

RECIPIENT AGREEMENT

PRICEWATERHOUSECOOPERS LLP

Recipient: _____

Agreement #: _____

Date: _____

AGREEMENT

This Agreement is dated for reference June 27, 2017

BETWEEN:

PRICEWATERHOUSECOOPERS LLP, a limited liability partnership under the laws of the Province of Ontario, having an office at 250 Howe Street, Suite 1400, Vancouver, British Columbia, V6C 3S7

(the “Administrator”)

AND:

_____, a _____, a body corporate pursuant to the laws of _____ and duly registered in British Columbia (Incorporation /Registration No. _____) and having an office at _____, _____, including the following wholly owned subsidiaries and majority controlled affiliates, if any:

(the “Recipient”)

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RECITAL

A. The BC Government formed the Forest Enhancement Society of BC (FESBC) to advance environmental and resource stewardship in BC's forests by preventing and mitigating the impact of wildfires; improving damaged or low value forests; improving habitat for wildlife; supporting the use of fiber from damaged and low value forests; and treating forests to improve the management of greenhouse gases. The BC Government has provided funding to FESBC to establish a program (the "Program") to plan and deliver incremental investments in land base activities to achieve the FESBC's objectives. Program investments are expected to reduce wildfire risk on crown lands, especially stands impacted by mountain pine beetle; rehabilitate stands damaged by fire or at high wildfire risk; wildlife habitat restoration; and raise awareness of wildfire risk and potential mitigation actions for rural property owners and communities.

B. Under the Program, the FESBC intends to allocate funds to projects that will be delivered through a variety of Recipients.

C. The Administrator has been engaged by the FESBC to act as Administrator of the Program;

D. Use by each Recipient of Investment Funds allocated to it will be subject to the Recipient's proposed Projects for the Term being reviewed and approved by the Administrator pursuant to the eligibility criteria and standards determined for that Term by the FESBC based on its own criteria; and

E. The Recipient and the Administrator have entered into this Agreement to govern the funding of and conduct of various investments under the Program for each applicable Term as from time to time approved by the Administrator.

In consideration of the mutual promises contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1.0 INTERPRETATION

1.1 **Definitions:** In this Agreement the following words and phrases have the following meanings:

"Accountable Advance" means a portion of the Investment Funding advanced to the Recipient pursuant to Section 3.0, to be applied by the Recipient against Approved Eligible Costs only, and which may become repayable by the Recipient, as provided for in this Agreement;

"Administrator" means the entity on Page 1;

"Administrator Material" has the meaning set forth in Subsection 13.1;

"Agreement" means this Agreement and any Schedules or amendments to this Agreement;

“Approved Eligible Costs” means the amount, at any time, of costs that are proposed or incurred by the Recipient and approved by the Administrator as being Eligible Costs;

“Auditor” means a Certifying Professional licensed to carry out audits in British Columbia, approved by the Administrator, and who is at arms length with the Recipient and its Subcontractors;

“Authorization Document” means the permit, licence or other approval between the Recipient and the applicable government agent or ministry required under legislation which, when executed and transmitted to the Recipient, gives the Recipient the legal authority and approval to carry out Work under this Agreement;

“Balance” has the meaning set forth in Subsection 3.6;

“Books of Account” has the meaning ascribed to it in Paragraph 5.2(d);

“Certifying Professional” means an individual, firm or organization duly qualified and licensed and in good standing under all applicable law to provide to the public consultative, advisory or other professional services or work products within categories or from professional bodies from time to time determined by the FESBC; and, as at the date of this Agreement, until otherwise notified by the Administrator, shall include:

- (a) Financial
 - (i) Chartered Public Accountants
- (b) Technical
 - (i) Professional Engineers and Geoscientists
 - (ii) Registered Professional Foresters
 - (iii) Registered Professional Biologists;
- (c) Provided always that for financial matters, if a Recipient does not employ or retain in the ordinary course of its business a person who has one of the accounting qualifications noted in item (a) above the financial data for that Recipient may be reported on by the most senior financial officer of the Recipient;

“Delivery Allowance” means an amount that is an Eligible Cost relating to a Recipient’s overhead expenses associated with Program planning, implementation and reporting and is based on rates as prescribed by the FESBC from time to time;

“Eligible Costs” mean actual and reasonable costs properly incurred by the Recipient in carrying out the Work that are consistent with the Planned Expenditures, GAAP and cost policies established by the FESBC and the Administrator: (i) in effect at the date of submission of a Project to the Administrator for approval; or, (ii) as may be otherwise specified by the Administrator in any approval issued for the Project. Eligible Costs do not include costs relating to any remedial orders, penalties, adjustments, fines or like amounts assessed under any law, statute, enactment or regulation, any and all of which shall be paid by the Recipient at its own expense. If at any time Investment Funding,

this Agreement or a Project is suspended, cancelled or terminated by the Administrator pursuant to this Agreement for reasons other than those set forth in paragraphs 3.3(a) or (b) hereof 'Eligible Costs' shall include the reasonable expenses incurred by the Recipient in suspending or terminating the relevant Project as soon as practicable in an orderly businesslike manner, including termination fees payable to third parties and the expenses of compliance with any requirements of the Administrator or the FESBC in connection with the suspension or termination;

“Event of Default” has the meaning set forth in Subsection 11.4;

“Event of Force Majeure” has the meaning set out in Subsection 17.1;

"FESBC" means the Forest Enhancement Society of British Columbia established by BC government in 2016 to advance environmental and resource stewardship in BC's forests by preventing and mitigating the impact of wildfires; improving damaged or low value forests; improving habitat for wildlife; supporting the use of fiber from damaged and low value forests; and treating forests to improve the management of greenhouse gases;

“FOI” has the meaning set forth in Subsection 14.2;

“GAAP” and “GAAS” respectively mean Generally Accepted Accounting Principles and Generally Accepted Auditing Standards from time to time adopted for use in Canada by the Canadian Institute of Chartered Accountants, applied on a basis consistent with prior years;

“Goods and Services Tax” or “GST” has the meaning set forth in Subsection 4.2;

"IMS" means the Information Management System which is a web-based application used by the Contractor, the FESBC and Recipients to track and manage delivery of the Work;

“Pilot Project” means a project where:

A Standard exists but the proponent intends to test an alternative that may lead to improved management practices and a revised standard.

A Standard does not exist but the proponent intends to undertake developmental activities that may lead to improved management practices.

