with all applicable Law and with the applicable Organizational Documents of each of the Purchased Companies, as applicable.

**Section 7.5 Compliance with Laws.**

Except as set forth in Schedule 7.5, and except as would not, individually or in the aggregate, have a Material Adverse Effect, each of the Purchased Companies has conducted and

continues to conduct the Business in accordance with all Laws and Orders applicable to the Business and, to the knowledge of the Vendors, none of the Purchased Companies is in violation of any Law or any Order applicable to the operation of the Business.

**Section 7.6 Permits.**

Schedule 7.6 sets forth all of the material Permits and all pending applications therefore which have been issued to, or are held or used by, each of the Vendors which are, or upon issuance, would reasonably be expected to be, material to the conduct of Business or the ownership of the FPHI Shares or the Included Property. The Permits have been duly obtained and are to the knowledge of the Vendors, in full force and effect. The Vendors are in compliance with all material terms of such Permits, in each case except for such violations as would not have, individually or in the aggregate, a Material Adverse Effect.

**Section 7.7 Title.**

Each of the Vendors, including the Purchased Companies are the beneficial owners of the Included Property, as applicable, and have good and marketable title thereto. Except for the Encumbrances listed in Schedule 7.7 that will be discharged by the Vendors prior to Closing or pursuant to the Plan approved by the Court Orders, each of the Purchased Companies owns its respective Included Property free and clear of all Encumbrances, except Permitted Encumbrances.

**Section 7.8 Lands.**

Schedule 7.8 contains true and complete descriptions of all of the Lands. Except as described in Schedule 7.8 or except as would not have, individually or in the aggregate, a Material Adverse Effect, the Purchased Companies have title in fee simple to the Lands, as applicable, free and clear of all Encumbrances, except Permitted Encumbrances and Encumbrances that will be discharged by the Vendors on or before Closing or pursuant to the Court Orders. None of the Lands has been classified as "Tree Growth", "Farmland", or "Open Space" property for tax purposes.

**Section 7.9 Survival of Covenants, Representations and Warranties.**

The covenants, representations and warranties contained in this Agreement, the Ancillary Agreements and in all certificates and documents delivered pursuant to or contemplated by this Agreement or the Ancillary Agreements shall survive the Closing.

**ARTICLE 8  
EMPLOYEE MATTERS**

**Section 8.1 Continuing Employment.**

(a) In the event that the Gorham Assets and the Gorham Mill constitute Included Property, at Closing FNHL shall continue to employ the Unionized Employees who are Employees of FNHL immediately prior to Closing, on the same terms and conditions applicable to such Unionized Employees immediately prior to the Closing.

(b) The Purchased Companies shall continue to employ at Closing such of their respective Employees who are Continuing Employees, pursuant to and in accordance with the terms and conditions of this Agreement. The Vendors and the Plan Sponsor acknowledge that the transactions contemplated by this Agreement shall not constitute a severance of employment of any such Continuing Employee prior to or upon the consummation of the transactions contemplated hereby, and that such employees will have continuous and uninterrupted employment immediately before and immediately after the Closing.

(c) The Purchased Companies agree to provide any required notice under the *Worker Adjustment and Retraining Notification Act*, as amended (the "WARN Act"), and any similar statute, and to otherwise comply with any such statute with respect to any "plant closing" or "mass layoff" (as defined in the WARN Act) or similar event affecting Continuing Employees or Unionized Employees (including as a result of the consummation of the transactions contemplated by this Agreement) and occurring on or after the Closing Date. Between the Effective Date and the Closing Date, the Vendors shall not, without the Plan Sponsor's consent, which consent may be withheld in the Plan Sponsor's sole and absolute discretion, take any action whatsoever that would cause any termination of employment of any Employees by the Purchased Companies during such period of time that would constitute a "plant closing" or "mass layoff" under the WARN Act or any similar statute.

## ARTICLE 9 ADDITIONAL AGREEMENTS OF THE PARTIES

### Section 9.1 Conduct by the Plan Sponsor.

The Plan Sponsor covenants and agrees that, except as expressly contemplated by this Agreement, or as otherwise required by Law, after the Effective Date and prior to the earlier of the Closing Date or the Termination Date:

(a) the Plan Sponsor shall, and shall cause the Plan Sponsor's Affiliates to, refrain from taking any action which would cause any representation or warranty contained in Article 5 to be untrue or incorrect in any material respect as of the Closing; and

(b) subject to the Court Orders and subject to the express provisions of this Agreement, the Plan Sponsor shall use commercially reasonable efforts (i) to perform and satisfy all conditions to each of the Plan Sponsor's obligations to consummate the transactions contemplated by this Agreement that are to be performed or satisfied by the Plan Sponsor under this Agreement, and (ii) to cause the Closing to occur as promptly as reasonably practicable and the Plan Sponsor shall not, and shall not permit any of the Plan Sponsor's Affiliates to, intentionally take any action that is reasonably likely to prevent or delay the consummation of the transactions contemplated hereby.

### Section 9.2 Conduct by the Vendors.

Each of the Vendors covenants and agrees that, except as expressly contemplated by this Agreement, or as otherwise required by Law, after the Effective Date and prior to the earlier of the Closing Date or the Termination Date:

(a) each of the Vendors shall, and shall cause the Vendors' Affiliates to, refrain from taking any action that would cause any representation or warranty contained in Article 6 or Article 7 to be untrue or incorrect as of the Closing; and

(b) subject to the Court Orders and the express provisions of this Agreement, each of the Vendors shall use commercially reasonable efforts (i) to perform and satisfy all conditions to such Vendor's obligations to consummate the transactions contemplated by this Agreement that are to be performed or satisfied by such Vendor under this Agreement; and (ii) to cause the Closing to occur as promptly as reasonably practicable, and each of the Vendors shall not, and shall not permit any of the Vendors' Affiliates to, intentionally take any action that is reasonably likely to prevent or delay the consummation of the transactions contemplated hereby.

### **Section 9.3 Conduct of Business.**

Subject to any Court Orders, after the Effective Date and prior to the earlier of the Closing Date or the Termination Date, to the extent related solely to the Business and the Purchased Companies, each of the Vendors shall, and shall cause the Vendors' Affiliates to, except as may otherwise be consented to by the Plan Sponsor, in writing, acting reasonably: (i) carry on business in the Ordinary Course; (ii) use its best efforts to preserve its business organization and goodwill; (iii) maintain its relationships with suppliers, customers, consultants and others having business relations with it; (iv) retain in its employ all of its employees; and (v) make all payments in the Ordinary Course; and shall not, except as may otherwise be consented to by the Plan Sponsor, acting reasonably:

(a) amend, revise, modify or agree to do any of the foregoing in respect of any Contract material to the Business;

(b) amend, revise, modify or agree to do any of the foregoing in respect of any of the Benefit Plans; and

(c) seek any Order in respect of, in relation to or in connection with the FPHI Shares, the Included Property, the Continuing Obligations or the Business unless such Order is satisfactory to the Plan Sponsor, acting reasonably.

### **Section 9.4 Access to Information.**

Prior to the Closing, the Vendors shall, and shall cause their Subsidiaries to, (i) give the Plan Sponsor and its authorized Representatives, upon reasonable advance notice and during regular business hours, reasonable access to all Books and Records, personnel, officers and other facilities and properties of the Business, (ii) permit the Plan Sponsor to make such copies and inspections thereof, upon reasonable advance notice and during regular business hours, as the Plan Sponsor may reasonably request, (iii) grant the Plan Sponsor and its Representatives reasonable access to each of the facilities of the Business where the FPHI Shares or the Included Property is located for purposes of completing an updated inventory of the fixed assets of the Business for purposes of completing an appraisal of the value thereof, and (iv) cause the officers of the Vendors to furnish the Plan Sponsor with such additional financial and operating data and other information with respect to the Business as is regularly prepared in the Ordinary Course that the Plan Sponsor may from time to time reasonably request; provided, however, that any

such access shall be conducted at the Plan Sponsor's expense, in accordance with Law, at a reasonable time, under the supervision of the Vendors' personnel and in such a manner as to maintain confidentiality and not to unreasonably interfere with the normal operations of the businesses of the Vendors and the Vendors' Affiliates.

