



COMMUNITY FOREST AGREEMENT K3J



THIS AGREEMENT, dated for reference December 14, 2011

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT
OF THE PROVINCE OF BRITISH COLUMBIA,
as represented by the REGIONAL EXECUTIVE DIRECTOR ,
MINISTRY OF FORESTS, LANDS AND
NATURAL RESOURCE OPERATIONS
2100 LABIEUX ROAD
NANAIMO, BRITISH COLUMBIA
V9T 6E9
Phone: 250 751-7001 Fax: 250-751-7190
(the "Regional Executive Director ")

AND:

CASCADES LOWER CANYON COMMUNITY FOREST GENERAL
PARTNERSHIP CORP.
P.O. BOX 1869
HOPE, BRITISH COLUMBIA
VOX 1L0
Phone: 604 863-0243 Fax: 604 863-2467
(the "Agreement Holder")

WHEREAS:

- A. This Community Forest Agreement is entered into under prescribed circumstances and its holder meets prescribed requirements.

“The Table of Contents and headings in this Agreement are included for convenience only and do not form a part of this Agreement and in no way define, limit, alter or enlarge the scope or meaning of any provision of this Agreement.”

TABLE OF CONTENTS

1.00	GRANT OF RIGHTS AND TERM.....	3
2.00	OTHER CONDITIONS AND REQUIREMENTS	4
3.00	TIMBER VOLUME CHARGED TO THE AGREEMENT	4
4.00	CUT CONTROL	5
5.00	WASTE ASSESSMENT	5
6.00	MANAGEMENT PLAN.....	6
7.00	CUTTING PERMITS	9
8.00	ACCESS	12
9.00	COURT DETERMINED ABORIGINAL RIGHTS AND/OR TITLE	13
10.00	REPORTING.....	14
11.00	FINANCIAL	15
12.00	REPRESENTATIONS.....	16
13.00	LIABILITY AND INDEMNITY	16
14.00	TERMINATION	17
15.00	WAIVER.....	18
16.00	NOTICE	18
17.00	MISCELLANEOUS.....	19
18.00	INTERPRETATION & DEFINITIONS.....	20
	SCHEDULE “A”	25
	SCHEDULE “B”	26
1.00	DESCRIPTION OF CROWN LANDS	26
	SCHEDULE “D”	29
1.00	OTHER CONDITIONS AND REQUIREMENTS	27

THE PARTIES agree as follows:

1.00 GRANT OF RIGHTS AND TERM

- 1.01 The term of this Agreement is **25 years**, beginning on *December 14, 2011*
- 1.02 Subject to this Agreement, the Minister grants the Agreement Holder during the term of this Agreement:
- (a) the exclusive right to harvest Crown timber from Schedule "B" Land;
 - (b) the right to manage Schedule "B" Land according to:
 - (i) this Agreement;
 - (ii) the management plan in effect under this Agreement; and
 - (iii) operational plans approved in respect of this Agreement;
- 1.03 The Agreement Holder must not harvest timber:
- (a) from Schedule "A" Land except under a cutting permit; or
 - (b) from Schedule "B" Land except under a cutting permit or road permit.
- 1.04 Subject to paragraph 1.05, the Agreement Holder will not enter, use or occupy Schedule "B" Land:
- (a) except under and in accordance with a cutting permit, road permit associated with the Agreement, special use permit, as well as an activity described in an approved management plan; or
 - (b) as otherwise authorized under the forestry legislation.
- 1.05 Paragraph 1.04 does not apply to temporary use or occupation for the purpose of:
- (a) carrying out silviculture treatments;
 - (b) collecting inventory information;
 - (c) doing engineering layouts and surveys;
 - (d) carrying out protection activities under the forestry legislation; or

- (e) fulfilling other obligations or conducting other activities incidental to the operations of the Agreement Holder under or associated with this Agreement.

1.06 Subparagraph 1.03 (a) does not apply to:

- (a) a reserve as defined under the *Indian Act (Canada)*; or
- (b) a road clearing width on private land.

2.00 OTHER CONDITIONS AND REQUIREMENTS

- 2.01 The Agreement Holder must not fell standing timber, or must not buck or remove felled or dead and down timber, as the case may be, if the timber is specified as reserved timber in a cutting permit.
- 2.02 The Agreement Holder must comply with the other conditions and requirements specified in Schedule "D" in addition to any special conditions set out in a cutting permit or a road permit associated with the Agreement.
- 2.03 Each year during the term of this Agreement, the District Manager may dispose of a volume of the timber specified under Paragraph 1.02(a), not exceeding one half of one percent (0.5%) of the portion of the allowable annual cut describe in the management plan that is attributable to Schedule "B" land under free use permits.

