

**AMENDED AND RESTATED
SITKA ALASKA PERMANENT CHARITABLE TRUST**

The Sitka Alaska Permanent Charitable Trust ("Trust") was created on July 31, 1995, by the Alaska Pulp Corporation pursuant to a settlement in the action *Larry Edwards v. Alaska Pulp Corporation and Alaska Pulp Company, Ltd.*, 1JU-94-1825 CI, and by National Bank of Alaska as Trustee.¹ This Amendment and Restatement of the Trust is made pursuant to a court order issued by the Superior Court for the State of Alaska, First Judicial District, on December 27, 2006. The Trustee petitioned the court to modify the Trust pursuant to AS 13.36.345, 13.38.440 and 13.38.360. After a hearing, the court issued an order modifying the Trust in the following form.

NOW, THEREFORE, the Trust is amended and restated as follows:

ARTICLE I

Trust Name

This Agreement and the trust hereunder may be referred to as The Sitka Alaska Permanent Charitable Trust.

ARTICLE II

Purposes

A. **Purposes.** The Trust is organized and shall be maintained and operated exclusively for charitable, scientific and educational purposes, and specifically, for the following purposes:

1. To promote cultural programs, general community betterment and educational assistance through grants.
2. To promote the advancement of scientific knowledge and understanding with respect to the marine and terrestrial flora and fauna of Sitka and the surrounding areas that might affect Sitka by making grants to educational institutions for this purpose and more specifically, to create, at Sitka High School, Alaska's finest program to encourage young men

¹ National Bank of Alaska went through several name changes and is now Wells Fargo Alaska Trust Company, N.A.

and women to explore and pursue the study of science and the environment. Grants to the high school can be used for the purchase of necessary equipment related to the purposes of the trust and for experiences which will promote interest in science and an understanding of the flora, fauna, and the marine life of Sitka and the surrounding areas.

3. Funding provided in furtherance of the educational purposes shall be made through educational institutions. The income from the Trust shall, as far as practical, be divided equally between (1) and (2) above. The funding described above shall supplement and not replace the regular funding of recipient institutions.

B. Pay Only to Qualified Charitable Recipient. "Qualified Charitable Recipient" means an entity that is described in Code Secs. 170(c), 2055(a) and 2522(a). No distribution shall be made to a Recipient unless at the time of the payment the Recipient is a Qualified Charitable Recipient. In the case of any distribution to a Recipient described in Code Sec. 170(c)(1), the distribution shall be made for exclusively public purposes.

C. Definition of Unitrust Amount. The unitrust amount shall be four percent (4%) of the net fair market value of the Trust's assets, valued as of January 1 of the Trust's taxable year (the "valuation date"). If the valuation date does not occur in a taxable year of the Trust other than the year in which the charitable term expires, the Trust assets shall be valued as of the last day of such taxable year. In the case of the taxable year in which the charitable term expires, if the valuation date does not occur before the day of the expiration, the Trust assets shall be valued as of the day of the expiration. The Trustee, after consultation with the Board of Advisers, shall have the discretion to change the unitrust amount annually and to average the net fair market value of the Trust's assets over a five-year period, provided that an exercise of such discretion is prudent and consistent with the Trustee's duties as provided elsewhere in this Agreement, and will further the purposes of the Trust.

D. Frequency and Source of Payment. The unitrust amount shall be calculated annually at the beginning of each calendar year. The amount calculated shall be set aside for distribution in May of that same year. Payment shall first be made from gross income of the current or any prior year, then from income (within the meaning of Code Sec. 643(b)) that is not gross income, and lastly from principal that is not gross income. Payments of gross income shall first be made from gross income that is not capital gain, qualified dividend income under Code Sec. 1(h)(11)(B) or unrelated business taxable income, then from short-term capital gain,

then from qualified dividend income under Code Sec. 1(h)(11)(B), then from long-term capital gain that is subject under Code Sec. 1(h) to the highest rate of tax, then from long-term capital gain that is subject under Code Sec. 1(h) to the next highest rate of tax, and so on with respect to other long-term capital gain until lastly long-term capital gain that is subject under Code Sec. 1(h) to the lowest rate of tax, and lastly from unrelated business taxable income.