“Investment Funding” means the funding to the Recipient from time to time allocated by the FESBC to be provided to the Recipient by the Administrator as paying agent of the FESBC, pursuant to this Agreement;

“Investment Schedule” means a summary table of the Investment Funding given to a Recipient in a specific area (such as a Management Unit, or other summary format as determined by the Administrator and as detailed in the IMS);

“Management Unit” means a tree farm licence area or Timber Supply Area as defined in the *Forest Act*;

“Ministry” means Her Majesty the Queen in Right of the Province of British Columbia, as represented by the Minister of Forests, Lands and Natural Resource Operations;

“Outputs” mean the measurements of Work required or prescribed by the Administrator, from time to time, to evaluate Projects and the Program and any Project specific measurements or reports reasonably requested by the Administrator;

“Parties” means the Administrator and the Recipient;

“Planned Expenditures” means the aggregate estimated Eligible Costs associated with carrying out and completing each Project, as approved by the Administrator as evidenced by written notice from the Administrator or the posting of such approval by the Administrator on the IMS;

“Program” has the meaning set forth in Recital A, as such Program is amended from time to time by the FESBC;

“Project” means an investment activity to be undertaken pursuant to the Program which has been approved by the Administrator as evidenced by written notice from the Administrator or the posting of such approval by the Administrator on the IMS for implementation in a specified Year at a specified level of funding;

“Project Completion Summary” means the report referred to in Paragraph 8.1(b);

“Project Plan” means the Work proposed in the IMS in order to implement a proposed Project which has been expressly been approved by the FESBC in writing for implementation and funding in a specified Year, including a reference to the LBIS statement of investment objectives, Planned Expenditures and anticipated Outputs;

“Province” means Her majesty the Queen in Right of the Province of British Columbia;

“Quarter” means each period of three consecutive calendar months during the Term of this Agreement. The Quarters are: April 1 to June 30, July 1 to September 30, October 1 to December 31 and January 1 to March 31;

“Recipient” means the entity or entities on Page 1 as designated by the FESBC as eligible to enter into this Recipient Agreement with the Administrator;

“Recipient Material” has the meaning set forth in Subsection 13.1;

“Rules and Policies” means the rules and policies posted on the Administrator’s, FESBC’s or the Ministry’s website at the time of approval of a Project;

“Schedules” means the schedules attached to this Agreement;

“Standards and Specifications” means the standards and specifications as posted on the Ministry’s website at the time of approval of a Project, or as approved in writing by a Government official before a Project is begun, and for which the Recipient must adhere to when completing the Project;

“Subcontract” means an agreement between the Recipient and a Subcontractor to perform a part of the Work;

“**Subcontractor**” means a person, firm, corporation or other legal entity contracting with the Recipient to perform a part of the Work, or to supply products according to this Agreement;

“**Term**” means the duration of this Agreement as set out in Section 2.0;

“**WC Act**” has the meaning set forth in Paragraph 14.9(c);

“**WorkSafe BC**” has the meaning set forth in Paragraph 14.9(b);

“**Work**” means the activities and investments reasonably necessary or desirable to undertake and perform the Project on the basis upon which that Project was ultimately approved by the Administrator;

“**Year**” means each respective 12 month period beginning from the date of the FESBC’s allocation of Investment Funding.

1.2 **Entire Agreement:** This Agreement is the entire agreement between the Parties regarding the subject matter of this Agreement and no promises, representations, understandings or agreements, whether oral or written, exist between the Parties with respect to the matters set out in this Agreement, except as expressly set out in this Agreement. If there is a conflict or inconsistency between any of the terms of any of the following, then the order of precedence will be:

- (a) this Agreement;
- (b) the Schedules; and
- (c) the Recipient’s Projects for each respective Year.

1.3 **Laws of British Columbia:** This Agreement and all Activities under this Agreement will be governed by and construed in accordance with the laws and regulations of the Province of British Columbia.

1.4 **Headings:** The headings appearing in this Agreement are inserted for reference and as a matter of convenience and in no way define, limit or enlarge the scope of any term of this Agreement. This Agreement is divided into the following components:

19.0 Section

19.1 Subsection

- (a) Paragraph
 - (i) Subparagraph

1.5 **Schedules:** Each Schedule to this Agreement forms an integral part of this Agreement as if set out in the body of this Agreement, and the Recipient will comply with all of the terms of the Schedules.

1.6 **Statutes Referenced:** Any reference to a statute in this Agreement, whether or not that statute has been defined, a reference to a statute, and any definition of statute, includes

each amendment to the statute, any statute which supplements or supersedes the statute, and each regulation made at any time pursuant to any such statute or amendment, all as the same may be in force from time to time, and unless specifically provided otherwise, refers to the statutes of the Province of British Columbia.

1.7 **Included Words:** In this Agreement, words in the singular include the plural, and words in the plural include the singular; and gender specific terms include both genders and include corporations and the neuter.

1.8 **Amendments:** All changes to a Project must be agreed to by both Parties. All other changes to this Agreement must be made in writing and must be signed by authorized signatories for each of the Parties.

1.9 **Waiver:** No term of this Agreement and no breach by any Party of any such term may be waived, except with the written consent of the other Party. Written waiver in one instance by a Party of any particular term or breach by the other Party of this Agreement will not be deemed to be a waiver in any subsequent or other instance.

1.10 **Time:** Time is of the essence in this Agreement.

1.11 **Reasonableness:** Whenever a matter in this Agreement is to be approved or determined to the satisfaction of, in the opinion of, as acceptable to, or otherwise at the discretion of a Party, then it will exercise that discretion reasonably, save and except where expressly otherwise provided.

1.12 **Survival:** In addition to any provision in this Agreement which states that it extends beyond the expiry or earlier termination of this Agreement, the following terms shall survive the expiration or earlier termination of this Agreement:

- (a) Subsection 1.16;
- (b) Subsection 3.13;
- (c) Subsection 5.2(d);
- (d) Subsection 10.1;
- (e) Section 11.0;
- (f) Section 13.0;
- (g) Subsection 14.2, 14.3, 14.4 and 14.5; and
- (h) Section 21.0.

1.13 **Severance:** Should any Section(s), Subsection(s), Paragraph(s) or Subparagraph(s) of this Agreement be struck down in whole or in part by a court of competent jurisdiction, the balance of this Agreement will survive and be enforceable.

1.14 **Approval:** The Recipient acknowledges that all approvals of Work and Projects are based on standards or Program objectives determined by the FESBC.

1.15 **Conditional Approval:** Where the Administrator or any other party approves a Project of the Recipient, such approval may be conditional and in such a case, the Recipient shall conduct the activity in compliance with the condition.

1.16 **Set-off:** The Administrator may set-off any monies due by it to the Recipient under this Agreement against monies due to it hereunder or to any account of the FESBC that are in arrears as determined by the FESBC.

2.0 TERM

2.1 The Term of this Agreement will start on November 1, 2016 and end on the first to occur of:

- (a) mutual agreement of the Parties;
- (b) Recipient ceasing to be an Eligible Recipient under the Program;
- (c) the Program being cancelled by the FESBC;
- (d) Recipient not receiving any allocation of Investment Funding under the Program in a given Year; and
- (e) notice of termination being given pursuant to Subsection 11.1, Paragraph 11.6(a) or Subsection 12.2.

3.0 INVESTMENT FUNDING

Conditions of Investment Funding

3.1 All Investment Funding under this Agreement is conditional on compliance by the Recipient with the terms and conditions of this Agreement and subject to those terms and conditions which may reduce funding.

3.2 Regardless of any other provision of this Agreement, the Administrator may deduct from any Investment Funding or otherwise recover from the Recipient any adjustments the Administrator is entitled to make under this Agreement.

3.3 Regardless of any other provision of this Agreement, the Administrator shall not be obliged to provide Accountable Advances or Investment Funding to the Recipient if:

- (a) there is an Event of Default and so long as there is an Event of Default;
- (b) the Recipient is in arrears on any payment obligation to the FESBC, whether related to this Agreement or otherwise; or
- (c) the Administrator is otherwise directed by the FESBC not to make a payment for any other reason.