3.00 TIMBER VOLUME CHARGED TO THE AGREEMENT

- 3.01 The definition of the volume of timber harvested in part 4, division 3.1 of the *Forest Act* applies to this Agreement.
- 3.02 The determination of the volume of timber harvested will incorporate the volume of waste determined under part 5.00.
- 3.03 The Coast timber merchantability specifications in the Provincial Logging Residue and Waste Measurement Procedures Manual that was in effect on the date of issuance of the cutting permit or road permit, shall govern.

4.00 CUT CONTROL

- 4.01 The provisions of cut control that apply to "Forest Licences that specify an allowable annual cut greater than 10 000 m³ and have a term of more than 5 years" under Part 4, Division 3.1 of the *Forest Act*, apply to this Community Forest Agreement
- 4.02 If the volume of timber harvested during a cut control period for this Agreement is less than the sum of the allowable annual cuts for that period that are authorized under this Agreement, the Agreement Holder must not harvest that unharvested volume of timber in a subsequent cut control period.
- 4.03 The unharvested volume of timber, referred to in paragraph 4.02, may be disposed of, by the Regional Executive Director to a person other than the Agreement Holder.

5.00 WASTE ASSESSMENT

- 5.01 The Agreement Holder must conduct a waste assessment of the volume of merchantable timber, whether standing or felled, that was authorized to be cut and removed under the Agreement but, at the Agreement Holder's discretion, was not cut and removed.
- 5.02 A waste assessment conducted under paragraph 5.01 must be in accordance with the Provincial Logging Residue and Waste Measurement Procedures Manual, as amended or replaced from time to time.
- 5.03 A waste assessment made under paragraph 5.01 must be:
- (a) done within 60 days of the Agreement Holder declaring that primary logging on the area has been completed for each cutblock, allowing for ground to be sufficiently free of snow to permit an adequate assessment to be carried out; or
 - (b) if primary logging on the area is not completed before the expiry of the cutting permit, within 60 days after the expiry of the cutting permit, allowing the ground to be sufficiently free of snow to permit for an adequate assessment to be carried out.
- 5.04 If the Agreement Holder fails to comply with paragraph 5.01 the District Manager may, after the expiry of the term of a cutting permit or Agreement, conduct a waste assessment of the volume of merchantable timber that could have been cut and removed under the Agreement but, at the Agreement Holder's discretion, is not cut and removed.

- 5.05 A waste assessment conducted under paragraph 5.04 must be in accordance with the Provincial Logging Residue and Waste Measurement Procedures Manual, as amended from time to time.
- 5.06 If the District Manager carries out a waste assessment under paragraph 5.04, the District Manager, in a notice given to the Agreement Holder, may require the Agreement Holder to pay the costs incurred by the District Manager in carrying out the assessment.

6.00 MANAGEMENT PLAN

- 6.01 The Agreement Holder must submit a proposed management plan to the Regional Executive Director or District Manager on a date specified by the Regional Executive Director or District Manager in a notice given to the Agreement Holder.
- 6.02 A proposed management plan submitted under paragraph 6.01 or subparagraph 6.04(b) must:
- (a) be prepared in accordance with any directions of the Regional Executive Director or District Manager;
 - (b) be consistent with:
 - (i) this Agreement;
 - (ii) the forestry legislation;
 - (iii) higher level plans under the *Forest and Range Practices Act*; and
 - (iv) commitments made in the Community Forest Agreement application package or as agreed to by both parties to this agreement.
 - (c) include existing inventories:
 - (i) for the timber in the Community Forest Agreement area;
 - (d) include any other inventories and information regarding the development, management and use of the Community Forest Agreement area that the Regional Executive Director or District Manager requires to determine the allowable annual cut for the Community Forest Agreement area;
 - (e) propose a allowable annual cut for the Community Forest Agreement area which considers the following:

- (i) inventories and other information referred to in subparagraph 6.02 (c) and (d);
 - (ii) timber specifications proposed for the timber resources in the Community Forest Agreement area;
 - (iii) reductions that are necessary to facilitate the management and conservation of non-timber resource values in the Community Forest Agreement area, including visual quality, biological diversity, soils, recreation resources, cultural heritage resources, range land, wildlife, water and fish habitats;
 - (iv) silviculture practices and forest health factors that may impact on timber production;
 - (v) the anticipated impact of the reductions to the productive portion of the Community Forest Agreement area due to permanent roads, landings, pits and trails; and
 - (vi) any other factors that may impact on the allowable annual cut during each year;
- (f) contain a rationale for the allowable annual cut referred to in subparagraph 6.02 (e) prepared in accordance with any directions of the Regional Executive Director or District Manager;
- (g) not applicable to this agreement;
- (h) specify measures to be taken by the Agreement Holder to identify and consult with persons using the Community Forest Agreement area for purposes other than timber production , including:
- (i) trappers, guide outfitters, range tenure holders, and other Agreement resource users;
 - (ii) an aboriginal group who may be exercising or claiming to hold aboriginal interest or treaty rights; and
 - (iii) community members, local governments, and government agencies.
- (i) include a strategy outlining how the Provincial CFA Program Objectives will be managed for,
- (j) include the agreement holder's guiding principles,
- (k) contain the social, economic and broad resource management goals proposed for the CFA,