#### **Section 9.5 Regulatory Matters.**

Each of the Parties, as promptly as practicable after the execution of this Agreement, will make, or cause to be made, all such filings and submissions under all Laws, as may be required for it to consummate the purchase and sale of the FPHI Shares and the Included Property in accordance with the terms of this Agreement. The Parties will coordinate and cooperate with one another in exchanging such information and supplying such assistance as may be reasonably requested by each in connection with the foregoing, including providing each other with all notices and information supplied to or filed with any Governmental Authority (except for notices and information which any Party, acting reasonably, considers highly confidential and sensitive which may be filed on a confidential basis), and all notices and correspondence received from any Governmental Authority.

#### **Section 9.6 Maintenance of Books and Records; Access after Closing.**

The Plan Sponsor shall use its commercially reasonable efforts to retain all of the Books and Records delivered to it by the Vendors hereunder and relating to any period ending on or prior to the Closing Date for a period of six (6) years following the Closing Date. At any time during such six-year period, each of the Vendors and its Representatives shall have reasonable access thereto, during normal business hours, in connection with the affairs of the Vendors but the Plan Sponsor shall not be responsible or liable to any of the Vendors for or as a result of any unintentional loss or destruction of or damage to any of the Books and Records.

#### **Section 9.7 Ancillary Agreements.**

The Parties shall use their reasonable efforts to promptly negotiate and finalize in good faith the Ancillary Agreements to which it is contemplated they will be Parties. All Ancillary Agreements must be in form and content satisfactory to the Plan Sponsor, acting reasonably.

#### **Section 9.8 Tax Structure.**

During the period from the date hereof to the Time of Closing, each of the Vendors shall use its reasonable efforts to assist and co-operate with the Plan Sponsor in structuring the transactions contemplated by this Agreement in a tax effective and tax efficient manner for the Purchased Companies, the Plan Sponsor and the Plan Sponsor's Affiliates, as may be reasonably requested by the Plan Sponsor, provided that the Vendors shall not be required to undertake any structuring that adversely affects the financial condition of the Vendors, acting reasonably.

#### **Section 9.9 Transfer of Assets.**

Prior to the Time of Closing, each of the Vendors, other than the Purchased Companies, shall have executed, delivered and registered all documents, at such Vendor's expense and in form and substance satisfactory to the Plan Sponsor, required to release or convey, free of

Encumbrances other than Permitted Encumbrances, to the Purchased Companies any and all right, title and interest in: (i) any and all assets and properties used in the operation of or relating to any or all of the Mills; (ii) the Katahdin Preferred Shares; and (iii) all other Included Property.

**Section 9.10 Notice of Untrue Representation or Warranty.**

The Vendors will promptly notify the Plan Sponsor, and the Plan Sponsor will promptly notify the Vendors, upon (i) any representation or warranty made by it contained in this Agreement becoming untrue, incorrect or misleading during the period from the date hereof to the Time of Closing and for the purposes of this Section 9.10 each representation and warranty will be deemed to be given at and as of all times during such period; and (ii) becoming aware that any representation or warranty made by it contained in any of the Ancillary Agreements will not be true and correct as at the Time of Closing. Any such notification will set out particulars of the untrue, incorrect or misleading representation or warranty and details of any actions being taken by the Vendors or the Plan Sponsor, as the case may be, to rectify that state of affairs.

**Section 9.11 Vendors' Covenants**

Each of the Vendors covenants and agrees that none of its obligations under this Agreement or any Ancillary Agreement shall be subject to compromise or arrangement pursuant to the Plan or otherwise under the CCAA Proceedings, any recognition proceedings under the Bankruptcy Case, or any other applicable Law or proceeding.

**ARTICLE 10  
CONDITIONS TO CLOSING**

**Section 10.1 Conditions for the Benefit of the Plan Sponsor.**

The obligations of the Plan Sponsor to consummate the transactions contemplated hereby are, unless waived by the Plan Sponsor, subject to the fulfillment, at or before the Closing or as otherwise specified below, of each of the following conditions:

(a) the representations and warranties of the Vendors set forth in Article 6 and Article 7 shall be true and correct in all material respects;

(b) the Schedules provided on or before the Effective Date and required to be updated and delivered for Closing shall not contain any new information at Closing that would, or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect;

(c) (i) no Law shall be in effect, and (ii) no Governmental Authority shall have enacted, issued, promulgated or entered an Order which is in effect, in each case that has the effect of making illegal or otherwise prohibiting the consummation of the transactions contemplated by this Agreement;

(d) the Vendors shall have at all times been in compliance with all of their covenants and agreements in this Agreement;

(e) the Plan Sponsor shall have received the Ancillary Agreements required to be delivered to it by the Vendors at or before the Closing, duly executed by all necessary Persons (other than the Plan Sponsor) and in form and content satisfactory to the Plan Sponsor, acting reasonably;

(f) the Canadian Court shall have entered the Canadian Orders and the Bankruptcy Court shall have entered the U.S. Orders, which orders shall be in form and content satisfactory to the Plan Sponsor, acting reasonably, shall have become Final Orders, and shall not have been stayed, modified or amended in any way;

(g) no injunction or other Order shall have been issued to enjoin, restrict or prohibit any of the transactions contemplated by this Agreement;

(h) all actions, proceedings, instruments and documents required to complete the Transaction, including the Agreement and the Ancillary Agreements, shall have been approved as to form, substance and legality by the Plan Sponsor, and the Plan Sponsor and the Vendors shall have entered into the Ancillary Agreements;

(i) satisfaction of the Plan Sponsor, acting reasonably, that on Closing none of the Purchased Companies will be liable for any Liabilities other than the Continuing Obligations, solely as specifically and expressly provided for in this Agreement;

(j) satisfaction of the Plan Sponsor, acting reasonably, that none of it or the Plan Sponsor's Affiliates will assume or be deemed to assume any Liabilities of the Purchased Companies or the Vendors as a result of having entered into this Agreement or having taken any action contemplated by or in furtherance of this Agreement or the Transaction;

(k) each of the Vendors shall have complied, at all times, with the terms and conditions of all of its agreements with the Plan Sponsor and the Plan Sponsor's Affiliates including, without limitation, the DIP Lender;

(l) the obligations of the Vendors under or in respect of the Brookfield DIP Facility shall not have materially exceeded the borrowing projections contemplated by the Budget and, in any case, shall not at Closing exceed US\$15,000,000 less the amount of the net proceeds realized or to be realized from a sale or liquidation of the Gorham Assets and the Gorham Mill on or before Closing;

(m) (i) the Vendors shall have promptly applied all cash-on-hand and cash receipts (including, without limitation, all net proceeds realized from a sale or liquidation of the Gorham Assets and the Gorham Mill and the Cash Component) to repayment of all amounts owing under the Brookfield DIP Facility; (ii) all obligations under the Brookfield DIP Facility shall have been fully paid and satisfied in the manner contemplated by this Agreement (including, without limitation, in relation to the Brookfield Letters of Credit); and (iii) the Brookfield DIP Facility shall have been terminated and cancelled in a manner satisfactory to the DIP Lender, acting reasonably;

(n) the transfers and conveyances contemplated in Section 9.9 shall have been completed, in form and substance satisfactory to the Plan Sponsor;

(o) the Plan shall have received all necessary or desirable approvals to the satisfaction of the Plan Sponsor, acting reasonably, and the Plan Sponsor shall be satisfied, acting reasonably, with the terms and conditions of the Plan and all other materials and documents relating to the Plan or the Transaction;

(p) the Closing shall have occurred and the Transaction shall have been consummated on or prior to February 15, 2011;

(q) all Consents and Approvals shall have been obtained on terms and conditions satisfactory to the Plan Sponsor, acting reasonably, in respect of the transactions contemplated by this Agreement including, without limitation, the sale of the FPHI Shares, the release and assignment of the Included Property (including Contracts, Permits and Timber Licences of the Purchased Companies), and the implementation of the Plan;

(r) no Material Adverse Effect shall, individually or in the aggregate, have occurred between the Effective Date and the Closing Date; and

(s) all other events and actions contemplated by this Agreement shall have been completed, and the Vendors shall be in compliance with all of their obligations and agreements under this Agreement, the Plan, and the Court Orders, all to the satisfaction of the Plan Sponsor, acting reasonably.