Distribution of Payment

3.4 Subject to the terms of this Agreement, the Investment Funding may only be applied by the Recipient for payment or reimbursement of Approved Eligible Costs on a Project-by-Project basis up to the maximum Planned Expenditures for each Project as set out in the approval for it. The aggregate amount of the Approved Eligible Costs for Projects of the Recipient in any given Year shall not exceed the Recipient's Investment Funding for each Project for that year at any time or in any circumstance. Cost variance on a Project basis within a given Year may be permissible so long as (i) there is no increase in unit costs from those budgeted in the initial Project approval, and (ii) the Administrator, in its sole discretion, approves prior to the Work being implemented any and all variances that exceed the maximum Planned Expenditures; and in any event, the aggregate amount of the Planned Expenditures for a given Year as approved does not exceed the Recipient's approved Investment Funding at any time or in any circumstance. Where a Recipient has received an allocation for more than one Management Unit or Investment Schedule in a Year, cost variance within one Management Unit or Investment Schedule may not be compensated for within another Management Unit or Investment Schedule. In addition to the foregoing principles, Investment Funding shall be subject to Section 3.0.

3.5 The Administrator may provide Accountable Advances (including the associated Delivery Allowance) from the Investment Funding to the Recipient, in advance, provide that:

- (a) each Accountable Advance does not exceed eighty (80) percent (or such other percentage that the Administrator may specify in any Year or unique Project at its sole discretion and/or based on direction from the FESBC) of the Recipient's projected costs for each Project as specified in its original submission, or as otherwise approved by the Administrator in its sole discretion; and,
- (b) the Recipient is in compliance with this Agreement.

3.6 The balance of the Investment Funding for each Project beyond the percentage provided in Paragraph 3.5(a) (the "Balance") shall be withheld until completion of each respective Project and fulfillment of the requirements set out in Subsection 3.11.

3.7 The Administrator may in its sole discretion provide Accountable Advances on a more or less frequent basis than as set out in this Section 3.0.

3.8 All Accountable Advances shall be expended by the Recipient upon work necessary or desirable to implement and complete the Project. The Recipient shall treat Accountable Advances as it would corporate funds generally and apply to them the same fiscal discipline it applies to corporate funds. All expenditures of Accountable Advances shall be made only for Eligible Costs. The Recipient shall be solely responsible for the timely payment, as and when due of all invoices and costs incurred by it for its account in respect of each Project regardless of any withholding of or adjustments to Accountable Advances by the Administrator pursuant to the terms of this Agreement. The Recipient will provide to the Administrator both Project Completion Summaries and data in the IMS. Project Completion Summaries will contain a financial summary, detailing direct project costs, a summary of accomplishments in relation to the Project and a certification of project completion in the form as outlined in Schedule "A".

3.9 The Recipient shall ensure that all requirements of the financial summaries in the Project Completion Summary have been met, and that costs claimed as Eligible Costs are

accurate and in accordance with cost policies established by the FESBC and Administrator at the time of Project approval. This will include reviewing the eligibility of charges and checking the calculation of the Delivery Allowance.

3.10 The Recipient shall repay within 30 days any excess Investment Funding at the end of a given Year to the Administrator. Excess Investment Funding shall include:

- (a) funds left over if Projects for a given Year are completed without using all of the Investment Funds allocated for such Projects; or
- (b) unspent Approved Eligible Costs allocated to any and all incomplete Work if a Project is not completed by the end of a given Year. Funds in hand on account of accrued expenses not yet paid shall not be considered 'unspent', except to the extent they are not actually paid on account of such accruals as and when due and payable.

3.11 The Administrator will withhold payment of the Balance until the Administrator receives the Project Completion Summary and confirms that it is in compliance with this Agreement and shall pay the Balance within thirty days of such confirmation. If at any time Investment Funding, or a Project is suspended or cancelled by the Administrator pursuant to this Agreement for any reason other than those set forth in paragraphs 3.3(a) or (b) hereof, the Administrator may advance additional amounts up to but not exceeding the Balance to be applied to Eligible Costs accrued to the date of suspension or cancellation or incurred thereafter in suspending or terminating the relevant Project.

3.12 Regardless of the other terms of this Agreement, the Administrator may in respect of Investment Funding:

- (a) recover from the Recipient on demand or deduct from any Accountable Advance any costs claimed, reported, paid or incurred by the Recipient that the Administrator deems are not Approved Eligible Costs; or
- (b) recover funds from the Recipient on demand or deduct from any Accountable Advances where all or a portion of the Project is not delivered by the Recipient or where the Recipient does not meet quality standards for the Project in keeping with Standards and Specifications, or with normal industry practice if no Standards and Specifications exist.

3.13 The Recipient acknowledges and confirms that funds appropriated for the Program are appropriated for the relevant Year and shall not be carried over to the next Year and accordingly, the Recipient shall, unless otherwise directed by the Administrator or the FESBC, complete all Projects and provide the Project Completion Summary for each Year not later than thirty days following the end of the Year.

4.0 GOODS AND SERVICES TAX

4.1 The Administrator certifies that all Investment Funds advanced to the Recipient pursuant to the Program are held for the benefit of the FESBC.

4.2 The Recipient acknowledges and confirms that any Projects and all services performed by the Recipient and funded under this Agreement are being purchased or paid for by the FESBC, and therefore are subject to the Goods and Services Tax ("GST").

4.3 If the Recipient complies with this agreement, the Administrator, acting on behalf of the FESBC, will pay the Recipient for all Work [inclusive of taxes paid or payable by the Recipient to a supplier but exclusive of any applicable Provincial Sales Tax (PST) that the Recipient is required to charge the Administrator as a taxable transaction and the Goods and Services Tax (GST)] conducted by the Recipient up to the maximum amount or dollar limit specified in the Investment Funding.

4.4 Expenses, if payable, will be exclusive of GST or other applicable tax paid or payable to the extent the Recipient is entitled to claim credits (including GST input tax credits), rebates, refunds or remissions of the tax from the relevant taxation authorities.

4.5 The Administrator, acting on behalf of the FESBC, will pay applicable taxes payable under law or agreement with the relevant taxation authorities. Invoices must show the calculation of any applicable taxes (excluding taxes paid directly by the Recipient to a supplier and which were inclusive in the bid price) to be paid as a separate line item and expenses must be listed chronologically, be in reasonable detail and with dates of all expenses claimed with receipts or copies of receipts, where applicable, attached.

4.6 The Recipient acknowledges and confirms that the Project Completion Summary shall be submitted to the Administrator as depositary agent of the FESBC and that the funding for the investment and reporting which is the subject of this Project Completion Summary is derived from the FESBC.

4.7 The Project Completion Summary and the Recipient Material shall be the property of the FESBC. To the extent any such activities or deliverables are a taxable supply for GST purposes, such supply shall be deemed to have been made to the FESBC, through the Administrator as its agent, paid for on behalf of the FESBC, and therefore not subject to GST. The Recipient acknowledges that the Administrator will not deduct GST from funds advanced to the Recipient nor will it be required to pay GST on the project expenses for the Work conducted by or the deliverables from the Recipient.

4.8 If GST is payable with respect to the Project, the Recipient will be solely responsible to remit such amounts owing to the federal government and the Recipient shall be solely responsible for recovery from the federal government of Input Tax Credits or refunds of GST paid by it.

5.0 DUTIES OF THE RECIPIENT

5.1 The Recipient will comply with the terms of this Agreement, undertake and perform the Work described in Projects, as well as provide a report to the FESBC on the findings and results of the investment activity undertaken so as to further the knowledge base and investment objective of the Program. If at any time prior to commencement the Recipient determines that it cannot undertake a Project it will notify the Administrator on a timely basis and request approval to cancel the Project.

