



Ministry of
Forests and Range

Forests for Tomorrow Recipient Agreement

CONTRACT ADMIN./FILE NO: NUMBER	THIS AGREEMENT DATED FOR REFERENCE THE DAY (including 'nd' 'rd' or 'th' as applicable) DAY OF MONTH , 20 YR .
FOR: MANAGEMENT UNIT	

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, as represented by the MINISTER OF FORESTS AND RANGE

Ministry of Forests and Range
9th Floor 727 Fisgard Street
P.O. Box 9513 Stn Prov. Govt
Victoria, BC V8W 9C2

Phone Number: **(Area Code) Phone No** FAX Number: **(Area Code) Fax No**
E-mail Address: **Administrator's Email Address**

(the "Administrator")

AND:

Recipient / Company Name
Physical & Mailing Address (including Postal Code)

Phone Number: **(Area Code) Phone No** FAX Number: **(Area Code) Fax No**
E-mail Address: **Recipient Representative's Email Address**
Corporate Business Number: **Recipient's Business Number for taxation purposes**
WorkSafe BC and/or Personal Optional Protection Number: **WCB / POP No.**

(the "Recipient")

referred herein to as "the Parties".

The two entities Administrator and Ministry or Province have purposely been separated in the agreement even though they are the same entity when the Ministry is the Administrator. This is to distinguish the authorities authorized by the agreement should the Agreement be reassigned to a third party Administrator.

WHEREAS:

- A. The Province has established the Forests for Tomorrow program (the "Program") to fund eligible Recipients in the delivery of high priority and cost-effective forest productivity and sustainability investments.

Accordingly, the Parties agree as follows:

ARTICLE 1 DEFINITIONS

1.01 In this document, the following words have the following meanings:

- (a) **"Accountable Advance"** means a portion of the Investment Funding advanced to the Recipient pursuant to Article 4, 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;
- (b) **"Administrator Material"** has the meaning set forth in Section 19.02;
- (c) **"Administrator Representative"** has the meaning set forth in Section 8.01;
- (d) **"Advance Eligible In-house Activity"** means In-house work that is eligible to receive advances. These are all in-house activities in a PINES project that includes subcontracted Work with a value greater than 50% of the value of entire PINES project.
- (e) **"Agreement"** or **"Recipient Agreement"** means this agreement between the Parties as set out in the Contract Documents;
- (f) **"Amending Document"** means an FS600 Contract Amendment form, an FS601 Change of Work Order Form, or another standard form of similar nature specified by the Province;
- (g) **"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;
- (h) **"Assessment"** means a pre-estimate of damages incurred by the Province as a result of the Recipient's failure to perform, unsatisfactory performance or other non-compliance with the provisions of this Agreement;
- (i) **"Auditor"** means a Certifying Professional licensed to carry out audits in British Columbia, approved by the Administrator, and who is at arm's length from the Recipient and its Subcontractors;
- (j) **"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;
- (k) **"Balance"** has the meaning set forth in Section 4.06;
- (l) **"Best Practices"** means those practices that will, at reasonable cost, best achieve the intended results while at the same time not cause or result in Damage;
- (m) **"Books of Account"** has the meaning ascribed to it in Paragraph 9.02(f);
- (n) **"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 Ministry; and, as at the date of this Agreement, until otherwise notified by the Administrator, shall include:
 - i. Financial
 - A) Chartered Accountants
 - B) Certified Management Accountants
 - C) Certified General Accountants
 - ii. Technical
 - A) Professional Engineers and Geoscientists
 - B) Registered Professional Foresters
 - C) Registered Professional Biologists;
 - D) Registered Professional Agrologist
 - iii. 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 (i) above, the financial data for that Recipient may be reported on by the most senior financial officer of the Recipient;
- (o) **"Contract Documents"** means those documents described in Section 2.02, Cost Guidelines, Key Dates and details in the approved projects uploaded into PINES;