The foregoing conditions are for the exclusive benefit of the Plan Sponsor and may be waived by the Plan Sponsor in whole or in part. Any such waiver shall be binding on the Plan Sponsor only if made in writing.

#### **Section 10.2 Conditions for the Benefit of the Vendors.**

The obligations of the Vendors to consummate the transactions contemplated hereby are, unless waived by the Vendors, subject to the fulfillment, at or before the Closing, of each of the following conditions:

(a) payment of the Purchase Price as set forth in Section 4.2, subject to adjustment as set forth in Section 4.1(b) and Section 4.5 of this Agreement;

(b) the representations and warranties of the Plan Sponsor set forth in Article 5 shall be true and correct in all material respects;

(c) (i) no Law shall be in effect, and (ii) no Governmental Authority shall have enacted, issued, promulgated or entered an Order which is in effect, in each case that has the effect of making illegal or otherwise prohibiting the consummation of the transactions contemplated by this Agreement;

(d) the Plan Sponsor shall have at all times been in compliance in all material respects with all of its covenants and agreements set forth in this Agreement;

(e) the Vendors shall have received the Ancillary Agreements required to be delivered to them by the Plan Sponsor at or before the Closing, duly executed by all necessary



Persons (other than the Vendors) and in form and content satisfactory to the Vendors, acting reasonably;

(f) (i) the Canadian Court shall have entered the Canadian Orders and the Bankruptcy Court shall have entered the U.S. Orders, which orders shall not have been stayed, modified or amended in any way;

(g) no injunction or other Order shall have been issued to enjoin, restrict or prohibit any of the transactions contemplated by this Agreement; and

(h) this Agreement shall have been approved by the Board of Directors of the Vendors.

The foregoing conditions are for the exclusive benefit of the Vendors and may be waived by the Vendors in whole or in part. Any such waiver shall be binding on the Vendors only if made in writing.

## **ARTICLE 11 TRANSACTIONAL COSTS**

### **Section 11.1 Payment of Transactional Costs.**

The Plan Sponsor and the Vendors shall be liable for all of their own Transactional Costs and transactional taxes payable under any Law on or with respect to the transactions contemplated by this Agreement.

### **Section 11.2 Elections.**

The Vendors and the Plan Sponsor agree to make, execute and file with the appropriate taxing authorities such elections or purchase exemption certificates as the parties hereto agree are reasonable or mutually desirable, if any, in prescribed form and within the prescribed time.

### **Section 11.3 U.S. Tax Certificate Information**

The Vendors shall provide to the Plan Sponsor prior to Closing such information as the Plan Sponsor may reasonably request to allow the Plan Sponsor to confirm that the stock of FPHI does not constitute a "United States real property interest" within the meaning of Section 897(c)(1) of the United States Internal Revenue Code of 1986, as amended, and such statements and documents in relation thereto as the Plan Sponsor may reasonably request for filing with or delivery to applicable tax authorities including, without limitation, in relation to the filing of certificates substantially in the form of Exhibits B and C attached to this Agreement.

## ARTICLE 12 CLOSING

### Section 12.1 Location and Time of the Closing.

Upon the terms and subject to the conditions hereof, the closing of the transactions contemplated by this Agreement (the "Closing") shall take place at the offices of Torys LLP, located at Suite 3000, 79 Wellington St. West, Toronto-Dominion Centre, Toronto, Ontario, M5K 1N2, or such other place as the Plan Sponsor and the Vendors may mutually agree, no later than three (3) Business Days following the date on which the conditions set forth in Section 10.1 and Section 10.2 of this Agreement have been satisfied or (if permissible) waived (other than the conditions which by their nature are to be satisfied at the Closing, but subject to the satisfaction or (if permissible) waiver of such conditions), or such other date as the Vendors and the Plan Sponsor may mutually agree (the "Closing Date"). The Closing shall be deemed to have been consummated and become effective for all purposes as of 12:01 a.m. Toronto time on the Closing Date.

### Section 12.2 Closing Deliveries of the Vendors.

At the Closing, the Vendors shall deliver or cause to be delivered to the Plan Sponsor:

(a) assignments or other instruments of transfer duly endorsed in blank, or accompanied by share powers or other instruments of transfer duly executed in blank, and otherwise in form and substance reasonably acceptable to the Plan Sponsor for transfer of the FPHI Shares to the Plan Sponsor, bills of sale, assurances, transfers, assignments, consents, and such other agreements, documents and instruments as may be reasonably required by the Plan Sponsor to complete the Transactions provided for in this Agreement;

(b) all original certificates and instruments in respect of the FPHI Shares;

(c) the written resignation of each member of the board of directors and officer of each of the Purchased Companies, together with a release in favour of each of the Purchased Companies in his or her capacity as director or officer only effective as at the Closing;

(d) all Books and Records relating to the Purchased Companies;

(e) a certificate, dated the Closing Date, confirming that all of the representations and warranties of the Vendors contained in this Agreement are true as of the Closing Date, with the same effect as though made on and as of the Closing Date. For greater certainty, the representations and warranties of the Vendors contained in this Agreement made as of the Closing Date shall not be qualified by knowledge;

(f) the Schedules to this Agreement updated and delivered for Closing pursuant to the terms of this Agreement in form and content satisfactory to the Plan Sponsor, acting reasonably;

(g) an acknowledgement, dated the Closing Date, that each of the conditions precedent in Section 10.2 of this Agreement have been fulfilled, performed or waived as of the Closing Date;

(h) a certified copy of each of the Canadian Orders;

(i) a certified copy of each of the U.S. Orders;

(j) the Consents and Approvals;

(k) a certificate substantially in the form of Exhibit B;

(l) a Notice substantially in the form of Exhibit C;

(m) an executed copy of the Monitor's Certificate;

(n) a counterpart signature page to each Ancillary Agreement, duly executed by each of the Vendors, as applicable; and

(o) such other certificates, instruments and documents, in form and substance reasonably satisfactory to the Plan Sponsor, as may be contemplated by this Agreement or as the Plan Sponsor may reasonably request.

#### **Section 12.3 Closing Deliveries of the Plan Sponsor.**

At the Closing, the Plan Sponsor shall deliver, or cause to be delivered, to the Vendors:

(a) payment of the Purchase Price as set forth in Section 4.2;

(b) a counterpart signature page to each Ancillary Agreement, duly executed by the Plan Sponsor;

(c) a certificate, dated the Closing Date, confirming that all of the representations and warranties of the Plan Sponsor contained in this Agreement are true as of the Closing Date, with the same effect as though made on and as of the Closing Date;

(d) an acknowledgement, dated the Closing Date, that each of the conditions precedent in Section 10.1 of this Agreement have been fulfilled, performed or waived as of the Closing Date; and

(e) such other certificates, instruments and documents in form and substance reasonably acceptable to the Vendors, as the Vendors may reasonably request.

#### **Section 12.4 Maine Real Estate Transfer Taxes.**

At Closing, the Plan Sponsor and the Purchased Companies, as applicable, conveying the Lands relating to the Included Assets and/or the Mills shall execute one or more real estate transfer declarations that shall establish the portion of the Purchase Price that is allocable to such Lands. The Plan Sponsor and the Purchased Companies, as applicable, shall use best

commercial efforts to establish that the transfer of such Lands hereunder is exempt from taxation under 36 MRSA Sec. 4641-C(14). Notwithstanding Section 11.1 hereof, to the extent that any taxes are payable with respect to the transfer of such Lands, the Plan Sponsor and the Vendors shall each be responsible for, and pay, 50% of such taxes.