E. **Excess Income Added to Principal.** Any income (within the meaning of Code Sec. 643(b)) of the Trust for a taxable year not distributed as part of the unitrust amount shall be added to principal.

F. **Correction if Incorrect Valuation.** If, for any year, the net fair market value of the Trust assets is incorrectly determined, then within a reasonable period after the value is finally determined for Federal tax purposes, the Trustee shall pay to the Recipients (in the case of an undervaluation) or receive from the Recipients (in the case of an overvaluation) an amount equal to the difference between the unitrust amount properly payable and the unitrust amount actually paid.

G. **Trustee May Incorporate.** The Trustee is authorized to form or cause to be formed a non-profit corporation devoted to accomplishing the charitable purposes of the Trust, such corporation to be organized under the laws of Alaska as may be determined by the Trustee. Upon the qualification of any such corporation as an organization (i) that is exempt from federal income taxation under Code Sec. 501(a) as an organization described in Code Sec. 501(c)(3), and (ii) to which contributions are deductible under Code Secs. 170(c)(2), 2055(a) and 2522(a), the Trustee is authorized to distribute to such corporation any part or all of the property of the Trust as the Trustee shall determine.

ARTICLE III

Taxable Year

The taxable year of the Trust shall begin on January 1 and end on December 31.

ARTICLE IV

Proration of Payments in Certain Taxable Years

The Trustee shall prorate the unitrust amount on a daily basis for a short taxable year and for the taxable year of the expiration of the charitable term.

ARTICLE V
Prohibited Transactions

A. **No Inurement or Private Benefit.** The Trust is not formed for pecuniary profit or financial gain, and no part of the net earnings of the Trust shall inure or be distributable to or for the benefit of any Trustee or private individual, except that the Trustee is authorized to pay reasonable compensation and commissions for services rendered to or for the Trust, and to make distributions in furtherance of the Trust's charitable purposes.

B. **No Propaganda.** No substantial part of the activities of the Trust shall be the carrying on of propaganda, or otherwise attempting to influence legislation (except as may otherwise be provided by Code Sec. 501(h) during any fiscal year or years in which the Trust has chosen to utilize the benefits authorized by that statutory provision), and the Trust shall not participate in or intervene in (including the publishing or distributing of statements) any political campaign on behalf of, or in opposition to, any candidate for public office.

C. **Private Foundation Rules.** The Trustee is prohibited from engaging in any act of self-dealing as defined in Code Sec. 4941(d), from retaining any excess business holdings as defined in Code Sec. 4943(c) which would subject the Trust to tax under Code Sec. 4943, from making any investments which would subject the Trust to tax under Code Sec. 4944, and from making any taxable expenditures as defined in Code Sec. 4945(d). The Trustee shall make distributions at such time and in such manner as not to subject the Trust to tax under Code Sec. 4942.

D. **Corporate Contributions.** If any contributions are made to the Trust by a corporate donor, such contributions and any income or gain thereon or reinvestment thereof shall not be distributed for any use outside the United States.

E. **Restriction on Lobbying.** No substantial part of the activities of the Trust shall be used primarily for the purpose of influencing public opinion, the carrying on of propaganda, or attempting to influence legislation.

ARTICLE VI
Trustee Must Not Disqualify Trust; Restrictions

The Trustee is prohibited from exercising any power or discretion granted under any

law or this Agreement that would be inconsistent with the continuing qualification of the Trust as an entity described in Code Secs. 170(c)(2), 2055(a), 2522(a) and 501(c)(3). Notwithstanding any other provision of this Trust, this Trust shall not carry on any activities not permitted to be carried on by an organization exempt from Federal income tax under Code Sec. 501(c)(3) or the corresponding provision of any future United States Internal Revenue law.

ARTICLE VII

Limited Power of Amendment

This Trust is irrevocable; however the Trustee shall have the power, acting alone, to amend the Trust in any manner required for the sole purpose of ensuring that the Trust continues to qualify as an entity described in Code Secs. 170(c)(2), 2055(a), 2522(a) and 501(c)(3). References to the Code shall be deemed to incorporate changes enacted or promulgated after the date of this Agreement to whatever extent is necessary to ensure such continuing qualification.