- (p) **"Costs Guidelines"** means the cost guidelines posted on the Ministry FFT website, as amended from time to time, that describes the eligible direct project costs and delivery allowance;
- (q) **"Damage"** means:
 - i. damage to property,
 - ii. slumping or sliding of land, landslides, adverse gully processes, snow avalanches, de-stabilized alluvial fans, or any similar event,
 - iii. soil disturbance in excess of allowed limits,
 - iv. a reduction in ability to meet the visual quality objectives of a known scenic area,
 - v. any action inconsistent with the general wildlife measures applicable to a known wildlife habitat area or with the objectives specified for an area designated as ungulate winter range, or
 - vi. damage to or change in the environment of a wildlife tree or resource feature that, in the opinion of the District Manager, unacceptably impairs the functionality, use or enjoyment of the feature or tree;
 - vii. other damage to the environment which the Province considers significant.
- (r) **"District Manager"** means the District Manager of the forest district of the Ministry within which a Work Area is located, and includes a person delegated or appointed by the District Manager to act on his or her behalf;
- (s) **"Eligible Costs"** means 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 Ministry 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, assessments, fines or like amounts assessed under any law, statute, enactment or regulation or under the Agreement, 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 4.03(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 Ministry in connection with the suspension or termination;
- (t) **"Eligible Recipient"** means a proprietorship, partnership or corporation who have been designated by the Ministry as being eligible to participate in the program;
- (u) **"Event of Force Majeure"** has the meaning set out in Section 21.01;
- (v) **"Field Work"** means Work that is conducted in the field, with the exception of layout, traversing, quality assurance and supervision that includes, but not limited to, Surveys (all types), Danger Tree Assessment and Removal, Road Maintenance, Planting, Site Preparation, Overstorey Removal and Vegetation Management.
- (w) **"Fiscal Year"** means the period from April 1st to the next March 31st inclusive;
- (x) **"FFT"** means the Forests for Tomorrow Program established by the Province;
- (y) **"FFT Activity Standards Document"** means a document issued by the Ministry containing requirements of specifications for the carrying out of a specific type of activity funded under the Program. For some activities the FIA Activity Standards Document will be also the FFT Activity Standards Document;
- (z) **"FFT Standards"** means the requirements of specifications contained in this document and in the FFT Activity Standards Documents and FIA Activity Standards Documents;

- (aa) **"FIA Activity Standards Document"** means a document issued by the Ministry containing requirements or specifications for the carrying out of a specific type of activity funded under the Land Base Investment Program of the Forest Investment Account (FIA);
- (bb) **"Forest Practices Legislation"** means the *Forest Practices Code of British Columbia Act*, the *Forest and Range Practices Act*, the *Wildfire Act* and regulations and standards made under these acts;
- (cc) **"FOI"** has the meaning set forth in Section 26.01;
- (dd) **"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;
- (ee) **"GST"** has the meaning set forth in Article 7;
- (ff) **"In-house"** means activities that can be done by the Recipient, its staff or associated persons listed in the price offer.
- (gg) **"Innovative Project"** means a project where:
 - i. Standards and Specifications exist but the proponent intends to test an alternative that may lead to improved management practices and a revised standard.
 - ii. Standards and Specifications do not exist but the proponent intends to undertake developmental activities that may lead to improved management practices.
- (hh) **"Investment Funding" or "Investment Funds" or "Investment Schedule"** means the funding to the Recipient from time to time allocated by the Province to be provided to the Recipient by the Administrator pursuant to this Agreement;
- (ii) **"Key Dates"** means the key dates posted on the Ministry FFT website, as amended from time to time, that describes the dates that various program deliverables are required to be completed;
- (jj) **"Management Unit"** means the area that is covered by an Investment Schedule such as all or part of a Tree Farm Licence area or Timber Supply Area as defined in the *Forest Act* or a MFR district boundary or could consist of combination of the above areas;
- (kk) **"Management Unit Budget"** means the annual development of a budget for planned activities for the Year that will determine the Investment Schedule to be allocated. The Management Unit Budget was formally know as the [FFT] work plan but was renamed to avoid confusion with the [activity] work plan.
- (ll) **"Ministry"** the Ministry of Forests and Range;
- (mm) **"Ministry Activity Standards Document"** means a document issued by the Ministry of Forests and Range containing requirements of specifications for the carrying out of specific type of activity funded by a Ministry Program;
- (nn) **"Ministry Standards"** means the requirements of specifications contained in this document and in the Ministry Activity Standards Documents;
- (oo) **"Ministry Designate"** means the Ministry of Forests and Range staff person appointed by the Forest Practices Branch Expenditure Authority to serve as the primary contact between the Forest Practices Branch Expenditure Authority and the Recipient;
- (pp) **"Ministry Representative"** means a person appointed pursuant to Section 8.05;
- (qq) **"Occupied Area"** means any Work Area, camp or rest area, or any other area lawfully occupied by the Recipient for the purposes of this Agreement;

