

## **TEMBEC UNIFORM CDS SETTLEMENT AGREEMENT**

This Tembec Uniform CDS Settlement Agreement (the "**Agreement**") is entered into on September 10, 2008 between the entities specified in Schedule 1 hereto (each, a "**Party**").

**WHEREAS** the Parties hereto wish to facilitate the orderly settlement of the Covered Transactions (as defined below) relating to Tembec Industries Inc. ("**Tembec**") by agreeing that Credit Event Notices and Notices of Publicly Available Information in respect of such contracts will be deemed to have been effectively delivered on the Notice Date (as defined below) without requiring the actual delivery of such notices.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

### **1. DEFINITIONS AND INTERPRETATION**

#### **1.1 Interpretation**

As used in this Agreement, "**Confirmation**", "**Credit Support Document**" and "**Transaction**" each has the respective meaning given to that term in the related Governing Master Agreement and "**Credit Derivative Transaction**" has the meaning given to that term in the 2003 ISDA Credit Derivatives Definitions, as supplemented by the May 2003 Supplement to the 2003 ISDA Credit Derivatives Definitions, each as published by the International Swaps and Derivatives Association, Inc. ("**ISDA**") (the "**2003 Definitions**") in respect of a Transaction documented by a Confirmation that incorporates the 2003 Definitions or in the 1999 ISDA Credit Derivatives Definitions, as published by ISDA (the "**1999 Definitions**") in respect of a Transaction documented by a Confirmation that incorporates the 1999 Definitions, as applicable. Each other capitalized term used in this Agreement but not defined herein has the meaning given to that term in the related Documentation (as defined below), as applicable.

#### **1.2 Definitions**

"**Affected CDX Index**" means each of the indices published by CDS IndexCo LLC containing Tembec, if any.

"**Bespoke Portfolio Transaction**" means any Bespoke Untranching Portfolio Transaction and any Bespoke Tranching Portfolio Transaction.

"**Bespoke Tranching Portfolio Transaction**" means a tranching Credit Derivative Transaction that relates to more than one Reference Entity but which is not a Covered Index Transaction and is not any type of Covered Non-Index Transaction other than a Bespoke Portfolio Transaction.

"**Bespoke Untranching Portfolio Transaction**" means an untranching Credit Derivative Transaction that relates to more than one Reference Entity but which is not a Covered Index Transaction and is not any type of Covered Non-Index Transaction other than a Bespoke Portfolio Transaction.

"**Business Day**" means, for purposes of this Agreement, a day on which commercial banks and foreign exchange markets are generally open to settle payment in New York.

**"Constant Maturity Swap Transaction"** means any Portfolio Constant Maturity Swap Transaction and any Single Name Constant Maturity Swap Transaction.

**"Covered CDX Tranched Transaction"** means a tranched Credit Derivative Transaction that relates to an Affected CDX Index and is governed by relevant Index Documentation.

**"Covered CDX Untranched Transaction"** means a Credit Derivative Transaction that is not a Covered CDX Tranched Transaction but relates to an Affected CDX Index and is governed by relevant Index Documentation.

**"Covered Index Transaction"** means Covered CDX Untranched Transaction, Covered CDX Tranched Transaction, other than any Excluded Index Transaction, for which:

- (a) the Effective Date is on or prior to the Default Date;
- (b) the Trade Date is on or prior to the date that is 30 calendar days after the Default Date;
- (c) the Scheduled Termination Date is on or after the Default Date; and
- (d) the portion thereof attributable to Tembec is still outstanding as of the Notice Date.

**"Covered Non-Index Transaction"** means any Credit Derivative Transaction that (i) is not a Covered Index Transaction or an Excluded Index Transaction, (ii) is not an Excluded Non-Index Transaction, (iii) is a Single Name CDS Transaction, a Constant Maturity Swap Transaction, a Principal Only Transaction, an Interest Only Transaction, a First to Default Transaction, an Nth to Default Transaction, a Recovery Lock Transaction, a Bespoke Portfolio Transaction, a Single-Name Swaption or a Portfolio Swaption and (iv) for which:

- (a) Tembec is a Reference Entity;
- (b) the Effective Date is on or prior to the Default Date;
- (c) the Trade Date is on or prior to the date that is 30 calendar days after the Default Date;
- (d) the Scheduled Termination Date is on or after the Default Date; and
- (e) the portion thereof attributable to Tembec is still outstanding as of the Notice Date.

**"Covered Transaction"** means a Covered Index Transaction or a Covered Non-Index Transaction, as applicable.

**"Default Date"** means September 4, 2008.

**"Documentation"** means Index Documentation or Non-Index Documentation, as applicable.

**"Excluded Index Transaction"** means any Credit Derivative Transaction between any two of Bear Stearns Credit Products Inc., Citigroup Global Markets Limited, Credit Suisse First Boston International, Deutsche Bank AG, Goldman Sachs International, Lehman Brothers Special Financing Inc., JPMorgan Chase Bank, Merrill Lynch International, Morgan Stanley Capital Services Inc. UBS AG London Branch and UBS Limited in respect of any of the Dow Jones CDX.NA.HY Trust Certificates or CDX.NA.HY Trust Certificates.