#### **Section 12.5 Possession.**

The Purchased Companies shall be entitled to vacant possession of the Mills and other Included Property on and after Closing. The Vendors shall deliver to the Purchased Companies on Closing such keys, lock and safe combinations and other similar items as the Purchased Companies may require to obtain immediate and full occupation, possession and control of the Mills and the Included Property.

### **ARTICLE 13 RISK AND TERMINATION**

#### **Section 13.1 Risk of Loss.**

The FPHI Shares and the Included Property shall be and remain the risk of the Vendors until Closing and at the risk of the Plan Sponsor (in the case of the FPHI Shares) and the Purchased Companies (in the case of the Included Property) from and after Closing. If, prior to Closing, the Included Property shall be substantially damaged or destroyed by fire or other casualty, then, at its option, the Plan Sponsor may decline to complete the Transaction. Such option shall be exercised within five (5) Business Days after notification to the Plan Sponsor by the Vendors of the occurrence of damage or destruction (or prior to the Closing Date if such occurrence takes place within five (5) Business Days of the Closing Date) in which event this Agreement shall be terminated automatically. If the Plan Sponsor does not exercise such option, it shall complete the Transaction and shall be entitled to an assignment of the proceeds of insurance referable to such damage or destruction. Where any damage or destruction is not substantial, the Plan Sponsor shall complete the Transaction and shall be entitled to an assignment of the proceeds of insurance referable to such damage or destruction provided that such damage or destruction is insured or, otherwise by an agreed abatement.

#### **Section 13.2 Termination.**

This Agreement may be terminated at any time prior to the Closing:

- (a) by mutual written consent of the Parties;
- (b) by the Plan Sponsor, upon written notice to the Vendors, if the Closing does not take place by February 15, 2011 (the "Termination Date");
- (c) by the Plan Sponsor in the event of a material breach by the Vendors of the Vendors' representations, warranties, agreements or covenants set forth in this Agreement, which breach would result in a failure to satisfy the conditions to Closing set forth in Section 10.1 of this Agreement;

(d) by the Vendors in the event of a material breach by the Plan Sponsor of the Plan Sponsor's representations, warranties, agreements or covenants set forth in this Agreement, which breach would result in a failure to satisfy the conditions to Closing set forth in Section 10.2 of this Agreement;

(e) by the Plan Sponsor if any of the conditions in Section 10.1 of this Agreement have not been satisfied by Closing and the Plan Sponsor has not waived such condition at or prior to Closing; or

(f) by the Vendors if any of the conditions in Section 10.2 of this Agreement have not been satisfied by Closing and the Vendors have not waived such condition at or prior to Closing.

### **Section 13.3 Effects of Termination.**

If this Agreement is terminated pursuant to Section 13.2, all further obligations of the Parties under or pursuant to this Agreement shall terminate without further liability of any Party to the other except for the provisions of: (i) Section 7.9 (Survival of Covenants, Representations and Warranties); (ii) Section 13.2 (Termination); (iii) Section 13.3 (Effects of Termination); and (iv) Article 14 (Miscellaneous), provided, that neither the termination of this Agreement nor anything in this Section shall relieve any Party from liability for any breach of this Agreement occurring before the termination hereof and thereof.

## **ARTICLE 14 MISCELLANEOUS PROVISIONS**

### **Section 14.1 Confidentiality.**

The Parties hereby agree to keep confidential this Agreement and the terms and conditions contained herein, and not at any time to disclose such information except: (i) where such information is in the public domain through no breach of the terms of this Agreement by either Party, (ii) where such information is required by Law to be disclosed to any Governmental Authority (including, without limitation, any stock exchange), (iii) on a need to know basis to each of the Parties' Representatives, (iv) as required in connection with the CCAA Proceedings and the Bankruptcy Case, or as otherwise directed by the Canadian Court and the Bankruptcy Court, or (v) where disclosure is agreed to in writing between the Parties.

### **Section 14.2 Non-Disclosure.**

Except (i) as and to the extent required by Law, the CCAA Proceedings or the Bankruptcy Case, (ii) to its Representatives, (iii) to the Monitor and its Representatives, or (iv) to the DIP Lender and its Representatives, neither the Plan Sponsor nor the Vendors shall, and each shall direct its Representatives not to, without the prior written consent of the other Party, directly or indirectly, make any public comment, statement or communication with respect to, or otherwise disclose or permit the disclosure of the existence of discussions regarding, a possible transaction between the Parties or any of the terms, conditions or other aspects of the Transaction or the contents of this Agreement or the Ancillary Agreements.

**Section 14.3 Expenses.**

The Plan Sponsor and the Vendors shall be responsible for their own respective costs and expenses incurred in connection with this Agreement and the transactions contemplated by this Agreement.

**Section 14.4 Solicitors and Agents and Tender**

Any notice, approval, waiver, agreement, instrument, document or communication permitted, required or contemplated in this Agreement may be given or delivered and accepted or received by the Plan Sponsor's Solicitors on behalf of the Plan Sponsor and by the Vendors' Solicitors on behalf of the Vendors and any tender of this Agreement or the Ancillary Agreements and the balance of the Purchase Price may be made upon the Vendors' Solicitors and the Plan Sponsor's Solicitors, as the case may be.

**Section 14.5 Successors and Assigns.**

This Agreement shall enure to the benefit of, and be binding on, the Parties and their respective successors and permitted assigns. This Agreement may not be assigned by either Party without the prior written consent of the other, which consent shall not be unreasonably withheld; provided, however, that the Plan Sponsor may, without the consent of the Vendors, assign and delegate its rights under this Agreement to one or more of the Plan Sponsor's Affiliates, and in interpreting this Agreement any such assignee(s) shall be considered the "Plan Sponsor".

**Section 14.6 Third Party Beneficiaries.**

Each Party hereto intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any Person other than the Parties hereto and their successors and permitted assigns, and no Person, other than the Parties hereto and their successors and their permitted assigns, shall be entitled to rely on the provisions hereof in any action, suit, proceeding, hearing or other forum.

**Section 14.7 Notices.**

(a) Mode of Giving Notice. Any notice, direction, certificate, consent, determination or other communication required or permitted to be given or made under this Agreement shall be in writing and shall be effectively given and made if (i) delivered personally, (ii) sent by prepaid courier service or mail, or (iii) sent prepaid by fax or other means of electronic communication, in each case to the applicable address set out below:

(i) if to the Plan Sponsor, to:

c/o Brookfield Asset Management Inc.  
181 Bay Street, Suite 300  
Brookfield Place  
Toronto, Ontario M5J 2T3

Attention: Sam Pollock/Justin Beber  
Email: spollock@brookfield.com/jbeber@brookfield.com  
Fax No.: 416.365.9642

with a copy to:

Torys LLP  
Suite 3000, 79 Wellington Street West  
Toronto-Dominion Centre  
Toronto, Ontario M5K 1N2

Attention: Tony DeMarinis/Natasha De Cicco  
Email: tdemarinis@torys.com/ndecicco@torys.com  
Fax No.: 416.865.7380

(ii) if to the Vendors, to:

c/o Fraser Papers Inc.  
181 Bay Street, Suite 200  
Brookfield Place  
Toronto, Ontario M5J 2T3

Attention: Glen McMillan  
Email: gmcmillan@toronto.fraserpapers.com  
Fax No.: 416.359.8606

with a copy to:

Thomson Grout Finnigan LLP  
Suite 3200, 100 Wellington Street West  
Toronto-Dominion Centre  
Toronto, Ontario M5K 1K7

Attention: D.J. Miller  
Email: djmiller@tgf.ca  
Fax No.: 416.304.1313

with a copy to counsel for the Monitor:

Goodmans LLP  
Bay Adelaide Centre  
333 Bay Street, Suite 3400  
Toronto, Ontario M5H 2S7

Attention: Robert Chadwick  
Email: rchadwick@goodmans.ca  
Fax: 416.979.1234

(b) Deemed Delivery of Notice. Any such communication so given or made shall be deemed to have been given or made and to have been received on the day of delivery if delivered, or on the day of faxing or sending by other means of recorded electronic communication, provided that such day in either event is a Business Day and the communication is so delivered, faxed or sent before 4:30 p.m. (Toronto time) on such day. Otherwise, such communication shall be deemed to have been given and made and to have been received on the next following Business Day. Any such communication sent by mail shall be deemed to have been given and made and to have been received on the fifth Business Day following the mailing thereof; provided however that no such communication shall be mailed during any actual or apprehended disruption of postal services. Any such communication given or made in any other manner shall be deemed to have been given or made and to have been received only upon actual receipt.