ARTICLE VIII

Additional Contributions

The Trustee is authorized to receive additional contributions, whether real, personal or mixed, by way of gift, bequest, or devise, from any person, firm, trust or corporation, to be held, administered and disposed of in accordance with and pursuant to the provisions of this Agreement. Provided, however that the terms of any such additional contribution shall be consistent with the continuing qualification of the Trust as an entity described in Code Secs. 170(c)(2), 2055(a), 2522(a) and 501(c)(3) and with the purposes of the Trust as provided in this Agreement.

ARTICLE IX

Perpetual Duration, Termination and Dissolution

The Trust shall be a perpetual charitable trust and shall terminate when all of the net income and principal has been distributed pursuant to this Agreement. In the event of dissolution of the Trust, the residual assets of the Trust shall be turned over to one or more organizations which are themselves exempt as organizations described in Code Secs. 170(c)(2),

2055(a), 2522(a) and 501(c)(3) or corresponding sections of any prior or future Internal Revenue Code, or to the Federal government or to a State, or local government for an exclusive public purpose, as determined by the Board of Advisers.

ARTICLE X

Board of Advisers

A. **Number and Powers.** There shall be a Board of Advisers (the "Board") with five members, which shall direct the Trustee in making payments or distributions from income subject to the limitations and for the purposes of this Trust, as set forth herein. The Board shall have the authority to adopt and amend rules and procedures for its internal affairs and governance, not inconsistent with this Agreement.

B. **Expenses and Remuneration.** The Board shall have the power to engage reasonable and necessary staff and professional assistance and to bill the Trustee for such services. All advisers shall serve without compensation, but may be reimbursed by the Trustee for reasonable expenses incurred.

C. **Term.** Each adviser shall serve until his or her successor is appointed.

D. **Vote.** Each adviser shall have one vote in all matters. Action of the Board shall require three votes at a duly constituted meeting, or the written consent of all of the advisers.

E. **Meetings.** The Board shall meet at least annually and, in addition, shall meet upon the written request of any two advisers, or at the written request of the Trustee, provided that at least 15 days advance written notice of each meeting shall be provided to each Adviser stating the date, place and matters to be considered at the meeting, but each adviser may waive any notice requirement by an instrument in writing. The public shall be given reasonable notice of a meeting by a classified advertisement in the *Daily Sitka Sentinel*, its successor publication, or a publication of similar circulation in the event there is no successor, and may attend such meetings.

F. **Selection of Advisers.** The Advisers shall be selected as follows:

1. Each Adviser must be a resident of Sitka, Alaska at all times of service.

2. One of each of the following shall serve as Advisers:

a. A former Mayor of Sitka, who shall serve a term of three years.

The four advisers designated in subparagraphs (b) through (e) below shall select this Adviser

from the available candidates. If no such person is available, then the present Mayor of Sitka or his designee shall serve;

b. The principal of Sitka High School or his designee, provided that such designee is a teacher of physical or biological sciences at Sitka High School;

c. A president of Sheldon Jackson College or his designee;

d. The Chief Executive Officer of Northern Southeast Regional Aquaculture Association (or its successor organization) or his designee; and

e. The Publisher of the *Daily Sitka Sentinel* or, if no publisher resides in Sitka, then the senior officer who resides in Sitka.

3. There shall be two additional advisers who shall serve *ex officio* and without voting rights. The failure of either *ex officio* adviser to participate shall not affect the validity of actions of the regular advisers:

a. The President of the student government at Sitka Public High School; and

b. The Senior Officer of the U.S. Coast Guard Air Station in Sitka, Alaska or his designee.

4. If no individual fitting one or more of the above categories can or will serve as an Adviser, then the remaining Advisers shall, by unanimous vote, select replacement criteria for such category or categories of Adviser, which shall be established in order to enable the Board to fulfill the purposes of the Trust.