Contract Administration

5.2 The Recipient will:

- (a) not exceed the Planned Expenditures for Projects, individually or in the aggregate, except where authorized in writing by the Administrator in advance or except where

permitted otherwise under this Agreement, or where such excess is paid by the Recipient from its own resources;

- (b) obtain and comply with the necessary Authorization Documents, as required, from the applicable government agency or ministry, before commencing any Work under this Agreement;
- (c) apply all Accountable Advances directly against Eligible Costs;
- (d) maintain accurate time records, accounting records, books of accounts, documents, invoices, receipts, vouchers and other supporting documents (“Books of Account”) for the Work, in accordance with cost policies established by the FESBC or the Administrator from time to time in support of all Eligible Costs, Work carried out, and other information as may be necessary or desirable in the Administrator’s opinion to support the reports, statements or documents submitted to the Administrator under this Agreement. The Recipient will keep the Books of Account at the Recipient’s main place of business for a period of three years after the earlier of:
 - (i) the completion of the Project;
 - (ii) the end of the Term of this Agreement; or
 - (iii) the expiration or earlier termination of this Agreement;
- (e) permit the Administrator, or its agent with written authorization from the Administrator, during normal business hours and on reasonable notice, to examine and copy and take away copies of any or all of the Books of Account that may be necessary or desirable in the Administrator’s or its agent’s opinion to verify the Recipient’s compliance with this Agreement;
- (f) within 30 days of receiving a request from the Administrator, submit further documentation, verification or information to support the Eligible Costs claimed;
- (g) create a segregated trust account or imprest account into which the Investment Funding may be advanced if required by the Administrator.

Work Performance

5.3 The Recipient will:

- (a) commence Work only after this Agreement and underlying Project(s) and any applicable Authorization Documents are approved, executed and delivered, and thereafter shall proceed diligently and in good faith to implement each Project;
- (b) provide all equipment, materials, supplies, labour, supervision and accommodation necessary to perform the Work;
- (c) ensure that all Work is completed to a level acceptable to the FESBC as identified in the Standards and Specifications or as specified by the Administrator as part of its approval;

- (d) at all times, exercise the standard of care, skill and diligence normally exercised and observed by competent persons engaged in the performance of activities similar to the Work;
- (e) promptly pay all persons employed or engaged in carrying out the Work or supplying materials, in accordance with the terms of their engagement or employment;
- (f) take all reasonable action to ensure that it, its employees, agents, Subcontractors and other individuals employed or engaged in carrying out the Work comply with all laws related in any way to the Work and that all Work is done in accordance with this Agreement and all applicable laws, statutes, enactments, legislation and regulations;
- (g) take all reasonable action to ensure that none of the Work undertaken is in and of itself an existing legal obligation of the Recipient under statute or another agreement or was not approved by the Administrator, and therefore was not eligible under the Program;
- (h) prior to commencing any Work, satisfy itself as to
 - (i) the nature and magnitude of the Work, and that the Standards and Specifications to which it will be conducted will achieve the results called for in the underlying Project(s);
 - (ii) the general character, quality and quantity of the equipment and materials required to carry out and complete the Work; and
 - (iii) the qualifications, skills and ability of its personnel and the personnel of Subcontractors or other related entities in order to ensure the Work is carried out in accordance with this Agreement, Authorization Documents and applicable laws, statutes, enactments, legislation and regulations; and,
- (i) use commercially reasonable efforts to ensure that all the Work:
 - (i) achieves the Outputs set out in the Projects, in all material respects, subject to circumstances beyond the Recipient's control; and
 - (ii) is completed within the Planned Expenditures, except where permitted otherwise under this Agreement.

6.0 DUTIES OF THE ADMINISTRATOR

6.1 The Administrator will:

- (a) provide or arrange for the provision of Accountable Advances to the Recipient according to the terms of this Agreement;
- (b) retain the appropriate internal and external personnel and facilities to carry out its responsibilities under this Agreement;
- (c) accept responsibility for any external personnel and facilities it retains to carry out its responsibilities under this Agreement; and

- (d) not be deemed to be providing approval or affirmation of satisfaction of the Work for the purposes of the *Forest and Range Practices Act*, any Authorization Documents or any other enactment or law, regardless of any inspection, monitoring, audit or approval under this Agreement by the Administrator or its agent.

7.0 SUBCONTRACTING, TENDERING, ASSIGNMENT AND POOLING

Subcontracting

7.1 The Recipient shall ensure that all Subcontracts under this Agreement are in compliance with any applicable laws and regulations and Rules and Policies which may apply from time to time.

7.2 The Recipient will promptly pay any and all Subcontractors for the benefits rendered by it in relation to this Agreement upon receipt of valid invoices from the Subcontractor(s) and in accordance with the Subcontract.

7.3 The Recipient acknowledges that it shall be responsible for all payments owing to any and all Subcontractors under a Subcontract and shall make such payments in a timely manner.

7.4 The Recipient shall indemnify and save harmless the Administrator from and against any and all claims of every nature and kind whatsoever which may be made against it, arising out of or in any way connected with all Subcontracts governed by this Section 7.0.

Tendering

7.5 Where Investment Funding has been allocated to the Recipient in an Investment Schedule for the Year:

(a) the Recipient will ensure that, in respect of its Projects,

- (i) all subcontracts greater than \$50,000 for a given Project will be tendered through a competitive bidding process;
- (ii) subcontracts greater than \$100,000 for a given Project will be tendered through open invitation and such tendering must conform with the guidelines as provided on the Administrator's website;
- (iii) subcontracts less than \$100,000 for a given Project may be tendered through open invitation or select invitation to a minimum of three qualified potential bidders and such tendering must conform with the guidelines as provided on the Administrator's website.

7.6 The Recipient acknowledges and confirms that the Administrator, at its discretion, and with prospective effect only, may amend or change the tendering requirements from time to time on direction of the FESBC.

7.7 Prior to project approval, the Administrator may relieve the Recipient from tendering requirements under subsections 7.5 or 7.6 where the Recipient can demonstrate to the Administrator that tendering was not possible, practical, efficient or for any other bona fide reason. Such relief may be given on a Project by Project basis or for a specified class of Project.

Assignment

7.8 The Recipient will not assign any of its rights or obligations under or any interest in this Agreement without the Administrator's prior written approval, which the Administrator may in its absolute discretion withhold.

7.9 This Agreement will operate to the benefit of and be binding upon the Recipient and its successors and permitted assigns and the Administrator and its assigns.

7.10 The Administrator may assign this Agreement to the FESBC for the purposes of enforcing the rights of the Administrator and causing the Recipient to perform its obligations under this Agreement, and in such a case, the FESBC shall have all rights to act on behalf of the Administrator.

8.0 REPORTS

8.1 The Recipient will input and submit the following reports to the Administrator:

- (a) for the first three Quarters of the Year, within 15 calendar days of the end of the Quarter, the quarterly progress report;
- (b) a report on the completion of each Project reporting on the overall nature of the investment represented by the Project, the objectives of the investment, the findings, conclusions, Outputs and results of the investment including work undertaken and accomplishments together with a statement that the Standards and Specifications for the Project have been met, as well as a summary of expenditures and such other information as may be prescribed from time to time by the Administrator (the "Project Completion Summary"), within 30 calendar days of completion or the end of the Year (unless otherwise directed by the Administrator or the FESBC), whichever is earlier; and
- (c) other information as may be prescribed from time to time by the Administrator.