**Section 14.8 Time of Essence.**

Time shall be of the essence of this Agreement in all respects.

**Section 14.9 Further Assurances.**

Each of the Parties hereto shall promptly do, make, execute or deliver, or cause to be done, made, executed or delivered, all such further acts, documents and things as the other Party hereto may reasonably require from time to time for the purpose of giving effect to this Agreement and shall use reasonable efforts and take all such steps as may be reasonably within its power to implement to their full extent the provisions of this Agreement.

**Section 14.10 Counterparts.**

This Agreement may be executed in counterparts, each of which shall be deemed to be an original and both of which taken together shall be deemed to constitute one and the same instrument. To evidence its execution of an original counterpart of this Agreement, a Party may send a copy of its original signature on the execution page hereof to the other Party by facsimile transmission or other means of electronic communication and such transmission shall constitute delivery of an executed copy of this Agreement to the receiving Party.

**Section 14.11 Paramountcy.**

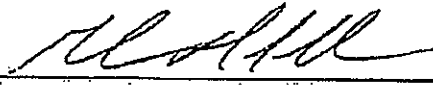
In the event of any conflict or inconsistency between the provisions of this Agreement and any other agreement, document or instrument executed or delivered in connection with the Transaction or this Agreement, the provisions of this Agreement shall prevail to the extent of such inconsistency.


[Remainder of the Page Intentionally Left Blank; Signature Page Follows]



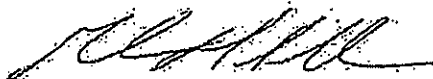
IN WITNESS WHEREOF the Parties have executed this Agreement as of the date first above written.

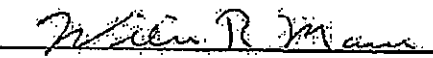
**FRASER PAPERS INC.**

By:   
Name: Glen McMillan  
Title: Chief Restructuring Officer

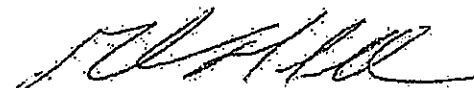
By:   
Name: William Manzer  
Title: Senior Vice President, Strategy  
and Special Project

**FRASER PAPERS LIMITED**

By:   
Name: Glen McMillan  
Title: Secretary

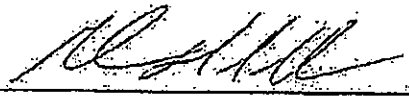
By:   
Name: William Manzer  
Title: Vice President

**FPS CANADA INC.**

By:   
Name: Glen McMillan  
Title: Secretary

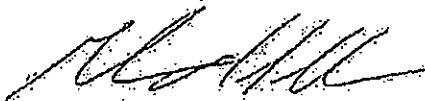
By:   
Name: William Manzer  
Title: Vice President

**FRASER PAPERS HOLDINGS INC.**

By:   
Name: Glen McMillan  
Title: Secretary

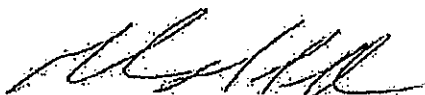
By:   
Name: William Manzer  
Title: Vice President

**FRASER TIMBER LIMITED**

By:   
Name: Glen McMillan  
Title: Secretary

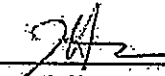
By:   
Name: William Manzer  
Title: Vice President

**FRASER N.H. LLC**

By:   
Name: Glen McMillan  
Title: Secretary

By:   
Name: William Manzer  
Title: Vice President

**BROOKFIELD ASSET MANAGEMENT  
INC.**

By:   
Name: Jeffrey Haar  
Title:

By:   
Name: Justin Beber  
Title:

**Schedule 3.1**  
**Continuing Obligations**

- (i) Ordinary Course trade payables and accrued payables outstanding as of the Closing Date for goods provided and services rendered following the Filing Date by Person(s) listed in Schedule 3.1(a) attached hereto in relation solely to the Purchased Companies and the Business and all accrued payroll obligations and accrued vacation pay for Continuing Employees and, to the extent that the Gorham Assets are Included Property, the Unionized Employees but excluding, for greater certainty, any and all Intercompany Receivables and Intercompany Liabilities, any and all trade payables and accrued payables to be paid by the Purchased Companies in the Ordinary Course prior to the Closing Date and any and all trade payables and accrued payables for goods provided and services rendered to the Vendors other than the Purchased Companies or to the Purchased Companies for purposes other than the Business (collectively, the "Continuing Accounts Payable");
- (ii) Liabilities arising from asset retirement obligations of FTL in respect of the Ashland Assets and the Masardis Assets that are consistent with past public disclosure and disclosure to the Plan Sponsor and the Plan Sponsor's Affiliates;
- (iii) To the extent that the Gorham Assets and the Gorham Mills are not Excluded Property, Liabilities arising from asset retirement obligations of FNHL in respect of the Gorham Assets that are consistent with past public disclosure and disclosure to the Plan Sponsor and the Plan Sponsor's Affiliates;
- (iv) unless the Vendors implement Alternative LC Arrangements on or prior to Closing, Liabilities of the Purchased Companies arising from the Workers Compensation Obligations that are consistent with past public disclosure and disclosure to the Plan Sponsor and the Plan Sponsor's Affiliates, up to a maximum aggregate amount equal to the maximum aggregate amount payable under the Brookfield Letters of Credit;
- (v) Liabilities arising from the employment of the Continuing Employees and, to the extent that the Gorham Assets and Gorham Mill constitute Included Property, the Unionized Employees from and after the Closing Date in accordance with the provisions of Section 8.1 of this Agreement; and
- (vi) Liabilities arising from the landfill maintenance obligations of Former Landfill to any Governmental Authority in respect of the landfill located in the city of Moraine, Ohio that are consistent with past public disclosure and disclosure to the Plan Sponsor and the Plan Sponsor's Affiliates.

**Schedule 3.1(a)**  
**Continuing Accounts Payable**

Amounts payable to the following Persons listed hereto.

Notwithstanding anything to the contrary, Continuing Accounts Payable shall not include any amounts owing by any of the Vendors or the Purchased Companies in respect of any goods provided or services rendered, or any other transaction or event occurring, prior to the Filing Date (the "Pre-petition Payables"), and neither the Plan Sponsor nor the Purchased Companies shall under any circumstance be responsible or liable for the Pre-petition Payables.

**Schedule “B” – Promissory Notes**

**NON-NEGOTIABLE NON-TRANSFERABLE**  
**UNSECURED PROMISSORY NOTE**

Toronto, Ontario

Principal Amount: US\$30,000,000

April 28, 2010

**1. General**

(a) FOR VALUE RECEIVED the undersigned, Twin Rivers Paper Company Inc., a corporation incorporated and existing under the laws of the Province of Ontario, having a head office at 27 Rice Street Edmundston, NB, E3V 1S9 (hereinafter, together with its successors and permitted assigns, referred to as the "Payor"), hereby promises to pay to Fraser Papers Inc. (together with its successors and permitted assigns, hereinafter referred to as the "Payee"), on the Maturity Date, in lawful money of the United States, the sum of Thirty Million Dollars (US\$30,000,000) (the "Principal Amount"), as adjusted pursuant to Section 3.8 of the Purchase Agreement (defined below), at its office at Toronto, Ontario, or at such other place as the Payee may designate.

(b) This Promissory Note is issued pursuant to and is subject to the provisions of the Purchase Agreement. All capitalized terms used but not otherwise defined herein shall have the meanings ascribed thereto in the Purchase Agreement. The terms and conditions of the Purchase Agreement are incorporated herein by reference with the same force and effect as if such terms and conditions were fully set forth herein.