G. Termination or Resignation of Adviser.

1. An Adviser may be terminated for cause upon a unanimous vote of the remaining Advisers, in which case that Adviser shall be replaced by his successor as provided above. As used herein, termination for cause shall be authorized in cases in which an Adviser has failed to act in a manner consistent with the purposes or provisions of the Trust.

2. Any Adviser may resign by providing written notification to the Trustee. The resignation shall be effective as of the date designated by the resigning Adviser. In case of death or resignation, a new Adviser shall be appointed, as set forth above to serve in place of the departing Adviser.

H. Reliance by Trustee. The Trustee may rely upon written instructions of the Board executed by all members of the Board.

I. **Power to Replace Trustee.** The Board shall have the power to replace the Trustee with any other Trustee, which shall accept the office by written instrument, as provided in Article XI.

ARTICLE XI

Trustee

A. **Trustee Appointment.** A Trustee who is a party to this Agreement shall serve as Trustee until its removal or resignation pursuant to this Agreement.

B. **Successor.** Any successor trustee shall be a bank or trust company principally located in and operating in conformance with the laws of the State of Alaska.

C. **Additional Provisions Regarding Changes in Fiduciaries.**

1. A Trustee may be appointed pursuant to this Article for a limited purpose or to hold only specified powers.

2. The Trustee may, by written instrument, resign its office hereunder and may, by action of the Board of Advisers, be removed from its office and replaced by a successor Trustee. Upon such resignation or removal, the Board of Advisers shall meet at the earliest practicable date to appoint a new Trustee to exercise the powers and carry out the duties established by this Agreement. Any successor Trustee shall, upon acceptance of the office by written instrument, have the same powers, rights and duties, and the same title to the Trust estate, as if originally appointed.

D. **Accountings.**

1. This Trust shall be subject to independent administration with as little court supervision as the law allows. The Trustee shall not be required to render to any court annual or other periodic accounts, or any inventory, appraisal, or other returns or reports, except as required by applicable state law. The Trustee shall take such action for the settlement or approval of accounts at such times and before such courts or without court proceedings as the Trustee shall determine. The Trustee shall pay the costs and expenses of any such action or proceeding, including but not limited to the compensation and expenses of attorneys, out of the property of the Trust.

2. The Trustee shall annually prepare a summary report on the Trust's activities on or before July 31st, the anniversary of the original Declaration of Trust. This report

shall be provided to the public upon written request to the Trustee. In addition, a copy of this report shall be provided to the following persons, or their successors, unless written notification is provided to the Trustee that the individual no longer wishes to receive the report:

Larry Edwards
P.O. Box 6484
Sitka, AK 99835

Peter F. Langrock
Langrock, Sperry & Wool
P.O. Drawer 351
Middlebury, VT 05753

Terrance G. Reed
Lankford, Coffield & Reed, PLLC
120 North Asaph Street
Alexandria, VA 22314

Peter R. Ehrhardt
Friedman Rubin & White
215 Fidalgo Avenue, Suite 203
Kenai, AK 99611

James W. McGowan
Attorney at Law
202-A Katlian Street
Sitka, AK 99835

E. **Governing Law and Trustee Powers.** The interpretation and operation of the Trust shall be governed by the laws of the State of Alaska. The Trustee may, without prior authority from any court, exercise all powers conferred by this Agreement or by common law or by any fiduciary powers act or other statute of the State of Alaska or any other jurisdiction whose law applies to the Trust. The Trustee shall have sole and absolute discretion in exercising these powers. Except as specifically limited by this Agreement, these powers shall extend to all property held by the Trustee until actual distribution of the property. The powers of the Trustee shall include the following

1. The Trustee may allocate receipts and disbursements to income or principal in such manner as the Trustee shall determine, even though a particular allocation may be inconsistent with otherwise applicable state law.

2. The Trustee may grant security interests and execute all instruments creating such interests upon such terms as the Trustee may deem advisable.

3. The Trustee may make all tax elections and allocations the Trustee may consider appropriate, even though a Trustee may have an interest affected by the election, except where a Trustee is prohibited from participating in the election by another provision of this Agreement. Provided, however, this authority is exercisable only in a fiduciary capacity and may not be used to enlarge or shift any beneficial interest except as an incidental

consequence of the discharge of fiduciary duties. Tax elections and allocations made in good faith shall not require equitable adjustments.