- (l) include a strategy for annual reporting out to the community on subparagraphs 6.02 (i), (j) and (k), and
 - (m) include a description of the intended ongoing, long term process for public involvement and consultation concerning matters relating to the CFA, including consultation with the local community, broader community, including First Nations communities adjacent to the CFA, and with government agencies and affected stakeholders (including licensed users).
- 6.03 The Regional Executive Director or District Manager within 90 days of receiving a proposed management plan submitted under paragraph 6.01 or subparagraph 6.04 (b), will, in a notice given to the Agreement Holder, approve the proposed management plan, subject to such conditions as the Regional Executive Director or District Manager considers necessary or appropriate, if the Regional Executive Director or District Manager is satisfied the proposed management plan meets the requirements of paragraph 6.02.
- 6.04 If the Regional Executive Director or District Manager does not approve a proposed management plan under paragraph 6.03:
- (a) the Regional Executive Director or District Manager, within 90 days after the date on which the Regional Executive Director or District Manager receives the proposed management plan, will specify in a notice given to the Agreement Holder the reason why the proposed management plan was not approved; and
 - (b) the Agreement Holder, within 30 days, or an alternative period of time specified by the Regional Executive Director or District Manager in a notice to the Agreement Holder, after the date on which the Agreement Holder is given the notice referred to in subparagraph 6.04 (a), must submit a new or revised proposed management plan to the Regional Executive Director or District Manager.
- 6.05 Subject to paragraph 6.06, the management plan in effect under this Agreement expires three months after the date upon which the Agreement Holder is required to submit a proposed management plan pursuant to a notice given to the Agreement Holder under paragraph 6.01.
- 6.06 If:
- (a) the Regional Executive Director or District Manager, within three months after the date on which the Regional Executive Director or District Manager receives a proposed management plan submitted under paragraph 6.01, has neither:

- (i) approved the proposed management plan under paragraph 6.03; nor
 - (ii) given the Agreement Holder a notice referred to in subparagraph 6.04 (a); and
- (b) there is a management plan in effect under this Agreement;

then the term of the management plan referred to in subparagraph (b) is deemed to be extended until such time as the Regional Executive Director or District Manager approves the proposed management plan under paragraph 6.03, or gives the Agreement Holder a notice referred to in subparagraph 6.04 (a), as the case may be.

- 6.07 The Agreement Holder must manage Schedule "A" Land and Schedule "B" Land in accordance with the management plan in effect under this Agreement.
- 6.08 A management plan approved by the Regional Executive Director or District Manager under paragraph 6.03 is deemed to be part of this Agreement during the period the management plan remains in effect.
- 6.09 The Regional Executive Director or District Manager, in a notice given to the Agreement Holder, may require the Agreement Holder to submit an amendment to the management plan.

7.00 CUTTING PERMITS

- 7.01 Subject to paragraphs 7.02 through 7.04 inclusive, the Agreement Holder may submit an application to the District Manager for a cutting permit or for an amendment to a cutting permit to authorize the Agreement Holder to harvest timber from one or more proximate areas of land within the Community Forest Agreement area, meeting the requirements referred to in parts 1.00 and 2.00 and the Appraisal Manual in effect on the date of submission of the application for a cutting permit, an application to amend a cutting permit, or a road permit that are:
- (a) exempted under the *Forest and Range Practices Act* from the requirement for a forest stewardship plan; or
 - (b) located within a forest development unit of an approved forest stewardship plan.
- 7.02 For those areas to be included in the application under paragraph 7.01, the Agreement Holder must ensure that data submitted is gathered and compiled according to that Appraisal Manual.
- 7.03 An application under paragraph 7.01 must:
- (a) be in a form established by the District Manager;

- (b) state a proposed term that does not exceed four years;
 - (c) include:
 - (i) a map to a scale acceptable to the District Manager showing the areas referred to in the application; and
 - (ii) the information referred to in paragraph 7.02; and
 - (iii) a description acceptable to the District Manager of any timber that is reserved from cutting.
- 7.04 The areas of land shown on the map referred to in clause 7.03 (c) (i) must be:
- (a) the areas referred to in subparagraph 7.01 (a); or
 - (b) located within a forest development unit referred to in subparagraph 7.01 (b) allowing for any difference in scale between maps used in the forest stewardship plan, or exemption and the map referred to in clause 7.03 (c) (i).
- 7.05 Subject to paragraphs 7.06 through 7.09 inclusive, 7.04 and 9.01, upon receipt of an application under paragraph 7.01, the District Manager will issue a cutting permit to the Agreement Holder if the District Manager is satisfied that:
- (a) there is a management plan in effect under this Agreement;
 - (b) the requirements of paragraphs 7.01, 7.02, 7.03, and 7.04 have been met;
 - (c) the areas of land referred to in the application for the cutting permit meet the requirements referred to in Schedule "D"; and
 - (d) the District Manager is satisfied that activities and operations under or associated with the cutting permit will be consistent with this Agreement, higher level plans, the management plan referred to in subparagraph 7.05 (a), and any operational plans approved in respect of the areas of land referred to in the cutting permit.
- 7.06 The District Manager may consult aboriginal group(s) who may be exercising or claiming to hold an aboriginal interest(s) or proven aboriginal right(s), including aboriginal title, or treaty right(s) if in the opinion of the District Manager, issuance of the cutting permit or an amendment to a cutting permit as submitted and/or operations under the cutting permit may result in:
- (a) an impact to an aboriginal interest(s) that may require consideration of accommodation; or