- (rr) **"Outputs"** mean the measurements of Work required or prescribed by the Administrator, from time to time, to evaluate Projects and the Program generally within and across Management Units and any Project specific measurements or reports reasonably requested by the Administrator;
- (ss) **"Performance Security"** means the security provided by the Recipient in accordance with Article 6;
- (tt) **"PINES" (Program INvestment Entry System)** means the computer/internet based investment management system from time to time implemented by the Administrator through which the Recipient will report as set out in this Agreement;
- (uu) **"Planned Expenditures"** means the planned expenditures in an approved project uploaded into PINES;
- (vv) **"Price Offer"** means the rates for the positions submitted in response to the Request for Proposal competition that gave authorization for the Recipient to enter into this agreement as amended from time to time as set forth in Section 4.15.
- (ww) **"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 PINES for implementation in a specified Year at a specified level of funding;
- (xx) **"Project Completion Summary"** means the report referred to in Paragraph 12.02(c);
- (yy) **"Project Plan"** means the Work proposed in PINES in order to implement a proposed Project, Planned Expenditures and anticipated Outputs;
- (zz) **"Province"** means Her Majesty the Queen in Right of the Province of British Columbia;
- (aaa) **"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;
- (bbb) **"Recipient"** means the entity or entities on Page 1;
- (ccc) **"Recipient Material"** has the meaning set forth in Section 19.02;
- (ddd) **"Rules and Policies"** means the rules and policies posted on the Administrator's or the Ministry's website at the time of approval of a Project;
- (eee) **"Recipient Representative"** means a person designated pursuant to section 8.08;
- (fff) **"Schedules"** means the schedules attached to this Agreement;
- (ggg) **"Specified"** means, as the context so requires, specified in a Treatment Plan or Work Plan, in a FFT Standard, Ministry Standard or by a District Manager.
- (hhh) **"Standards and Specifications"** means the standards and specifications, including but not limited to, Ministry Activity Standards Documents, FFT Activity Standards Documents, FIA Activity Standards Documents, and administrative direction as posted on the FFT website or as approved in writing by the Ministry Representative;
- (iii) **"Subcontract"** means an agreement between the Recipient and a Subcontractor to perform a part of the Work;
- (jjj) **"Subcontractor"** means a person, firm or corporation contracting with the Recipient to perform a part or parts of the Work, or to supply products worked to a special design according to the Agreement, but does not include one who merely supplies products not so worked;

- (kkk) **"Sustainable Forest Management Plan"** means a comprehensive set of forest management strategies for a Management Unit, including criteria and indicators for assessing the effectiveness of forest management over a period of at least five years;
 - (lll) **"Technical Contact"** means the person named as the technical contact for a particular FIA activity on the Ministry FIA website or FFT activity on the Ministry FFT website;
 - (mmm) **"Term"** means the period of time this Agreement is in force pursuant to Article 3;
 - (nnn) **"Treatment Plan"** means an overall plan setting out measurable objectives desired to be achieved on specified Work Areas, together with one or more silviculture or forest health treatments necessary to achieve the objectives, and as further described in the FIA Standards, FFT Standards, Ministry Standards;
 - (ooo) **"Treatment Unit"** means a Work Area, or any similar area which is individually identified as requiring one or more silviculture or forest health treatments.
 - (ppp) **"Work"** means all labour, supervision, administration, materials, transportation, supplies, tools, equipment and such other services and materials necessary or desirable to perform the Project upon which that Project was ultimately approved by the Administrator, and includes any services which are not expressly described, but which are nevertheless necessary for the proper execution of the work ;
 - (qqq) **"Work Area"** means individual locations, forest stands, treatment units, standards units, or other particular areas or locations where Work is to be undertaken or any area of Crown Land occupied for purposes of the Work;
 - (rrr) **"Work Day"** means every day of the week except Saturday, Sunday and statutory holidays;
 - (sss) **"Work Plan"** means a detailed operational plan for the carrying out of an individual silviculture or forest health treatment, and as further described in the FIA Standards, FFT Standards, and Ministry Standards;
 - (ttt) **"Work Progress Plan"** means the plan developed on a form approved by the Province and submitted to the Ministry Representative for approval which outlines the scope, timing, location and any other requirements of the Work.
 - (uuu) **"Year"** means each respective 12 month period from April 1st to March 31st of the following year.
- 1.02 The terms known, resource agencies, resource feature, riparian management area, riparian management zone, riparian reserve zone, scenic area, ungulate winter range, visual quality objective, wildlife habitat area, and wildlife tree have the meanings given them in Forest Practices Legislation.
 - 1.03 If any of the words in section 1.01 are used in any other Contract Document, they have the same meaning as in this document unless the context dictates otherwise.
 - 1.04 Words or abbreviations which have well known technical or trade meanings are used in the Contract Documents, FFT Activity Standards Document, or Ministry Standards Document, it is in accordance with those recognized meanings.
 - 1.05 Words in the singular include plural, and words in the plural include the singular; and gender specific terms include both genders and include corporations and the neuter.
 - 1.06 Any reference to a FFT Standard, Ministry Standard, manual, guidebook or form means that which is published by or for the Province and includes every amendment to or substitute for them published from time to time.
 - 1.07 The headings of the clauses of this Agreement have been inserted for reference only and do not define, limit, alter or enlarge the meaning of any provision of this Agreement. This Agreement is divided into the following components:
 - Article 10
 - 10.01 Section