8.2 The Recipient will use commercially reasonable efforts to ensure that the reports and all other information required under Subsection 8.1 are true and accurate in all material respects.

8.3 The Certificate of Project Completion in the Project Completion Summary must be certified by Certifying Professionals as defined in Section 1 and designated by the Recipient from both a financial and technical perspective in the format as prescribed in Schedule "A".

8.4 The Recipient must provide to the Administrator reports and any other information as the Administrator requests in a format and within a timeframe specified by the Administrator from time to time, including under the IMS or otherwise to permit the Administrator to comply with the reporting requirements to which it is subject.

8.5 If the reports submitted under this Section are incomplete or otherwise not satisfactory to the Administrator, then, in addition to any other remedies set out in this Agreement, the Administrator may require the Recipient to revise the report so as to provide all the information in a manner that is satisfactory to the Administrator.

8.6 If the Recipient does not submit the reports set out in this Section within the times specified in Subsection 8.1, then, in addition to any other remedies set out in this Agreement, the Administrator may disallow the Eligible Costs associated with the preparation of the reports.

8.7 All reports submitted under this Section will be in addition to any reports that may be required under an Authorization Document.

9.0 AUDITS AND FINANCIAL STATEMENTS

Audits

9.1 The Administrator may from time to time on reasonable prior notice to the Recipient engage an Auditor or conduct an audit to review the Work and any records, reports, Project Completion Summaries, accounting procedures and other information of the Recipient as may be desirable in the Administrator's opinion relating to the Work, the Investment Funding, the Projects or this Agreement.

9.2 The Administrator shall have the right to requisition specific and general information and categories of information from the Recipient that is reasonably necessary or desirable under GAAS to fulfill its reporting obligations to the FESBC as Administrator and the Recipient will provide such information on a timely basis.

9.3 The Recipient will assist the Auditor or the Administrator by whatever means are necessary and reasonable to facilitate the audit or any requisition for information pursuant to Subsection 9.1 or 9.2.

9.4 Where the Administrator, an Auditor, the FESBC or a designate of the FESBC requires access to, or copies of, information, data or documents for the requirements set out in this Agreement or other related documents, the Recipient will, and will ensure a Subcontractor will, at no cost to the Administrator, the Auditor, the FESBC or its designate:

- (a) ensure that the person who has control of such information, data or documents provides full access to them; and
- (b) provides appropriate space for staff of the Administrator or the Auditor to carry out the audit.

9.5 The Administrator may use its findings from an audit or the findings of the Auditor as one means to assess the performance of the Recipient under this Agreement.

9.6 The Recipient acknowledges that, in addition to the audits conducted by and on behalf of the Administrator, other types of audits may be conducted on the Program or Recipient. These include, but are not necessarily limited to audits conducted by the FESBC and performed by the Office of the Auditor General. All audits shall be conducted in accordance with GAAS and shall be subject to thirty days prior written notice to the Recipient before commencement, save and except where otherwise required by law.

10.0 INDEMNIFICATION AND INSURANCE

Indemnity

10.1 The Recipient will indemnify and hold harmless the Administrator, its employees and agents (collectively referred to in this Paragraph as the “Administrator”) from and against any and all losses, claims, damages, actions, causes of action, costs and expenses of whatsoever kind or nature that the Administrator may incur, suffer or be put to either before or after the expiration or termination of this Agreement, by reason of any wrongful act or omission of the Recipient, its employees, officers, directors, shareholders or agents, or any Subcontractors or supplier of materials or services or any of their employees, officers, directors, shareholders or agents, as a result of or in any way arising out of this Agreement, except where, and to the extent that, the loss, claim, damage, action, cause of action, cost or expense arises from the negligence or wilful default of the Administrator. Such indemnification survives the termination or expiration of this Agreement and any Subcontract.

Insurance

10.2 During the term of this Agreement, the Recipient will, without limiting its obligations or liabilities herein and at its own expense, provide and maintain the following insurance with insurers licensed in British Columbia and in forms and amounts acceptable to the Administrator:

- (a) Comprehensive/Commercial General Liability in an amount not less than \$2,000,000 inclusive per occurrence against bodily injury and property damage. The Administrator is to be added as an additional insured under this policy, whether named or unnamed. Such insurance will include, but not be limited to:
 - (i) Products and Completed Operations Liability;
 - (ii) Owner’s and Contractor’s Protective Liability;
 - (iii) Blanket Written Contractual Liability;
 - (iv) Contingent Employer’s Liability;
 - (v) Personal Injury Liability;
 - (vi) Non-Owned Automobile Liability;
 - (vii) Cross Liability;
 - (viii) Employees as additional Insureds;
 - (ix) Broad Form Property Damage;
 - (x) Forest Fire Fighting Expense with a limit of not less than \$1,000,000
 - (xi) Where deemed applicable, liability coverage with a limit of not less than \$500,000 covering any losses, damages or claims arising out of the aerial drift of chemicals, including fertilizer, where the Recipient carries out aerial herbicide, pesticide or fertilization activities under the Agreement;
- (b) Automobile Liability on all vehicles owned, operated or licensed in the name of the Recipient and used under this Agreement, in an amount not less than \$1,000,000.

- (c) Professional Liability, unless waived by the Administrator in writing, in an amount not less than \$1,000,000, insuring the Recipient's liability resulting from errors and omissions in the performance of professional services under this Agreement.
- (d) Aviation, if the Recipient or its Subcontractors are carrying out any aviation based Activities under this Agreement (e.g. Aerial Surveys, Aerial Photography, Aerial Spraying, etc.) then extra insurance coverage may be required. The Recipient will contact the Administrator for direction regarding the additional coverage required for these Activities, prior to commencing any aviation based Project.

10.3 All the foregoing insurance will be primary and not require the sharing of any loss by any insurer of the Administrator.

10.4 The Recipient will provide the Administrator with evidence of all required insurance prior to the commencement of the Work if requested by the Administrator. Such evidence will be in the form of a completed Province of British Columbia Certificate of Insurance. When requested by the Administrator, the Recipient will provide certified copies of required policies.

10.5 All required insurance (except ICBC provided automobile liability insurance), will be endorsed to provide the Administrator with 30 days advance written notice of cancellation or material change.

10.6 The fact that the Recipient has obtained, or not obtained, the insurance required pursuant to subsections 10.2, 10.3 or 10.5 herein, shall, in no manner whatsoever lessen nor otherwise affect the Recipients obligations, liabilities, including without limitation, indemnity obligations, set forth in this Agreement.

11.0 TERMINATION, EVENTS OF DEFAULT AND REMEDIES

Termination

11.1 Notwithstanding any other term of this Agreement, this Agreement may be terminated without cause by either Party, in its sole discretion (provided such Party is not in breach of this Agreement and has not committed an Event of Default), on 90 days written notice, or such other period of time as mutually agreed to and on such other terms as mutually agreed upon, effective from the date the other Party receives the written notice of termination. Termination under this Subsection will be without prejudice to either Party's remedies under this Agreement except that no claim will be made by either Party for any damages or losses of whatsoever kind or nature occasioned by that termination.