- (b) an infringement of a proven aboriginal right(s), including aboriginal title, or treaty right(s) that may require justification.

7.07 The District Manager may impose conditions in a cutting permit to address an aboriginal interest(s), or proven aboriginal right, including aboriginal title, or a treaty right(s) if in the opinion of the District Manager, issuance of the cutting permit as submitted would result in:

- (a) an impact to an aboriginal interest(s) that would require consideration of accommodation; or
- (b) an infringement of a proven aboriginal right(s), including aboriginal title, or treaty right(s) that would require justification.

7.08 The District Manager may refuse to issue a cutting permit or to amend a cutting permit if in the opinion of the District Manager issuance of the cutting permit or an amendment to a cutting permit would result in:

- (a) an impact to an aboriginal interest(s) or treaty right(s) that could not be reasonably accommodated; or
- (b) an impact to a proven aboriginal right(s), including aboriginal title, or a treaty right(s) that could not be justified.

7.09 If the District Manager:

- (a) determines that a cutting permit may not be issued because the requirements of paragraph 7.05 have not been met;
- (b) is carrying out consultations under paragraph 7.06; or
- (c) refuses to issue a cutting permit under paragraph 7.08;

the District Manager will notify the Agreement Holder within 45 days of the date on which the application for the cutting permit, or an amendment to the cutting permit was received.

7.10 A cutting permit must:

- (a) identify the boundaries within the Community Forest Agreement area upon which, subject to this Agreement and the forestry legislation, the Agreement Holder is authorized to conduct operations;
- (b) specify the term stated in the application;
- (c) specify a timber mark to be used in conjunction with the timber removal carried on under the cutting permit;

- (d) specify whether, for the purpose of determining the amount of stumpage payable in respect of timber removed under the cutting permit, the volume and quantity of timber is to be determined using information provided by:
 - (i) a scale of the timber; or
 - (ii) a cruise of the timber conducted before the timber is cut;
- (e) specify any timber that is reserved from cutting; and
- (f) include such other provisions, consistent with this Agreement, as determined by the District Manager.

7.11 The District Manager may amend a cutting permit only with the consent of the Agreement Holder.

7.12 The Agreement Holder may only make application to the District Manager for a cutting permit extension at least 45 days before the expiry of the cutting permit and in a form acceptable to the District Manager.

7.13 A cutting permit is deemed to be part of this Agreement.

8.00 ACCESS

8.01 Nothing in this Agreement authorizes the Agreement Holder to in any way restrict the Crown's right of access to Crown lands.

8.02 Any Ministry employee may:

- (a) enter onto Schedule "A" Land; and
- (b) use roads owned or deemed to be owned by the Agreement Holder;

for the purpose of inspecting the Agreement Holder's activities under or associated with this Agreement, and for the purpose of fulfilling an obligation or exercising a right under this Agreement.

8.03 The Agreement Holder will allow any person who has been granted rights to timber referred to in paragraph 4.03 or under the *Forest Act*, to use any road referred to in subparagraph 8.02 (b) for the purpose of exercising rights or fulfilling obligations within the Community Forest Agreement area.

- 8.04 Subject to safety concerns or requirements, the Agreement Holder, will not restrict access to Crown lands to any member of a First Nation whose traditional territory is overlapped by the agreement area, so that they may exercise their aboriginal interests, including fishing, plant gathering, bark stripping, spiritual activities, and hunting. This includes the use of roads identified in 8.02 (b).

9.00 COURT DETERMINED ABORIGINAL RIGHTS AND/OR TITLE

- 9.01 Notwithstanding any other provision of this Agreement, if a court of competent jurisdiction:
- (a) determines that activities or operations under or pursuant to this Agreement will unjustifiably infringe an aboriginal right and/or title or treaty right;
 - (b) grants an injunction further to a determination referred to in subparagraph 9.01 (a); or
 - (c) grants an injunction pending a determination of whether activities or operations under or pursuant to this Agreement will unjustifiably infringe an aboriginal right and/or title or treaty right;

the Regional Executive Director or District Manager, in a notice given to the Agreement Holder, may vary or suspend, in whole or in part, or refuse to issue a cutting permit, road permit or other permit issued to the Agreement Holder, so as to be consistent with the court determination.