4. The Trustee may divide and distribute the assets of the Trust Fund in kind, in money, or partly in each, without regard to the income tax basis of any asset and without the consent of any beneficiary. The decision of the Trustee in dividing any portion of the Trust Fund between or among multiple beneficiaries shall be binding on all persons.

5. The Trustee may make any election available under the tax laws in such manner as the Trustee shall determine, except where a Trustee is prohibited from participating in the election by another provision of this Agreement.

6. The Trustee may retain any property originally contributed to the Trust and invest and reinvest in all forms of real and personal property, whether inside or outside the United States, including, without limitation, common trust funds of a corporate trustee, mutual funds, partnerships (including a partnership in which a Trustee is a partner) and other forms of joint investment (which may, but need not, be managed by, advised by or affiliated with a Trustee), without regard to any principle of law limiting delegation of investment responsibility by Trustee.

7. The Trustee may allocate within the meaning of Reg. §1.643(a)-3(b) to income or to principal, or partly to income and partly to principal, all or part of the realized gains from the sale or exchange of Trust assets; provided, however, that, if income is defined under an applicable state statute as a unitrust amount and the Trust is being administered pursuant to such statute, the allocation of gains to income must be exercised consistently and the amount so allocated may not be greater than the excess of the unitrust amount over the amount of distributable net income determined without regard to Reg. §1.643(a)-3(b).

8. The Trustee may, within the meaning of Reg. §1.643(a)-3(e), specify the tax character of any unitrust amount paid hereunder. The Trustee may take any action that may be necessary in order for such specification to be respected for tax purposes.

9. The Trustee may compromise claims or debts and abandon or demolish any property which the Trustee shall determine to be of little or no value.

10. The Trustee may sell property at public or private sale, for cash or upon credit, exchange property for other property, lease property for any period of time and give options of any duration for sales, exchanges or leases.

11. The Trustee may join in any merger, reorganization, voting-trust plan or other concerted action of security holders and delegate discretionary powers (including investment powers) in entering into the arrangement.

12. The Trustee may borrow from anyone, even if the lender is a Trustee under this Agreement, and may pledge property as security for repayment of the funds borrowed, including the establishment of a margin account. No Trustee shall be personally liable for any such loan, and such loan shall be payable only out of assets of the Trust.

13. The Trustee may employ a custodian, hold property unregistered or in the name of a nominee (including the nominee of any bank, trust company, brokerage house or other institution employed as custodian) and pay reasonable compensation to a custodian in addition to any fees otherwise payable to the Trustee, notwithstanding any rule of law otherwise prohibiting such dual compensation.

14. The Trustee may employ and rely upon advice given by accountants, attorneys, investment bankers and other expert advisors and employ agents, clerks and other employees and pay reasonable compensation to such advisors or employees in addition to fees otherwise payable to the Trustee, notwithstanding any rule of law otherwise prohibiting such dual compensation.

15. The Trustee may accept or decline to accept additions from any source.

16. The Trustor desires, but does not direct, that, when consistent with its duties as provided elsewhere in this Agreement, that the Trustee try to limit investment of the Trust's assets to companies that are attempting to have quality environmental policies.

F. Additional General Provisions Regarding Fiduciaries.

1. Except to the extent specifically provided otherwise in this Agreement, references to the Trustee shall, in their application to a Trust hereunder, refer to all those from time to time acting as Trustee of that Trust.

2. The Trustee shall be compensated in accordance with its fee schedule as in effect at the time of payment. It is understood that the Trustee may charge additional fees for services it provides to a Trust hereunder that are not comprised within its duties as Trustee, for example, a fee charged by a mutual fund it administers in which a Trust hereunder invests, or a fee for providing an appraisal, or a fee for providing corporate finance or investment banking services. It is also understood that the Trustee may charge separately for some

services comprised within its duties as Trustee, for example a separate fee for investing cash balances or preparing tax returns. Such separate charges shall not be treated as improper or excessive merely because they are in addition to a basic fee in calculating total compensation for service as Trustee.