- (a) Paragraph
- i. Subparagraph

- 1.08 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.

ARTICLE 2 AGREEMENT DOCUMENTS

Entire Agreement

- 2.01 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.

Contract Documents

- 2.02 The attached Schedules are integral to and form part of this Agreement:

- (a) Schedule A – Certificate of Project Completion
- (b) Schedule B – SAFE Certification Requirements
- (c) Schedule C – Workplace Signage
- (d) Schedule D – Insurance Requirements for Subcontracted Work
- (e) Schedule E – Recipient's Request for Proposal

Proposal

- 2.03 The Recipient's proposal submitted in response to the Request for Proposal competition that gave authorization for the Recipient to enter into this Agreement forms an integral part of this Agreement.
- 2.04 In the event of a conflict between the Recipient's Request for Proposal and the Contract Documents, the Contract Documents shall govern unless the Administrator has given written exemption to such conflict.

Amending Documents

- 2.05 No change to the Agreement is effective unless the change is in the form of an Amending Document signed by both Parties.
- 2.06 All changes to a Project must be agreed to by both Parties.

Interpretation

- 2.07 Any reference in the Contract Documents to a manual or a form means a manual or form published by or for the Province and includes every amendment of such manual or form and any manual or form published from time to time in substitution for them or replacement of such manual or form.
- 2.08 Any reference to a statute in the Contract Documents, whether or not that statute has been defined, means a statute of the Province of British Columbia unless otherwise stated and includes all regulations at any time made under that statute and any amendments or replacements to that statute and the regulations
- 2.09 In the event of a conflict between the Contract Documents, then the order of precedence will be:
- (a) this Agreement;
 - (b) the Schedules; and
 - (c) the Recipient's approved projects uploaded into PINES for each respective Year.
- 2.10 In the event of a conflict between alike Contract Documents of different dates, the document of later date prevails.

- 2.11 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.
- 2.12 Should any Article(s) Section(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.
- 2.13 The Recipient acknowledges that all approvals of Work and Projects are based on standards or Program objectives determined by the Ministry.
- 2.14 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.
- 2.15 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 Province that are in arrears as determined by the Province.

ARTICLE 3 TERM OF CONTRACT AND COMMENCEMENT OF WORK

- 3.01 The Term of this Agreement will start on **Month & Day, 20YR** and end on the earliest occurrence of one of the following:
- (a) mutual agreement of the Parties;
 - (b) Recipient ceasing to be an Eligible Recipient under the Program;
 - (c) the Program being cancelled by the Province;
 - (d) Recipient not receiving any allocation of Investment Funding under the Program in a given Year;
 - (e) the term of the Request for Proposal that gave the Recipient the right to enter into this Agreement has expired; or
 - (f) notice of termination being given pursuant to Section 17.01, Paragraph 17.06(b) or Section 4.19.
- 3.02 Time is of the essence in this Agreement.

ARTICLE 4 INVESTMENT FUNDING

Conditions of Investment Funding

- 4.01 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.
- 4.02 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.
- 4.03 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 Province, whether related to this Agreement or otherwise;
 - (c) Work is not subcontracted Work or Advanced Eligible In-house Activity Work.
 - (d) the Administrator is otherwise directed by the Ministry not to make a payment for any other reason.

Distribution of Payment

- 4.04 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 one Management Unit for Projects of the Recipient in any given Year shall not exceed the Recipient's Investment Funding for that year at any time or in any circumstance.