- 9.02 Subject to this Agreement and the forestry legislation, if:
- (a) under paragraph 9.01, the Regional Executive Director or District Manager has varied a cutting permit, road permit or other permits issued to the Agreement Holder;
 - (b) a court of competent jurisdiction subsequently overturns, sets aside or dissolves the determination or injunction referred to in that paragraph; and
 - (c) it is practical to do so;

the Regional Executive Director or District Manager, at the request of the Agreement Holder, will vary the permit to reflect as closely as possible, for the remainder of its term, the terms and conditions of the permit prior to the variation under paragraph 9.01.

- 9.03 Subject to this Agreement and the forestry legislation, if:

- (a) under paragraph 9.01, the Regional Executive Director or District Manager has suspended a cutting permit, road permit or other permits issued to the Agreement Holder;
- (b) a court of competent jurisdiction subsequently overturns, sets aside or dissolves the determination or injunction referred to in that paragraph; and
- (c) it is practical to do so;

the Regional Executive Director or District Manager, at the request of the Agreement Holder, will reinstate the permit for the remainder of its term.

9.04 Subject to this Agreement and the forestry legislation, if:

- (a) under paragraph 9.01, the Regional Executive Director or District Manager has refused to issue a cutting permit, road permit or other permits issued to the Agreement Holder;
- (b) a court of competent jurisdiction subsequently overturns, sets aside or dissolves the determination or injunction referred to in that paragraph; and
- (c) it is practical to do so;

the Regional Executive Director or District Manager, at the request of the Agreement Holder, will issue the permit.

10.00 REPORTING

10.01 The Regional Executive Director or District Manager, in a notice given to the Agreement Holder, may at any time, require the Agreement Holder to carry out audits and submit reports containing such information as the Government requires concerning:

- (a) the Agreement Holder's performance of its obligations under or in respect of this Agreement, the approved management plan and conditions from the Regional Executive Director or District Manager's management plan approval letter;
- (b) the processing, use or disposition of timber and the products listed in Schedule "C" which are harvested under this Agreement;
- (c) the levies or fees collected by the Agreement Holder for any types of activities conducted or occurring on Schedule "B" Land;
- (d) the services or opportunities provided by the Agreement Holder such as wildlife viewing, hiking, and nature interpretation; and

- (e) financial statements prepared by a qualified accountant capturing economic activity attributable to the operation of this Agreement;

in the previous calendar year if the information is not included in any other reports which the Agreement Holder must submit under the forestry legislation.

- 10.02 Upon receipt of a notice referred to in paragraph 10.01 the Agreement Holder, on or before the date specified in the notice, must submit a report to the Regional Executive Director or District Manager containing the required information.
- 10.03 Subject to the *Freedom of Information and Protection of Privacy Act*, the Regional Executive Director or District Manager will not disclose information provided in confidence by the Agreement Holder in any reports submitted under paragraph 10.02.
- 10.04 Subject to paragraph 10.03, the Regional Executive Director or District Manager may include the information contained in a report submitted under paragraph 10.01 in any reports prepared by the Ministry for public review.
- 10.05 Subject to paragraph 10.03, the Regional Executive Director or District Manager may require the Agreement Holder to make available to the public information required under paragraph 10.01 and carry out consultation activities with the public concerning matters relating to this Agreement.

11.00 FINANCIAL

- 11.01 In addition to any money payable in respect of this Agreement or a road permit under the forestry legislation, the Agreement Holder must pay to the Crown, immediately upon receipt of a notice, statement or invoice issued on behalf of the Crown:

- (a) stumpage under part 7 of the *Forest Act* in respect of timber removed:

- (i) under a cutting permit from Schedule "B" Land; or
- (ii) under a road permit;

at rates determined, redetermined and varied under section 105 of that Act;

- (b) waste assessments for merchantable Crown timber, whether standing or felled, that could have been cut and removed under the community forest agreement, but, at the holder's discretion, is not cut and removed, and

- (c) annual rent at a rate in accordance with the schedule found in the Annual Rent Regulation.

12.00 REPRESENTATIONS

12.01 The Agreement Holder represents and warrants that the Agreement Holder:

- (a) is a corporation established by or under an enactment, or registered as an extraprovincial company under the *Business Corporations Act*.

13.00 LIABILITY AND INDEMNITY

13.01 Subject to paragraph 13.03, the Agreement Holder must indemnify the Crown against and save it harmless from all claims, demands, suits, actions, causes of action, costs, expenses and losses faced, incurred or suffered by the Crown as a result, directly or indirectly, of any act or omission of:

- (a) the Agreement Holder;
- (b) an employee of the Agreement Holder;
- (c) an agent of the Agreement Holder;
- (d) a contractor of the Agreement Holder who engages in any activity or carries out any operation, including but not restricted to the Agreement Holder's operations, under or associated with this Agreement or a cutting permit or a road permit; or
- (e) any other person who on behalf of or with the consent of the Agreement Holder engages in any activity or carries out any operation, including but not restricted to the Agreement Holder's operations, under or associated with this Agreement or a cutting permit or a road permit.