**"Excluded Non-Index Transaction"** means (a) any Bespoke Portfolio Transaction that relates to a portfolio of Reference Entities that is also the relevant portfolio for any series of credit-linked notes, trust certificates or other similar securities and for which the parties thereto intend settlement to be consistent with the settlement terms applicable to such securities (b) Reference Obligation Only Transactions, (c) Loan Only Transactions, (d) any First to Default Transaction or Nth to Default Transaction for which any

two of (i) Tembec, (ii) Federal National Mortgage Association, and (iii) Federal Home Loan Mortgage Corporation are Reference Entities and (e) Fixed Recovery Transactions.

**"First to Default Transaction"** means a Credit Derivative Transaction linked to more than one Reference Entity pursuant to which Cash Settlement Amounts or Physical Settlement Amounts will only be paid to Buyer after the Conditions to Settlement have been satisfied for the first time in respect of any of the relevant Reference Entities.

**"Fixed Recovery Transaction"** means a Credit Derivative Transaction in respect of which the Final Price is pre-determined and specified in the relevant Documentation.

**"Governing Master Agreement"** means, in respect of a Covered Transaction, the master agreement governing such Covered Transaction, whether executed by the parties thereto or incorporated by reference in the Confirmation relating to such Covered Transaction.

**"Index Documentation"** means the Governing Master Agreement and (i) in the case of a Covered CDX Untranching Transaction, a Confirmation (including a master confirmation) based on the form published by CDS IndexCo LLC in October 2003, September 2004, March 2007, March 2008, or July 2008 with such modifications to which the parties thereto have agreed or (ii) in the case of a Covered CDX Tranching Transaction, a Confirmation (including a master confirmation and irrespective of whether such Confirmation or master confirmation incorporates the standard terms) based on the form published by CDS IndexCo LLC in July 2004, March 2005, June 2005, March 2006, March 2007, March 2008, or July 2008 with such modifications to which the parties thereto have agreed.

**"Interest Only Transaction"** means a Credit Derivative Transaction linked to more than one Reference Entity under which the Seller pays to the Buyer either (a) an upfront amount or (b) a floating interest rate, neither party pays Cash Settlement Amounts during the term of the Transaction and the Buyer pays Fixed Amounts to the Seller during the term of the Transaction (which amounts are reduced due to Credit Events).

**"Loan Only Transaction"** means a Credit Derivative Transaction in respect of which "Loan" is specified as the only Deliverable Obligation Category.

**"Non-Index Documentation"** means the Governing Master Agreement and Confirmation (including a master confirmation) relating to a Covered Non-Index Transaction.

**"Notice Date"** means September 8, 2008.

**"Nth to Default Transaction"** means a Credit Derivative Transaction linked to more than one Reference Entity pursuant to which Cash Settlement Amounts or Physical Settlement Amounts will only be paid to Buyer after the occurrence of Credit Events in respect of a specified number of Reference Entities.

**"Portfolio Constant Maturity Swap Transaction"** means a Credit Derivative Transaction linked to a portfolio of Reference Entities in respect of which the Fixed Rate is reset at the end of each Fixed Rate Payer Calculation Period to the then-current market rate for the relevant Credit Derivative Transaction.

**"Portfolio Swaption"** means any unexercised option to enter into a Covered Transaction (other than another Portfolio Swaption) referencing more than one Reference Entity.

**"Principal Only Transaction"** means a Credit Derivative Transaction linked to more than one Reference Entity under which the Seller pays an upfront amount to the Buyer, neither party pays any Fixed Amounts or Cash Settlement Amounts during the term of the Transaction and, upon termination of the Transaction, the Buyer pays to Seller the notional amount of the transaction, minus aggregate Cash Settlement Amounts.

**"Recovery Lock Transaction"** means a Credit Derivative Transaction in respect of which the Reference Price is specified in the relevant Documentation as a price less than 100 per cent and for which either Buyer or Seller can deliver a Notice of Physical Settlement.

**"Reference Obligation Only Transaction"** means a Credit Derivative Transaction in respect of which "Reference Obligation Only" is specified as the Deliverable Obligation Category.

**"Single Name CDS Transaction"** means a Credit Derivative Transaction linked to not more than one Reference Entity that is not a Single Name Constant Maturity Swap Transaction.

**"Single Name Constant Maturity Swap Transaction"** means a Credit Derivative Transaction linked to not more than one Reference Entity for which the Fixed Rate is reset at the end of each Fixed Rate Payer Calculation Period to the then-current market rate for the relevant Credit Derivative Transaction.