11.2 As of the date that this Agreement is terminated, whether under Paragraph 11.6(a) or Subsection 2.1, 11.1, or 12.2, the Recipient shall provide the Administrator with an accounting of all Investment Funds received by the Recipient, all expenditures, including Approved Eligible Costs and all adjustments arising from such expenditures (including termination or wind-down costs where permitted as Eligible Costs) and such statement and all amounts owing to the Administrator shall be delivered by the Recipient to the Administrator forthwith on demand.

11.3 The Administrator will have the right to audit, at no cost to the Administrator, the Projects including the Work and the Eligible Costs for a period of six months from the date that this Agreement is terminated.

Events of Default

11.4 The occurrence of any one or more of the following will constitute an “Event of Default” of the Recipient under this Agreement:

- (a) the Recipient fails to perform or comply with any of the terms of this Agreement;
- (b) the Recipient fails to remedy any default under an Authorization Document, law, statute or enactment that pertains to this Agreement within a reasonable period of time as determined by the Administrator;
- (c) the Recipient fails to make satisfactory progress, or substantially complete the Work;
- (d) any representation or warranty made by the Recipient in this Agreement is, or becomes, untrue or incorrect;
- (e) any information, statement, certificate, report or other document given by or on behalf of the Recipient pursuant to or as a result of this Agreement is untrue or incorrect;
- (f) a change occurs with respect to any one or more, including all, of the properties, assets, condition (financial or otherwise), business or operations of the Recipient which, in the opinion of the Administrator, materially adversely affects the ability of the Recipient to fulfil its obligations under this Agreement;
- (g) an order is made or a resolution is passed or a petition is filed for the liquidation or winding up of the Recipient;
- (h) the Recipient becomes insolvent, commits an act of bankruptcy, makes an assignment for the benefit of its creditors or otherwise acknowledges its insolvency;
- (i) a bankruptcy petition is filed or presented against, or a proposal under the Bankruptcy and Insolvency Act (Canada) is made by, the Recipient;
- (j) a receiver or receiver-manager is appointed for any property of the Recipient;
- (k) an order is made or other remedy is sought against the Recipient, under the Companies Creditors Arrangement Act (Canada);
- (l) the Recipient does not pay undisputed bills it owes, after legal proceedings have been started to make the Recipient pay those bills; or
- (m) in the Administrator’s opinion, the Recipient is unable to meet its obligations as they become due.

11.5 The Recipient shall inform the Administrator in writing within 5 business days of becoming aware that any of the foregoing matters has occurred or may occur.

Remedies

11.6 If any Event of Default occurs, the Administrator will give written notice thereof to the Recipient and the Administrator may, subject to any correction of the Event of Default pursuant to Subsection 11.7, do any or all of the following:

- (a) request, and the Recipient will deliver to the Administrator, within 30 calendar days of the request, a written report, in form and content satisfactory to the Administrator and prepared by a person acceptable to the Administrator, evaluating the financial status and condition of the Recipient;
- (b) terminate this Agreement;
- (c) withhold or suspend payment of all or a portion of the Investment Funding;
- (d) disallow the Eligible Costs associated with the Work;
- (e) reduce any or all of the Eligible Costs set out on the IMS;
- (f) require the Recipient to repay the Administrator all or a portion of the Investment Funding in accordance with Paragraph 11.9(b);
- (g) use the withheld or repaid portion of the Investment Funding to remedy the Event of Default;
- (h) request that the Recipient correct the Event of Default and require the Recipient to perform any and all necessary action at its own cost;
- (i) refer the Event of Default to the FESBC for further dispute resolution without prejudice to the Administrator or its assigns; or
- (j) take any other action the Administrator considers appropriate.

11.7 Save and except where amounts are owing to the Administrator by the Recipient or where Paragraph 11.4(g)(h)(i)(j)(k)(l) or (m) apply, the Recipient shall have 10 days after delivery of such written notice referred to in Subsection 11.6 from the Administrator to cure an Event of Default.

11.8 If this Agreement is terminated pursuant to Paragraph 11.6(a) or Subsection 2.1, 11.1 or 12.2, no claim will be made by the Recipient for any damages or losses of whatsoever kind or nature occasioned by that termination, and the Administrator will be under no further obligation to the Recipient except for Eligible Costs properly incurred up to the date of or as a result of termination.

Amounts Owning

11.9 Regardless of any other terms of this Agreement, if the Administrator determines that the Eligible Costs in respect of any Work are less than the aggregate amount of the Accountable Advances made to the Recipient by the Administrator in respect of that Work, or if the Administrator determines that the Recipient owes money to the Administrator under this Agreement for any other reason, the Recipient will promptly repay:

- (a) excess Investment Funding pursuant to Subsection 3.11; and
- (b) any other money owing to the Administrator, within thirty days of being required to do so hereunder, or request from the Administrator, whichever first occurs.

11.10 If this Agreement, or an Authorization Document ends before the Recipient completes the Work, then the Administrator, subject to the other terms of this Agreement, will only allow the Recipient to claim Eligible Costs for only that portion of the Work done in accordance with the Authorization Document and completed to the satisfaction of the Administrator, and the Recipient will repay any excess Investment Funding pursuant to Subsection 3.11.

11.11 The rights, powers, and remedies conferred on a Party under this Agreement are not intended to be exclusive and each will be cumulative and in addition to and not in substitution for every other right, power and remedy existing or available to that Party under this Agreement, any other agreement, at law or in equity and the exercise by the Party of any right, power or remedy will not preclude the simultaneous or later exercise by the Party of any other right, power or remedy.

12.0 NON-APPROPRIATION / LIMITATION OF EXPENDITURE

12.1 This Agreement and the financial obligations of the Administrator pursuant to this Agreement are subject to there being sufficient moneys available in the Investment Funding.

12.2 In the event of non-appropriation or a controlling or limitation of expenditure by the FESBC which has the effect of eliminating or materially reducing funding for the Program for that Year, the Administrator may terminate this Agreement by notice in writing at any time within 90 days of becoming aware of such non-appropriation, control or limitation. In the event of termination on such basis all accounts between the Parties shall be settled as at the effective date of termination and upon such settlement of accounts the Parties will have no further obligations save and except as especially contemplated by this Agreement to extend beyond expiry or termination hereof.

12.3 The Parties acknowledge and agree that an event of non-appropriation limitation or control of expenditure as set forth in Subsection 12.1 shall not be deemed an “Event of Default” for the purposes of Subsection 11.4 of this Agreement. If the Administrator does not choose to terminate in such event under Subsection 12.1 either Party may nonetheless treat the matter as an event of force majeure pursuant to Subsection 17.1.

12.4 Where the Administrator becomes aware of a non-appropriation, as described in Section 12.1, the Administrator will immediately notify the Recipient of such non-appropriation, control or limitation.

13.0 OWNERSHIP OF MATERIAL

13.1 For the purposes of this Part:

“Administrator Material” includes without limitation all findings, data, information, specifications, reports, proposals, analyses, documents, drawings or working papers (whether in hard copy or electronic form), software and other material or intellectual property whether complete or not, created, produced, received or acquired by the

Administrator or delivered by the Administrator to the Recipient under this Agreement;
and

“Recipient Material” includes without limitation all findings, data, information, specifications, reports, proposals, analyses, documents, drawings (whether in hard copy or electronic form), software and other material or intellectual property whether complete or not, created, produced, received or acquired by the Recipient or its employees, agents or Subcontractors under this Agreement.