13.02 For greater certainty, the Agreement Holder has no obligation to indemnify the Crown under paragraph 13.01 in respect of any act or omission of:

- (a) an employee, agent or contractor of the Crown, in the course of carrying out his or her duties as employee, agent or contractor of the Crown; or
- (b) a person, other than the Agreement Holder, to whom the Crown has granted the right to occupy Crown land, in the course of exercising those rights.

- 13.03 The Crown is not liable to the Agreement Holder for injuries, losses, expenses, or costs incurred or suffered by the Agreement Holder as a result, directly or indirectly, of an act or omission of a person who is not a party to this Agreement, including but not restricted to an act or omission of a person disrupting, stopping or otherwise interfering with the Agreement Holder's operations under this Agreement by road blocks or other means.
- 13.04 Any payments required under part 5.00, and payments required further to the indemnity referred to in paragraph 13.01 are in addition to and not in substitution for any other remedies available to the Crown in respect of a default of the Agreement Holder.

14.00 TERMINATION

- 14.01 If this Agreement expires or is not replaced under section 43.4 of the *Forest Act*, or is surrendered, cancelled or otherwise terminated:
- (a) all cutting permits will immediately terminate; and
 - (b) timber, including logs, special forest products or prescribed products listed in Schedule "C", cut under the authority of this Agreement and which are still located on Crown land, vest in the Crown, without right of compensation to the Agreement Holder; and
 - (c) unless otherwise agreed to between the District Manager and the Agreement Holder prior to the surrender, cancellation or termination of this Agreement, title to all improvements, including roads and bridges, constructed by the Agreement Holder on Crown land under the authority of this Agreement vest in the Crown, without right of compensation to the Agreement Holder; and
 - (d) subject to subparagraphs 14.01 (b) and (c) the Agreement Holder may continue to enter and use Crown Land for a period of one month after the expiry or termination of this Agreement for the purpose of removing the Agreement Holder's property.
- 14.02 The Agreement Holder will not take away any improvements or remove any timber referred to in subparagraph 14.01 (b), unless authorized to do so by the Regional Executive Director .
- 14.03 If the Agreement Holder commits an act of bankruptcy, makes a general assignment of its creditors or otherwise acknowledges its insolvency the Agreement Holder is deemed to have failed to perform an obligation under this Agreement.

15.00 WAIVER

15.01 No waiver by the Government of any default non-compliance by the Agreement Holder in the strict and literal performance of or compliance with any provision of the Agreement will be deemed to be a waiver of the strict and literal performance of or compliance with any other provision, condition or requirement of the Agreement or to be a waiver of, or in any manner release the Agreement Holder from compliance with any provision, condition or requirement in the future, nor will any delay or omission by the Government in the exercising of any right hereunder in any manner with respect to non-compliance impair the exercise of any such rights in the future.

16.00 NOTICE

16.01 A notice given under this Agreement must be in writing.

16.02 A notice given under this Agreement may be:

- (a) delivered by hand;
- (b) sent by mail; or
- (c) subject to paragraph 16.05, sent by facsimile transmission;

to the address or facsimile number, as applicable, specified on the first page of this Agreement, or to such other address or facsimile number as is specified in a notice given in accordance with this part.

16.03 A notice given under this Agreement, is deemed to have been given:

- (a) if it is given in accordance with subparagraph 16.02 (a), on the date it is delivered by hand;
- (b) if it is given in accordance with subparagraph 16.02 (b), subject to paragraph 16.04, on the eighth day after its deposit in a Canada Post Office at any place in Canada; and
- (c) if it is given in accordance with subparagraph 16.02 (c), subject to paragraph 16.05, on the date it is sent by facsimile transmission.

16.04 If, between the times a notice is mailed in accordance with subparagraph 16.02 (b) and the time it is actually received, there occurs a postal strike, lockout or slowdown that might reasonably affect delivery of the notice, the notice is not deemed to be given until the party actually receives it.

16.05 If a notice is sent by facsimile transmission, the party sending the notice must take reasonable steps to ensure that the transmission has been successfully completed.

17.00 MISCELLANEOUS

17.01 This Agreement will enure to the benefit of, and be binding on, the parties and their respective heirs, executors, successors and permitted assigns.

17.02 The laws of British Columbia will govern the interpretation of this Agreement and the performance of the Agreement Holder's obligations under this Agreement.

17.03 Any power conferred or duty imposed on the Regional Executive Director or District Manager under this Agreement may be exercised or fulfilled by any person authorized to do so by the Regional Executive Director or District Manager.