3. No Trustee shall be liable to anyone for anything done or not done by any other Trustee or by any beneficiary.

4. The fact that a Trustee is active in the investment business shall not be deemed a conflict of interest, and purchases and sales of investments may be made through a corporate Trustee or through any firm of which a corporate or individual Trustee is a partner, member, shareholder, proprietor, associate, employee, owner, subsidiary, affiliate or the like, and property of a Trust hereunder may be invested in individual securities, mutual funds, partnerships, private placements, or other forms of investment promoted, underwritten, managed, or advised by a Trustee or such a firm.

5. The Trustee may employ and rely upon advice given by investment counsel, delegate discretionary investment authority over investments to investment counsel, and pay investment counsel reasonable compensation in addition to fees otherwise payable to the Trustee, notwithstanding any rule of law otherwise prohibiting such dual compensation.

6. A Trustee may irrevocably release one or more powers held by the Trustee while retaining other powers.

7. Any Trustee may delegate to a Co-Trustee any power held by the delegating Trustee, but only if the Co-Trustee is authorized to exercise the power delegated. A delegation may be revocable, but while it is in effect the delegating Trustee shall have no responsibility concerning the exercise of the delegated power.

8. Unless otherwise provided in this instrument, any authority granted to a Trustee in this Agreement or by law, whether stated as an authority, right, power or otherwise, may be exercised by the Trustee in that Trustee's sole and absolute discretion.

G. **Waiver of Bond.** No Trustee shall be required to give bond or other security in any jurisdiction and, if despite this exoneration a bond is nevertheless required, no sureties shall be required.

H. **Required Duties for Alaska Trustee.** The Trust created under this Agreement should be a trust described in AS 13.36.035(a) and (c). Accordingly, unless the Trustee determines to move the situs of a trust hereunder to another jurisdiction as is hereby authorized, the Trustor directs that (a) at all times at least one Trustee shall be an Alaska domiciliary, trust company or bank whose duties shall include the duty and responsibility to maintain books and records of the trust in Alaska and to prepare or to arrange for the preparation of the tax returns of the Trust, (b) at least some assets of the Trust shall be deposited in Alaska within the meaning of AS 13.36.035(c)(1), and (c) at least part of the administration of the Trust shall occur in Alaska within the meaning of AS 13.36.035(c)(4).

ARTICLE XII

Definitions and Miscellaneous Provisions

The following definition and miscellaneous provision shall apply under this Agreement:

A. **Code and Regulations.** References to the "Internal Revenue Code" or "Code" or to provisions thereof are to the Internal Revenue Code of 1986, as amended at the time in question. References to the "Regulations" and "Regs." are to the Regulations under the Code. If, by the time in question, a particular provision of the Code has been renumbered, or the Code has been superseded by a subsequent Federal tax law, the reference shall be deemed to be to the renumbered provision or the corresponding provision of the subsequent law, unless to do so would clearly be contrary to the Trustor's intent as expressed in this Agreement. A similar rule shall apply to references to the Regulations.

The Trustee accepts this Amendment, pursuant to a court order issued DECEMBER 27, 2006 by the Superior Court, First Judicial District, State of Alaska.

Dated: DECEMBER 27, 2006


Wells Fargo Alaska Trust Company, NA, Trustee
Jim Plymire, Vice-President
P.O. Box 196127
Anchorage, AK 99519-6127

ACKNOWLEDGEMENT

STATE OF ALASKA)
)
THIRD JUDICIAL DISTRICT)

I HEREBY CERTIFY that on this 27th day of December, 2008, before me, a Notary Public in and for Third Judicial District, State of Alaska, personally appeared Jim Plymire, Vice-President of Wells Fargo Alaska Trust Company, NA, an Alaskan corporation, and acknowledged that the foregoing instrument was executed on behalf of Wells Fargo Alaska Trust Company, NA, as Trustee for the purposes therein contained.

Notary Public
DAWN C. SPANGLER
State of Alaska
My Commission Expires Feb. 14, 2010

Dawn C Spangler
Notary Public for Alaska.
My Commission Expires: 02-14-2010

22731

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