**2. Definitions**

In this Promissory Note, capitalized terms used but otherwise defined herein shall have the following meanings ascribed to such terms:

"Brookfield Debt" means any debt owing to Brookfield Asset Management Inc. (or its successors) or an affiliate thereof, pursuant to the definition of "affiliate" in the *Business Corporations Act* (Ontario) as such definition exists as of the date of this Promissory Note.

"CIT Facility" means the senior secured credit facility dated as of the date hereof between the Payor, as borrower, certain subsidiaries of the Payor, as guarantors, CIT Business Credit Canada Inc. as agent and lender and the other lenders party thereto from time to time, as may be amended, restated, or otherwise modified from time to time.

"Fraser Papers" shall mean, collectively, Fraser Papers Inc. and its subsidiaries (being, on the date hereof, Fraser Papers Limited, FPS Canada Inc., Fraser Papers Holdings Inc., Fraser Timber Limited and Fraser N.H. LLC).

"Maturity Date" means April 28, 2018.

"Purchase Agreement" means the asset purchase agreement dated as of December 22, 2009 (as amended, modified or restated from time to time) between Fraser Papers, as Vendors, and Brookfield Asset Management Inc. or its designate(s), as Purchaser, as assigned to the Payor and

Twin Rivers Paper Company LLC pursuant to an assignment and assumption agreement dated as of April 28, 2010.

"Senior Indebtedness" means the principal of and the interest and premium (or any other amounts payable thereunder), if any, on:

(a) all indebtedness, liabilities and obligations of the Payor in respect of any indebtedness which is secured by liens, encumbrances or charges on any assets of the Payor, whether outstanding on the date of this Promissory Note or thereafter created, incurred, assumed or guaranteed, including, for greater certainty, all indebtedness, liabilities and obligations of the Payor under or in respect of the CIT Facility; and

(b) renewals, extensions, restructurings, refinancings and refundings of any such indebtedness, liabilities or obligations;

unless in each case it is provided by the terms of the instrument creating or evidencing such indebtedness, liabilities or obligations that such indebtedness, liabilities or obligations are *pari passu* with or subordinate in right of payment to this Promissory Note.

"Trustee" means a trustee appointed to hold an interest in the Principal Amount for the benefit of one or more classes or groups of creditors of Fraser Papers.

3. Intercreditor Agreement

The Payee hereby acknowledges and agrees that all rights and remedies of the Payee (including its successors and assigns) hereunder, including with respect to payment and enforcement of this Promissory Note, are subject to the Intercreditor Agreement dated April 28, 2010 between, among others, CIT Business Credit Canada Inc. and the Payee (the "Intercreditor Agreement").

4. Term

The Principal Amount shall be payable only on the Maturity Date, unless the Principal Amount is prepaid earlier in accordance with the terms and conditions of this Promissory Note and the Intercreditor Agreement. Notwithstanding the foregoing, but subject to the Intercreditor Agreement, the Principal Amount shall become due and payable in the event that the Payor institutes legal proceedings in respect of itself or substantially all of its property and assets under any federal, provincial or applicable foreign law relating to bankruptcy, insolvency, receivership, or creditor protection of insolvent persons (including the Bankruptcy and *Insolvency Act* (Canada) and the *Companies' Creditors Arrangement Act* (Canada)) or any such legal proceedings are instituted by creditors of the Payor and are not withdrawn, dismissed or terminated within sixty (60) days thereof.

5. Non-Interest Bearing Promissory Note

The Principal Amount shall not bear any interest.

6. Unsecured, Subordinated Promissory Note



This Promissory Note is a direct obligation of the Payor but is not secured by any mortgage, pledge, hypothec or other charge, lien or encumbrance. This Promissory Note and all Replacement Notes (as such term is defined below) shall rank *pari passu* with all other outstanding direct, unsecured and unsubordinated present and future obligations (except as otherwise prescribed by law) of the Payor and will be payable rateably without preference or priority. The Principal Amount hereof is subordinated and postponed to the repayment in full of all Senior Indebtedness of the Payor, provided that notwithstanding the foregoing postponement, the Payor shall repay the Promissory Note on the Maturity Date provided that no default then exists or would result from such payment under any Senior Indebtedness the terms of which would prohibit such repayment if a default then exists or would result from such payment, and provided further that if such Senior Indebtedness is also Brookfield Debt, then 180 days following the Maturity Date the Payee shall be free to pursue its available remedies to enforce payment upon the Promissory Note, however the Promissory Note shall remain subordinated to all Senior Indebtedness including Brookfield Debt.

**7. Voluntary Prepayment**

The Payor shall have the right and the privilege, at its sole option, of prepaying in whole or in part any portion of the Principal Amount at any time or from time to time prior to the Maturity Date without premium or penalty in minimum increments of US\$1,000,000. In the event that more than one Promissory Note is outstanding as a result of any replacement Promissory Notes being issued pursuant to Section 7 or Section 13, any such voluntary prepayment shall be made in respect of all notes held by parties having claims of equal priority in respect of one another, on a *pro rata* basis. The Payee shall not have the right to require the Payor to redeem or call for the repayment of this Promissory Note at any time prior to the Maturity Date.

**8. Successors and Assigns**

This Promissory Note shall enure to the benefit of and shall be binding upon the Payor and the Payee and their respective successors and permitted assigns. This Promissory Note shall not be transferable or assignable by the Payee, its successors or its permitted assigns without the prior written consent of the Payor, in its sole and absolute discretion; provided however that:

(a) the Payee may transfer or assign this Promissory Note, in whole and not in part, without the consent of the Payor, to a successor (by operation of law or otherwise) of Fraser Papers; and

(b) the Payee may transfer or assign this Promissory Note, in whole or in part, without the consent of the Payor, to one or more Trustees or a nominee of such Trustee and any successor trustee or nominee thereof, holding the Promissory Note on behalf of Fraser Papers or any Persons designated by Fraser Papers or to whom an interest in the Promissory Note is to be distributed in accordance with such Orders of the Canadian Court and the Bankruptcy Court as may subsequently be made, provided that (i) the terms of any Order authorizing any such distribution shall expressly provide that such distribution, and the rights and remedies of any successor or assign of Payee, is subject to the Intercreditor Agreement, and (ii) Payor is satisfied, acting reasonably, that such transfer or assignment would not result in the Payor becoming a

reporting issuer in any province or territory of Canada (or the equivalent in any other jurisdiction).

9. Amendment

This Promissory Note may not be modified, except and only by a written instrument executed by the Payor and the Payee.

10. Non-Negotiable Instrument

This Promissory Note is not and is not intended to be a negotiable instrument.

11. Governing Law

This Promissory Note is governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

12. Submission to Jurisdiction

(a) The Payee hereby irrevocably and unconditionally submits, for itself and its property, to the non-exclusive jurisdiction of the courts of the Province of Ontario, and any appellate court thereof, in any action or proceeding arising out of or relating to this Promissory Note, or enforcement of any judgment, and each of the Payor and the Payee hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in Ontario. Each of the Payor and the Payee agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by applicable law. Nothing in this Promissory Note shall affect any right that the Payor may otherwise have to bring any action or proceeding relating to this Promissory Note against the Payee in the courts of any other jurisdiction.

(b) The Payee hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Promissory Note in any court referred to in this Section 12(b). Each of the Payor and the Payee hereby irrevocably waives, to the fullest extent permitted by applicable law, any *forum non conveniens* defence to the maintenance of such action or proceeding in any such court.

13. Waiver of Jury Trial

EACH OF THE PAYOR AND THE PAYEE HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS PROMISSORY NOTE (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH OF THE PAYOR AND THE PAYEE (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD

NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

14. Replacement Notes

(a) Should it be determined pursuant to Section 3.8 of the Purchase Agreement, that the Principal Amount of the Promissory Note is to be adjusted to an amount other than \$30,000,000, the Payee shall promptly return this Promissory Note to the Payor in exchange for a promissory note in identical form in the amount of such adjusted Principal Amount.