**"Single-Name Swaption"** means any unexercised option to enter into a Covered Transaction (other than another Single Name Swaption) referencing not more than one Reference Entity.

## **2. SETTLEMENT AGREEMENT EFFECTIVE DATE**

The Parties hereby agree that the agreements set forth in Section 3 of this Agreement will be deemed to take effect from the Notice Date.

## **3. AGREEMENT**

- 3.1 With respect to each Covered Transaction, a Credit Event Notice specifying Bankruptcy as the Credit Event and a Notice of Publicly Available Information shall be deemed to be effective on the Notice Date and the Notice Date shall be deemed to be the Event Determination Date for purposes of each such Covered Transaction or for the portion of such Covered Transaction applicable to Tembec, as applicable (and for the avoidance of doubt, such date shall be the Event Determination Date for all Covered Transactions even if London or any other city is specified as the Calculation Agent City for any such Covered Transaction).
- 3.2 Any Credit Event Notice or Notice of Publicly Available Information (other than a notice deemed to be given pursuant to this Agreement) delivered in respect of the portion of any Covered Transaction applicable to Tembec shall be deemed revoked, and neither Party shall have any obligations with respect to such revoked notice.
- 3.3 Each party agrees not to deliver any other Credit Event Notice or Notice of Publicly Available Information (other than a notice deemed to be given pursuant to this Agreement) in respect of the portion of a Covered Transaction applicable to Tembec, and any such notice delivered shall be void and have no effect.

#### 4. REPRESENTATIONS

Each Party represents (which representations will each be deemed to be a representation for purposes of Section 5(a)(iv) of the Governing Master Agreement) to each other Party with which it had any Covered Transaction outstanding on the Notice Date, in respect of each Covered Transaction between them, that:

- 4.1 **Status.** It (a) is, if relevant, duly organized and validly existing under the laws of the jurisdiction of its organization or incorporation and, if relevant under such laws, in good standing or (b) if it otherwise represents its status in or pursuant to the Governing Master Agreement, has such status.
- 4.2 **Powers.** It has the power to execute and deliver this Agreement and to perform its obligations under this Agreement and each Covered Transaction, in each case as amended by this Agreement, and has taken all necessary action to authorize such execution, delivery and performance.
- 4.3 **No Violation or Conflict.** Such execution, delivery and performance do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets.
- 4.4 **Consents.** All governmental and other consents that are required to have been obtained by it with respect to this Agreement and each Covered Transaction, in each case as amended by this Agreement, have been obtained and are in full force and effect and all conditions of any such consents have been complied with.
- 4.5 **Obligations Binding.** Its obligations under this Agreement and each Covered Transaction, in each case as amended by this Agreement, constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).
- 4.6 **Credit Support.** This Agreement will not, in and of itself, adversely affect any obligations owed, whether by a Party or by any third party, under any Credit Support Document relating to a Covered Transaction.

#### 5. MISCELLANEOUS

- 5.1 **Entire Agreement.** Notwithstanding Section 9(a) of the Governing Master Agreement, this Agreement constitutes the entire agreement and understanding of the Parties with respect to its subject matter.
- 5.2 **Non-reliance.** Each Party acknowledges that in agreeing to this Agreement it has not relied on any oral or written representation, warranty or other assurance and waives all rights and remedies which might otherwise be available to it in respect thereof, except that nothing in this Agreement will limit or exclude any liability of a Party for fraud.

- 5.3 **No Waiver.** Except as explicitly stated in this Agreement, nothing herein shall constitute a waiver or release of any rights of any Party under the relevant documentation for the relevant Covered Transaction.
- 5.4 **Amendments.** An amendment, modification or waiver in respect of the matters contemplated by this Agreement will only be effective if made in accordance with the terms of the Governing Master Agreement and then only with effect between the parties to that Governing Master Agreement (and will only be effective to amend or override the provisions contained in Section 3 hereof if it expressly refers in writing to this Section 5.4 of this Agreement and would otherwise be effective in accordance with Section 9(b) of the Governing Master Agreement).
- 5.5 **Headings.** The headings used in this Agreement are for convenience of reference only and are not to affect the construction of or to be taken into consideration in interpreting this Agreement.
- 5.6 **Governing Law.** This Agreement will, as between two Parties and in respect of each Covered Transaction between them, be governed by and construed in accordance with the law specified to govern that Covered Transaction and otherwise in accordance with applicable choice of law doctrine.
- 5.7 **Counterparts.** This Agreement (and each amendment, modification and waiver in respect of it) may be executed and delivered in any number of counterparts (including by facsimile transmission) and all of such counterparts taken together shall be deemed to constitute one and the same instrument.

IN WITNESS whereof the Parties have executed this Agreement on September 10, 2008.

## **SCHEDULE 1**

**The following entities are Parties to this Agreement:**

For and on behalf of:

[FULL LEGAL NAME OF PARTY]

By: .....