13.2 Ownership in any Administrator Material belongs exclusively to the Administrator or the FESBC and any Administrator Material held by or under the control of the Recipient employees, agents or Subcontractors will be delivered (including all copies and excerpts therefrom) by the Recipient to the Administrator promptly after the Administrator requests delivery in writing or this Agreement is terminated for any reason.

13.3 Ownership in the Project Completion Summary and Recipient Material belongs exclusively to the FESBC except as instructed in writing by the FESBC Representative and the Recipient hereby assigns to the FESBC all of its right, title and interest in and to the Project Completion Summary and Recipient Material and waives its moral rights to any and all copyright subsisting in the Project Completion Summary and Recipient Material.

13.4 The FESBC shall own the Recipient Material subject to the Recipient having a perpetual, non-exclusive, irrevocable, royalty-free, worldwide license to use, copy and modify the Recipient Material for its own use. The Recipient will provide to the FESBC reasonable access to all Material created by the Recipient under this Agreement and which is in its possession, to review and make notes and copies and take away such notes and copies, as reasonably necessary for the FESBC to meet the objectives of the Program.

13.5 Upon request of the FESBC, the Recipient must deliver to the FESBC Representative such documents as it requires (waiving in the FESBC's favour any moral right, in a standard form of similar nature specified by the FESBC) which the Recipient, its employees or subcontractors may have in such Material, and confirming the vesting in the FESBC of the copyright in the Material.

14.0 LEGISLATION

14.1 The Recipient will:

- (a) comply with all federal, provincial, regional and municipal laws, statutes, enactments, legislation, by-laws, rules and regulations;
- (b) remedy any conditions or matters that arise during the course of conducting the Work that must be addressed under any applicable law, legislation or regulation; and
- (c) remedy, at its own expense, any defaults or any legislative infractions under this Agreement caused by the Recipient, its agents, employees or Subcontractors.

Confidentiality and Freedom of Information

14.2 To the extent that Recipient Material or Administrator Material is provided to the FESBC by the Administrator, such material may be subject to disclosure in accordance with the *Freedom of Information and Protection of Privacy Act* (British Columbia) (“FOI”).

14.3 The Recipient acknowledges that the Project Completion Summary is intended to be a public record and available to the public under FOI. The Recipient also acknowledges that, once approved by the Administrator, the name of a Project, together with a brief description of it (excluding any information which has been marked as “confidential” as set forth in subsection 14.5), is not confidential nor commercially sensitive, and may be published by the Administrator on the IMS, as well as being disclosable under FOI.

14.4 Notwithstanding Subsection 14.2, the Recipient will treat as confidential and will not, without the prior written consent of the Administrator, disclose or permit to be disclosed either before or after the expiration or earlier termination of this Agreement, any of the Administrator Material or any information supplied to, obtained by, or which comes to the knowledge of the Recipient as a result of this Agreement, except if:

- (a) the disclosure is necessary to enable the Recipient to fulfil its obligations under this Agreement;
- (b) the Recipient is required to by applicable law; or
- (c) where such information is readily available to the public.

14.5 Notwithstanding Subsection 14.2, the Administrator will treat as confidential and will not, without the prior written consent of the Recipient, disclose or permit to be disclosed either before or after the expiration or earlier termination of this Agreement, any of the Recipient Material or any information supplied to, obtained by, or which comes to the knowledge of the Administrator as a result of this Agreement which is marked “Confidential”, except if:

- (a) the disclosure is necessary to enable the Administrator to fulfil its obligations under this Agreement;
- (b) the Administrator is required to by applicable law;
- (c) where such information is readily available to the public; or
- (d) where the Administrator is audited by the Office of the Auditor General.

14.6 The Recipient acknowledges that, except for the Project Completion Summary or as otherwise stated in writing, information provided by the Recipient to the Administrator is commercially sensitive and its disclosure may be harmful to the business interests of the Recipient as contemplated by Section 21 of FOI. The Recipient will identify and segregate all information pertaining to the Program so as to be able to readily identify it and to preserve all exemptions from disclosure as may be properly available under FOI. The Recipient will promptly notify the Administrator of any and all FOI requests for disclosure which it may receive. The Administrator shall have sole conduct of and responsibility for replying to FOI requests but the Recipient will assist the Administrator, as requested, in the meeting of all requests made under FOI.

Builders Lien Act

14.7 Where the Builders Lien Act (B.C.) applies to Work, the Recipient will or will cause its agents, employees, Subcontractors and others with whom it enters into agreements concerning the Work, to comply with the terms of the Builders Lien Act.

14.8 If the Administrator receives legal advice that it is, or may be, a person primarily liable on a contract within the terms of the Builders Lien Act, the Administrator may holdback monies pursuant to the terms of the Act and otherwise comply with the terms of that Act as it deems necessary or desirable.

Legislation governing employment relationships

14.9 The Recipient will ensure, unless waived by the Administrator in writing, that all subcontractors engaged in carrying out Work are:

- (a) Certified in the BC Forest Safety Council SAFE Company Program;
- (b) Endorsed by BC Forest Safety Council as new entrants to the industry;
- (c) Certified under another safety scheme recognized by BC Forest Safety Council or the FESBC; or
- (d) A company registered with BC Forest Safety Council SAFE Companies Program as a Small Employer (SEBASE) or Individual Owner Operator (IOO) with the required training completed for up to six months after initial registration.

14.10 The Recipient will:

- (a) be responsible for ensuring the health and safety of all workers, including Subcontractors and other individuals employed or engaged in carrying out Work, in accordance with all legislation governing any aspects of the employment relationship;
- (b) ensure that the required WorkSafe BC coverage is provided for itself and all workers and other individuals employed by it in carrying out the Work and ensure that all Subcontracts pertaining to the Work contain similar obligations of the Subcontractor; and
- (c) comply, in all aspects, with the requirements of the Workers Compensation Act (“WC Act”) and regulations, pay for all assessments and levies associated with the Work and upon request provide the Administrator with proof of such compliance.

14.11 For the purposes of the WC Act, the Recipient will be the “Principal Contractor” for the Work, as described in the regulations to the Act, and will carry out the duties described therein, or will cause its Sub-contractors to be the “Principal Contractor” for the scope of their respective sub-contracts.

14.12 The Recipient acknowledges that it must register and remain registered and in good standing with WorkSafe BC for the term of this Agreement and that the Administrator may request verification from WorkSafe BC that the Recipient is registered and in good standing with WorkSafe BC or that the Recipient is not required by the WC Act to have coverage for the Work.

15.0 DISPUTE RESOLUTION

15.1 Where a dispute arises involving this Agreement between the Parties then the Party with the dispute will send written notice to the other Party describing the dispute.

15.2 If the Parties are unable to resolve the dispute set out in Subsection 15.1 within 15 business days of the Party receiving a written notice describing the dispute (or such longer period as the Parties agree), the dispute will be referred to and finally resolved by arbitration pursuant to the *Commercial Arbitration Act*, and the place of arbitration will be Vancouver or elsewhere as decided by the Administrator.

16.0 REPRESENTATIONS AND WARRANTIES

16.1 The Recipient represents and warrants to the Administrator, with the intention that the Administrator will rely on it in entering into this Agreement that except as disclosed in writing to the Administrator:

- (a) the Recipient does not know of any fact that materially adversely affects, or could materially adversely affect, its properties, assets, condition (financial or otherwise), business or operations or its ability to fulfil its obligations under this Agreement;
- (b) the Recipient is not in breach of, or in default under, any law, statute, enactment or regulation of Canada or of the Province of British Columbia, that applies to or is binding on it, that materially affects or could materially affect its ability to fulfil its obligations under this Agreement;
- (c) the Recipient has the power, capacity and authority to accept, execute, deliver and perform this Agreement; and
- (d) this Agreement is binding upon and enforceable against the Recipient.