(b) Upon receiving written notice of any assignment by the Payee of this Promissory Note made in accordance with Section 8, the Payor shall, upon request by the Payee and return of the original Promissory Note to be replaced, issue a replacement promissory note or notes in identical form to reflect such whole or partial transfer. For greater certainty, any replacement note issued in accordance with this Section shall state that the rights and remedies of the Payee thereunder are subject to the Intercreditor Agreement.

IN WITNESS WHEREOF, the undersigned hereunto sets its hand and seal as of the date first set forth above.

TWIN RIVERS PAPER COMPANY INC.

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

*Justin Beber*  
*Managing Partner & General*  
*Vice President*

Agreed to and acknowledged as of this 28 day of April, 2010.

FRASER PAPERS INC.

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

[Signature Page to Promissory Note]

IN WITNESS WHEREOF, the undersigned hereunto sets its hand and seal as of the date first set forth above.

TWIN RIVERS PAPER COMPANY INC.

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Agreed to and acknowledged as of this 28 day of April, 2010.

FRASER PAPERS INC.

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

Name: *Glen McMillan*

Title: *Senior VP and CFO*

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

Name: *Marina Mueller*

Title: *Assistant Corporate Secretary*

[Signature Page to Promissory Note]

**NON-NEGOTIABLE NON-TRANSFERABLE**  
**UNSECURED PROMISSORY NOTE**

Toronto, Ontario

Principal Amount: US\$10,000,000

April 28, 2010

1. **General**

(a) FOR VALUE RECEIVED the undersigned, Twin Rivers Paper Company Inc., a corporation incorporated and existing under the laws of the Province of Ontario, having a head office at 27 Rice Street Edmundston, NB, E3V 1S9 (hereinafter, together with its successors and permitted assigns, referred to as the "Payor"), hereby promises to pay to Fraser Papers Inc. (together with its successors and permitted assigns, hereinafter referred to as the "Payee"), on the Maturity Date, in lawful money of the United States, the sum of Ten Million Dollars (US\$10,000,000) (the "Principal Amount"), as adjusted pursuant to Section 3.8 of the Purchase Agreement (defined below), at its office at Toronto, Ontario, or at such other place as the Payee may designate.

(b) This Promissory Note is issued pursuant to and is subject to the provisions of the Purchase Agreement. All capitalized terms used but not otherwise defined herein shall have the meanings ascribed thereto in the Purchase Agreement. The terms and conditions of the Purchase Agreement are incorporated herein by reference with the same force and effect as if such terms and conditions were fully set forth herein.

2. **Definitions**

In this Promissory Note, capitalized terms used but otherwise defined herein shall have the following meanings ascribed to such terms:

"Brookfield Debt" means any debt owing to Brookfield Asset Management Inc. (or its successors) or an affiliate thereof, pursuant to the definition of "affiliate" in the *Business Corporations Act* (Ontario) as such definition exists as of the date of this Promissory Note.

"CIT Facility" means the senior secured credit facility dated as of the date hereof between the Payor, as borrower, certain subsidiaries of the Payor, as guarantors, CIT Business Credit Canada Inc. as agent and lender and the other lenders party thereto from time to time, as may be amended, restated, or otherwise modified from time to time.

"Fraser Papers" shall mean, collectively, Fraser Papers Inc. and its subsidiaries (being, on the date hereof, Fraser Papers Limited, FPS Canada Inc., Fraser Papers Holdings Inc., Fraser Timber Limited and Fraser N.H. LLC).

"Maturity Date" means April 28, 2018.

"Purchase Agreement" means the asset purchase agreement dated as of December 22, 2009 (as amended, modified or restated from time to time) between Fraser Papers, as Vendors, and Brookfield Asset Management Inc. or its designate(s), as Purchaser, as assigned to the Payor and

Twin Rivers Paper Company LLC pursuant to an assignment and assumption agreement dated as of April 28, 2010.

"Senior Indebtedness" means the principal of and the interest and premium (or any other amounts payable thereunder), if any, on:

(a) all indebtedness, liabilities and obligations of the Payor in respect of any indebtedness which is secured by liens, encumbrances or charges on any assets of the Payor, whether outstanding on the date of this Promissory Note or thereafter created, incurred, assumed or guaranteed, including, for greater certainty, all indebtedness, liabilities and obligations of the Payor under or in respect of the CIT Facility; and

(b) renewals, extensions, restructurings, refinancings and refundings of any such indebtedness, liabilities or obligations;

unless in each case it is provided by the terms of the instrument creating or evidencing such indebtedness, liabilities or obligations that such indebtedness, liabilities or obligations are *pari passu* with or subordinate in right of payment to this Promissory Note.

"Trustee" means a trustee appointed to hold an interest in the Principal Amount for the benefit of one or more classes or groups of creditors of Fraser Papers.

3. Intercreditor Agreement

The Payee hereby acknowledges and agrees that all rights and remedies of the Payee (including its successors and assigns) hereunder, including with respect to payment and enforcement of this Promissory Note, are subject to the Intercreditor Agreement dated April 28, 2010 between, among others, CIT Business Credit Canada Inc. and the Payee (the "Intercreditor Agreement").

4. Term

The Principal Amount shall be payable only on the Maturity Date, unless the Principal Amount is prepaid earlier in accordance with the terms and conditions of this Promissory Note and the Intercreditor Agreement. Notwithstanding the foregoing, but subject to the Intercreditor Agreement, the Principal Amount shall become due and payable in the event that the Payor institutes legal proceedings in respect of itself or substantially all of its property and assets under any federal, provincial or applicable foreign law relating to bankruptcy, insolvency, receivership, or creditor protection of insolvent persons (including the Bankruptcy and Insolvency Act (Canada) and the Companies' Creditors Arrangement Act (Canada)) or any such legal proceedings are instituted by creditors of the Payor and are not withdrawn, dismissed or terminated within sixty (60) days thereof.

5. Non-Interest Bearing Promissory Note

The Principal Amount shall not bear any interest.

6. Unsecured, Subordinated Promissory Note

This Promissory Note is a direct obligation of the Payor but is not secured by any mortgage, pledge, hypothec or other charge, lien or encumbrance. This Promissory Note and all Replacement Notes (as such term is defined below) shall rank *pari passu* with all other outstanding direct, unsecured and unsubordinated present and future obligations (except as otherwise prescribed by law) of the Payor and will be payable rateably without preference or priority. The Principal Amount hereof is subordinated and postponed to the repayment in full of all Senior Indebtedness of the Payor, provided that notwithstanding the foregoing postponement, the Payor shall repay the Promissory Note on the Maturity Date provided that no default then exists or would result from such payment under any Senior Indebtedness the terms of which would prohibit such repayment if a default then exists or would result from such payment, and provided further that if such Senior Indebtedness is also Brookfield Debt, then 180 days following the Maturity Date the Payee shall be free to pursue its available remedies to enforce payment upon the Promissory Note, however the Promissory Note shall remain subordinated to all Senior Indebtedness including Brookfield Debt.

7. Voluntary Prepayment

The Payor shall have the right and the privilege, at its sole option, of prepaying in whole or in part any portion of the Principal Amount at any time or from time to time prior to the Maturity Date without premium or penalty in minimum increments of US\$1,000,000. In the event that more than one Promissory Note is outstanding as a result of any replacement Promissory Notes being issued pursuant to Section 7 or Section 13, any such voluntary prepayment shall be made in respect of all notes held by parties having claims of equal priority in respect of one another, on a *pro rata* basis. The Payee shall not have the right to require the Payor to redeem or call for the repayment of this Promissory Note at any time prior to the Maturity Date.

8. Successors and Assigns

This Promissory Note shall enure to the benefit of and shall be binding upon the Payor and the Payee and their respective successors and permitted assigns. This Promissory Note shall not be transferable or assignable by the Payee, its successors or its permitted assigns without the prior written consent of the Payor, in its sole and absolute discretion; provided however that:

(a) the Payee may transfer or assign this Promissory Note, in whole and not in part, without the consent of the Payor, to a successor (by operation of law or otherwise) of Fraser Papers; and

(b) the Payee may transfer or assign this Promissory Note, in whole or in part, without the consent of the Payor, to one or more Trustees or a nominee of such Trustee and any successor trustee or nominee thereof, holding the Promissory Note on behalf of Fraser Papers or any Persons designated by Fraser Papers or to whom an interest in the Promissory Note is to be distributed in accordance with such Orders of the Canadian Court and the Bankruptcy Court as may subsequently be made, provided that (i) the terms of any Order authorizing any such distribution shall expressly provide that such distribution, and the rights and remedies of any successor or assign of Payee, is subject to the Intercreditor Agreement; and (ii) Payor is satisfied, acting reasonably, that such transfer or assignment would not result in the Payor becoming a



reporting issuer in any province or territory of Canada (or the equivalent in any other jurisdiction).