17.04 The schedules attached to this Agreement are deemed to be part of this Agreement.

17.05 Nothing in this Agreement or a cutting permit issued under this Agreement is to be construed as authorizing the Agreement Holder to engage in any activities or carry out any operations otherwise than in compliance with the requirements of the forestry legislation.

17.06 The Agreement Holder must:

- (a) comply with the forestry legislation; and
- (b) ensure that its employees, agents and contractors comply with the forestry legislation when engaging in or carrying out activities or operations under or associated with the Agreement.

17.07 Nothing in this Agreement entitles the Agreement Holder to have an area of Schedule "B" Land replaced with another area, or to have rights awarded under another Agreement under the *Forest Act*, in the event:

- (a) timber is damaged or destroyed by pests, fire, wind or other natural causes;
- (b) an area of land is deleted from the Community Forest Agreement area under the forestry legislation, or under any other Act or regulation; or
- (c) this Agreement expires, is surrendered, is cancelled or otherwise terminated.

- 17.08 At the request of the Regional Executive Director or District Manager, the Agreement Holder will survey and define on the ground any or all boundaries of the Community Forest Agreement area.
- 17.09 Where harvesting of timber has been authorized under this Agreement, the District Manager in a notice to the Agreement Holder, may require the Agreement Holder to carry out a legal survey on the portions of the area to be operated upon that are adjacent to any Community Forest Agreement area boundaries.

18.00 INTERPRETATION & DEFINITIONS

18.01 This Agreement is divided into parts, paragraphs, subparagraphs, clauses and subclauses, illustrated as follows:

- 1.00 part;
- 1.01 paragraph;
- (a) subparagraph;
- (i) clause;
- (a) subclause;

and a reference to a subparagraph, clause or subclause is to be construed as a reference to a subparagraph, clause or subclause of the paragraph, subparagraph or clause, as the case may be, in which the reference occurs.

18.02 In this Agreement, unless the context otherwise requires:

“aboriginal interest” means a potential aboriginal right and/or aboriginal title that has not been proven through a court process;

“allowable annual cut” means the allowable annual cut set under the management plan for the Agreement;

“botanical forest product” means any or all flora and fungi of the forest other than timber that occurs naturally on Crown forest land

“Community Forest Agreement area” means the area of lands identified in Schedules “A” and “B”;

“cut control period” means the cut control period determined for this Agreement under part 4.00;

“cutting permit” means a cutting permit issued under this Agreement or an amendment for a cutting permit as the context requires;

“District Manager” means:

- (a) a District Manager appointed under the *Ministry of Forests Act*, for a forest district in which all or part of the Agreement is situated; and
- (b) any person authorized by the District Manager to exercise a power or fulfill a duty under this Agreement;

“*Forest Act*” means the *Forest Act*, R.S.B.C. 1996, c. 157, as amended from time to time, or the successor to that Act, if it is repealed;

“*Forest and Range Practices Act*” means the *Forest and Range Practices Act*, S.B.C. 2002, c. 69 as amended from time to time, or the successor to this Act, if it is repealed;

“forest stewardship plan” means a forest stewardship plan referred to in the *Forest and Range Practices Act*, that is prepared or approved by the Minister in respect of the Agreement;

“forestry legislation” means the statutes and regulations, to which the Agreement is subject including:

- (a) the *Forest Act*;
- (b) the *Forest and Range Practices Act*; and
- (c) the *Wildlife Act*.

“Government” means the Government of the Province of British Columbia;

“harvest” means:

- (a) cut;
- (b) remove;
- (c) cut and remove;

“management plan” means the management plan prepared and approved for this Agreement in accordance with part 6.00 of this Agreement;

“merchantable timber” means timber that meets or exceeds the timber merchantability specifications described in the Provincial Logging Residue and Waste Measurements Procedures Manual, as amended or replaced from time to time;

“Minister” means the Minister responsible for administering the *Forest Act*;

“Ministry” means the Ministry of Forests, Lands and Natural Resource Operations;

“*Ministry of Forests Act*” means the *Ministry of Forests Act* R.S.B.C. 1996, c. 300;

“Ministry officer” means an employee of the Ministry;

“non-Crown land” means land that is private land or in a reserve as defined in the *Indian Act (Canada)* as described in the Schedule “A” to this Agreement;

“person” includes a corporation and a partnership, unless the context requires otherwise;

“pest” means any animal, insect, fungus, bacteria, virus, nematode, or other organism which is detrimental to effective forest management;

“primary logging” includes felling timber and yarding or forwarding the timber to central landings or road-sides, but not including the removal of the timber from these landings or road-sides;

“remove” means the removal of timber from the Community Forest Agreement area and “removed”, “removal” and “removing” have the corresponding meanings;

“resource agencies” means any governmental agency, Ministry or department having jurisdiction over a resource which may be affected by any activity or operation, including but not restricted to activities or operations, engaged in or carried out under or associated with this Agreement or a road permit;