17.0 FORCE MAJEURE

17.1 If any Party shall be delayed or hindered in or prevented from the performance of any act, covenant or obligation required to be performed hereunder by such party by reason of earthquake, fire, flood, tempest or other acts of God, strikes, lockouts, unavailability of materials, failure of power, prohibitive governmental laws or regulations, riots, insurrections, terrorism, war, the act or failure to act of the other Party, adverse weather conditions preventing the performance of work, war or other reason beyond such Party's control ("Event of Force Majeure"), then the time for performance of such act shall be extended for a period equivalent to the period of such delay. Each Party shall promptly notify the other of the occurrence of any Event of Force Majeure which might prevent or delay the doing or performance of acts or things required to be done or performed by it, upon becoming aware of such Event of Force Majeure, and shall also advise the other Party of the anticipated duration and consequences of such Event of Force Majeure. Lack of adequate funds or financial inability to perform shall not be deemed to be a cause beyond the control of such Party.

18.0 RELATIONSHIP

18.1 The Recipient is an independent contractor and not the servant, employee, agent or partner of the Administrator.

18.2 No partnership, joint venture, agency or other legal entity is created by or will be deemed to be created by this Agreement or any actions of the Parties under this Agreement.

18.3 The Recipient has no authority to, and will not, commit the Administrator or the FESBC to pay any person, firm or corporation.

18.4 The Recipient will not, during the Term, provide a service for, or advice to, or contract with, or provide other benefits to any person, firm or corporation where, in the reasonable opinion of the Administrator, it may or does give rise to a conflict of interest between or apprehension of bias with respect to the obligations of the Recipient to the Administrator under this Agreement and the obligations of the Recipient to the other person, firm or corporation.

19.0 POLICIES

19.1 The Parties acknowledge and confirm that:

- (a) the existence of the Program, the particular policies and criteria for participating in the Program and the allocation of funding under the Program; and
- (b) the criteria for approving Projects and the availability of Investment Funding shall be subject to the policies established by the FESBC from time to time.

20.0 FIRST NATIONS

20.1 Where the Recipient becomes aware in the ordinary course of business of any concerns raised by First Nations with respect to any actual or proposed Work under the Program which concerns might give rise to consultation by the Province, the Recipient shall notify the Administrator in writing on a timely basis.

20.2 If the Administrator provides written notice to the Recipient or if the Recipient receives written notice from the FESBC or any other agency of the Province to suspend, postpone or cancel such portions of Work indicated in the notice as being the subject of consultations between the Province and a First Nations group, upon receipt of such notice the Recipient shall:

- (a) comply with such notice; and
- (b) take all necessary and reasonable steps to mitigate costs and expenses of the Program relevant to such Work until such time as the portion of the Work is reinstated by the Administrator, and include the costs of such steps in its Eligible Costs.

21.0 LIMITATION OF LIABILITY

21.1 In no event shall either Party (including its partners, directors, officers, employees, agents, sub-contractors and licensors) be liable to the other Party, whether a claim is based on warranty, contract (including fundamental breach), tort (including negligence or strict liability), statute or non-performance of services under this Agreement for any consequential, indirect, punitive, loss of profit or similar damages relating to or arising from the services provided under this Agreement.

22.0 NOTICES

22.1 Any notice, approval, consent, document, report, statement, waiver, offer, demand or payment required to be given under this Agreement will be considered validly given, delivered or paid to and received by the addressee, if made in writing and delivered personally, on the date of that personal delivery, if sent by fax, on the first business day following the sending of the fax with confirmation of receipt of the transmission, or if mailed by prepaid post, on the fifth business day after the mailing in Canada, to the Parties addresses as follows:

by the Recipient to:
PricewaterhouseCoopers LLP
250 Howe Street, Suite 1400
Vancouver, B.C. V6C 3S7
Attention: Kevin Bromley,
Partner
Fax No.: (604) 806 7806
Email: faa@ca.pwc.com

and by the Administrator to:

_____, B.C. _____
Attention:

Fax No.:

Email:

Provided always that if any strike, lockout or labour dispute affecting postal service occurs within five (5) business days of mailing, notice will not be effective until actually received.

22.2 Either Party may, from time to time, advise the other Party by notice in writing, of any change of address of the Party giving such notice and, from and after the giving of such notice, the address specified will, for purposes of this Agreement, be considered to be the address of the Party giving such notice.

23.0 FURTHER ACTS AND ASSURANCES

23.1 Each Party, at the reasonable request of the other Party, will do or cause to be done any legal acts, documents and assurances that will carry out the terms of this Agreement more effectively.

TO EVIDENCE THEIR AGREEMENT, the Parties have executed this Agreement on the date appearing below.

PRICEWATERHOUSECOOPERS LLP

By: _____
Kevin Bromley, Partner

Date: _____

AND

By: _____

(Print Name and Title)

Date: _____

Schedule “A”

Certificate of Project Completion (pursuant to Subsection 8.3 of the Agreement)

Recipient: _____

Project #: _____

Investment Schedule # _____

We refer to the Recipient Agreement (the “Agreement”) dated as of _____, _____, between PricewaterhouseCoopers LLP and _____. Terms capitalized but not otherwise defined herein have the meaning given to them in the Agreement.

Administrative:

I, _____, in my capacity as _____ of _____, do hereby certify that the following matters are true and correct to the best of my knowledge, information and belief, as of the date of this Certificate:

1. The Work is not an obligation of the Recipient according to any provision of a statute, Order-in-Council or agreement under the *Forest Act*.
2. The Work has been completed and is in compliance with the terms and conditions of the Recipient Agreement.
3. The Work complies with the tendering rules as applicable.

DATED as of _____, _____

(signed)

(print name and title)

Schedule "A"

Recipient: _____

Project #: _____

Investment Schedule # _____

Financial:

I, _____, in my capacity as _____

of _____, do hereby certify that the following matters are true and correct to the best of my knowledge, information and belief, as of the date of this Certificate:

1. I have personal knowledge of the matters set out in this Certificate.
2. The costs documented in the Project Completion Summary are consistent and in accordance with the Agreement and the nature of the Project and are true, accurate and fair.

DATED as of _____, _____

(signed)

(print name and title)

(professional designation)

Schedule "A"

Recipient: _____

Project #: _____

Investment Schedule # _____

Technical:

I, _____, in my capacity as _____

of _____, do hereby certify that the following matters are true and correct to the best of my knowledge, information and belief, as of the date of this Certificate:

1. I have personal knowledge of the matters set out in this Certificate.
2. The Project has been completed in accordance with the objectives and standards as agreed to with the FESBC and as set out in the Project.
3. The Outputs and findings documented in the Project Completion Summary are true, accurate and fair.
4. All data and deliverables required to be delivered to the FESBC or to other applicable governmental agencies pursuant to their respective rules, regulations, standards and specifications have been delivered to the appropriate agencies in the appropriate format.

DATED as of _____, _____

(signed)

(print name and title)

(professional designation)

**PDF and E-mail the completed Schedule A to your Investment Manager
with a "cc" to faa@ca.pwc.com**

or

Fax to: 604-806-7806