9. Amendment

This Promissory Note may not be modified, except and only by a written instrument executed by the Payor and the Payee.

10. Non-Negotiable Instrument

This Promissory Note is not and is not intended to be a negotiable instrument.

11. Governing Law

This Promissory Note is governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

12. Submission to Jurisdiction

(a) The Payee hereby irrevocably and unconditionally submits, for itself and its property, to the non-exclusive jurisdiction of the courts of the Province of Ontario, and any appellate court thereof, in any action or proceeding arising out of or relating to this Promissory Note, or enforcement of any judgment, and each of the Payor and the Payee hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in Ontario. Each of the Payor and the Payee agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by applicable law. Nothing in this Promissory Note shall affect any right that the Payor may otherwise have to bring any action or proceeding relating to this Promissory Note against the Payee in the courts of any other jurisdiction.

(b) The Payee hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Promissory Note in any court referred to in this Section 12(b). Each of the Payor and the Payee hereby irrevocably waives, to the fullest extent permitted by applicable law, any *forum non conveniens* defence to the maintenance of such action or proceeding in any such court.

13. Waiver of Jury Trial

EACH OF THE PAYOR AND THE PAYEE HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS PROMISSORY NOTE (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH OF THE PAYOR AND THE PAYEE (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD

NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

14. Replacement Notes.

(a) Should it be determined pursuant to Section 3.8 of the Purchase Agreement, that the Principal Amount of the Promissory Note is to be adjusted to an amount other than \$10,000,000, the Payee shall promptly return this Promissory Note to the Payor in exchange for a promissory note in identical form in the amount of such adjusted Principal Amount.

(b) Upon receiving written notice of any assignment by the Payee of this Promissory Note made in accordance with Section 8, the Payor shall, upon request by the Payee and return of the original Promissory Note to be replaced, issue a replacement promissory note or notes in identical form to reflect such whole or partial transfer. For greater certainty, any replacement note issued in accordance with this Section shall state that the rights and remedies of the Payee thereunder are subject to the Intercreditor Agreement.

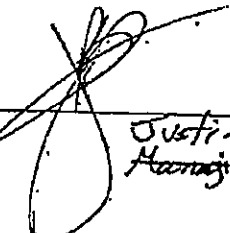
IN WITNESS WHEREOF, the undersigned hereunto sets its hand and seal as of the date first set forth above.

TWIN RIVERS PAPER COMPANY INC.

By:

Name:

Title:

  
Justin Bebel  
~~Managing Partner~~  
Vice President

Agreed to and acknowledged as of this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

FRASER PAPERS INC.

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

Name:

Title:

[Signature Page to Promissory Note]

IN WITNESS WHEREOF, the undersigned hereunto sets its hand and seal as of the date first set forth above:

TWIN RIVERS PAPER COMPANY INC.

By:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Agreed to and acknowledged as of this 28 day of April, 2010.

FRASER PAPERS INC.

By:

Name: Glen McMillan

Title: Senior VP and CFO

By:

Name: Marina Mueller

Title: Assistant Corporate Secretary

[Signature Page to Promissory Note]

## **Schedule “C” – Share Certificate**

INCORPORATED UNDER THE LAW OF THE PROVINCE OF ONTARIO



FRASER PAPERS INC.

This is to Certify that

is the registered holder of

\*\*2,401,960\*\*

Common Shares of

TWIN RIVERS PAPER COMPANY INC.

The class or series of shares represented by this Certificate has rights, privileges, restrictions or conditions attached thereto and the Corporation will furnish to the holder, on demand and without charge, a full copy of the text of,

(i) the rights, privileges, restrictions and conditions attached to the said shares and to each class authorized to be issued and to each series insofar as the same have been fixed by the directors, and

(ii) the authority of the directors to fix the rights, privileges, restrictions and conditions of subsequent series, if applicable.

CERTIFICATE

RESTRICTIONS ON TRANSFER. There are restrictions on the right to transfer the shares represented by this Certificate.

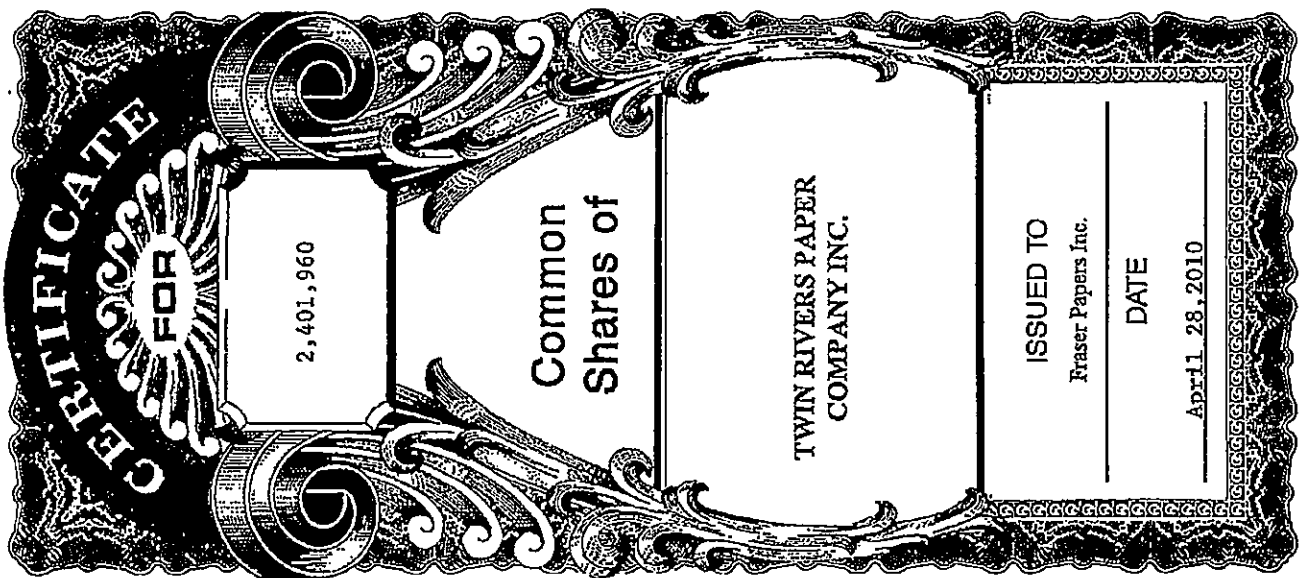
IN WITNESS WHEREOF the Corporation has caused this certificate to be signed by its duly authorized officers

this 28th day of April 2010

NO PAR VALUE

The shares represented by this certificate are subject to a unanimous shareholder agreement made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2010 among the Corporation and its shareholders, as the same may be supplemented, amended, restated or replaced from time to time, and may not be pledged, sold or otherwise transferred except in accordance with the provisions thereof.

Unless permitted under securities legislation, the holder of this security must not trade the security before the date that is four months and a day after the later of (i) \_\_\_\_\_, and (ii) the date the Corporation become a reporting issuer in any province or territory.



*For Value Received, \_\_\_\_\_ hereby assign and transfer unto*

\_\_\_\_\_ *Common Shares*

*represented by the within Certificate.*

*Dated \_\_\_\_\_ (year) \_\_\_\_\_*

*In the presence of*

NOTICE: THE SIGNATURE OF THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE FACE OF THE CERTIFICATE IN EVERY PARTICULAR, WITHOUT ALTERATION OR ENLARGEMENT OR ANY CHANGE WHATSOEVER.