“road permit” means a road permit entered into under the *Forest Act* which provides access to timber removed or to be removed, under this Agreement;

“Schedule “A” Land” means the non-Crown lands managed as part of the Community Forest Agreement area described in the Schedule “A” to this Agreement;

“Schedule “B” Land” means the Crown land described in Schedule “B” to this Agreement;

“special use permit” means a special use permit issued under the applicable forestry legislation, to authorize the Agreement Holder to use or occupy Crown land within the Community Forest Agreement area;

“timber merchantability specifications” means those found in the most current Provincial Logging Residue and Waste Procedures Manual, as amended or replaced from time to time;

“waste” means merchantable Crown timber that could have been cut and removed under this Agreement but that the Agreement Holder is not cut and removed as defined in the Provincial Logging Residue and Waste Measurements Procedures Manual, as amended or replaced from time to time.

18.03 Unless otherwise provided in paragraph 18.02, if a word or phrase used in this Agreement is defined in the *Forest Act*, or the *Forest and Range Practices Act* the definition in the Act applies to this Agreement, and where the word or phrase in the Act is replaced by a new word or phrase, this Agreement is deemed to have been amended accordingly.

18.04 If a provision of the *Forest Act*, or the *Forest and Range Practices Act* referred to in this Agreement is renumbered, the reference in this Agreement is to be construed as a reference to the provision as renumbered.

18.05 In this Agreement, unless the context otherwise requires:

- (a) the singular includes the plural and the plural includes the singular;
and
- (b) the masculine, the feminine and the neuter are interchangeable.

IN WITNESS WHEREOF this Agreement has been executed by the Regional Executive Director and the Agreement Holder on the date first written above.

SIGNED by the)
Regional Executive Director)
on behalf of Her Majesty)
the Queen in Right of)
the Province of)
British Columbia)
in the presence of:)
)
)

Signature)

Printed Name)

Sharon Hadway
Regional Executive Director

Dated

THE COMMON SEAL of)
the Agreement Holder was)
affixed in the presence of:)
)
)

Signature)

Printed Name)

c/s

(or)

SIGNED, by the)
Agreement Holder)
in the presence of:)
)
)

Signature)

Printed Name)

Agreement Holder

Printed Name and Title

Dated

IN WITNESS WHEREOF this Agreement has been executed by the Regional Executive Director and the Agreement Holder on the date first written above.

SIGNED by the)
Regional Executive Director)
on behalf of Her Majesty)
the Queen in Right of)
the Province of)
British Columbia)
in the presence of:)

S. Humar)
Signature)

Sangita Humar)
Printed Name)

Sharon Hedway
Sharon Hedway
Regional Executive Director

December 14, 2011
Dated

THE COMMON SEAL of)
the Agreement Holder was)
affixed in the presence of:)

Signature)

Printed Name)

(or)

SIGNED, by the)
Agreement Holder)
in the presence of:)

Wade Babinie)
Signature)

Wade Babinie)
Printed Name)

Dianna Venusio-Croley -
Agreement Holder

Dianna Venusio-Croley ^{was off}
Printed Name and Title _{above}

Dec 13, 2011
Dated

SCHEDULE "A"

1.00 DESCRIPTION OF NON-CROWN LANDS

1.01 NIL

SCHEDULE "B"

1.00 DESCRIPTION OF CROWN LANDS

- 1.01 Refer to attached Exhibit "A" map(s).
- 1.02 Schedule "B" Land does not include alienated Crown land.
- 1.03 All alienated Crown land may not be identified on the attached Exhibit "A" map(s).

Please Note:

"Alienated Crown land" means Crown land which is not available for inclusion in Schedule "B" Land, and, without restricting the generality of the foregoing, includes Crown land which:

- (a) is, as of the effective date of this Agreement, within the area of:
 - (i) a park or ecological reserve;
 - (ii) a lease, Agreement of exclusive occupation, or timber Agreement held by a person other than the Agreement Holder, or
 - (iii) a highway or road right-of-way where the highway or road is, or is deemed, declared or determined to be a public highway under the Highway Act or a forest service road under the Forest Act, or
- (b) becomes vested in the Crown by escheat, reversion, transfer or otherwise during the term of this Agreement, except as provided in the Agreement

SCHEDULE "D"

1.00 OTHER CONDITIONS AND REQUIREMENTS

- 1.01 The Agreement Holder must conduct at least one formal public meeting each calendar year in a format satisfactory to the District Manager for the purposes of informing the general public of the activities the Agreement Holder proposes to undertake with respect to this Agreement.
- 1.02 Notwithstanding paragraph 1.01 above, the Agreement Holder, in conducting a formal public meeting(s), and in informing the general public of the activities the Agreement Holder proposes to undertake, will:
 - a) actively promote ongoing public awareness of the community forest activities and governance processes, and
 - b) report on the agreement holder's performance related to subparagraphs 6.02 (i), (j) and (k) of the approved management plan.