Cost variance on a Project-by-Project basis within a given Year may be permissible so long as:

- (a) increase in unit costs from those budgeted in the initial Project approval are within the guidelines posted on the FFT website
- (b) the Project is not an Innovative Project, and
- (c) the variance from the maximum Planned Expenditures does not exceed the percentage allowed as described within the guidelines posted on the FFT website unless the Administrator, in its sole discretion, approves in writing a percentage greater than the percentage described within the guidelines posted on the FFT website; and in any event, the aggregate amount of the Planned Expenditures for a given Year as approved does not exceed the Recipient's Investment Funding at any time or in any circumstance.

Where a Recipient has received an allocation for more than one Management Unit in a Year, cost variance within one Management Unit may not be compensated for within another Management Unit. In addition to the foregoing principles, Investment Funding shall be subject to this Article 4.0.

- 4.05 The Administrator will provide Accountable Advances from the Investment Funding to the Recipient Quarterly, in advance, provided that:

- (a) each Accountable Advance does not exceed eighty (80) percent (or such other percentage that the Ministry may specify in a subsequent Year) of the Recipient's projected costs for the Quarter for each Project as specified in its original submission, or as otherwise approved by the Administrator in its sole discretion;
- (b) it is subcontracted Work or Advance Eligible In-house Activity Work; and
- (c) the Recipient is in compliance with this Agreement.

- 4.06 The remainder of the Investment Funding for each Project beyond the percentage provided in Paragraph 4.05(a) (the "Balance") shall be withheld until completion of each respective Project and fulfillment of the requirements set out in Section 4.11.

- 4.07 The Administrator may in its sole discretion provide Accountable Advances on a more frequent basis than as set out in this Article 4.0.

- 4.08 All Accountable Advances shall be expended by the Recipient upon work necessary or desirable to implement 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 PINES. 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".

- 4.09 Work that is not subcontracted Work or Advance Eligible In-house Activity Work will require invoices to be sent to the Administrator.

- (a) Invoices will be paid at the end of each quarter unless the Administrator has given written authorization to submit on a more frequent basis. The final payment will be made after receiving the Project Completion Summary.

(b) The invoices submitted must show:

- (i) the Recipient legal name, address, the date and the period of time which the invoice applies;
- (ii) a roll up of Work completed showing quantity, description, unit cost and amount;

(c) Despite paragraph 4.09 (a) the Administrator may specify form and information required when submitting an invoice.

(d) The Province may holdback 10% of the calculated payment amount from each invoice. The holdback maybe retained for 40 calendar days after receiving the Project Completion Summary.

4.10 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 Ministry at the time of Project approval. This will include reviewing the eligibility of charges.

4.11 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.

4.12 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 4.03(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.

4.13 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.

4.14 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 complete all Projects no later than the end of the Year (March 31st) and provide the Project Completion Summary for each Project not later than twenty-one calendar days following the end of the Year.

Pricing for Subsequent Years

4.15 For subsequent Years following the signing of this Agreement, the "Bid Price per Unit" identified under the Recipient's Price Offer of the Recipient's proposal as identified under Section 2.03 will be adjusted by the Ministry to the BC Consumer Price Index for the 12 month period from January 1st to December 31st and will come into effect April 1st.

Price Offer

4.16 The Price Offer submitted by the Recipient in its proposal as identified under Section 2.03, will form the basis of pay rates for the Work completed under this Agreement.

- 4.17 During the course of this Agreement Term, should the services of a person be required that are not set out in the Recipient's Price Offer, the Recipient must seek prior written approval for the pay rate of that person's services from the Administrator.

Appropriation

- 4.18 Despite any other provision of this Agreement, the Administrator's obligation to pay the Recipient, pursuant to this Agreement, is subject to:
- (a) the Legislative Assembly of the Province of British Columbia having provided sufficient funds to enable the Province, in any Fiscal Year or part thereof, to make payment pursuant to this Agreement when it is due; and
 - (b) Treasury Board not having controlled or limited expenditure of any funds.
- 4.19 In the event of non-appropriation or a controlling or limitation of expenditure by the Province 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.
- 4.20 The Parties acknowledge and agree that an event of non-appropriation limitation or control of expenditure as set forth in Section 4.18 shall not be deemed an "Event of Default" for the purposes of Section 17.04 of this Agreement. If the Administrator does not choose to terminate in such event under Section 4.18 either Party may nonetheless treat the matter as an event of force majeure pursuant to Section 21.01.
- 4.21 Where the Administrator becomes aware of a non-appropriation, as described in Paragraph 4.18(a), or a control or limitation, as described in Paragraph 4.18(b), the Administrator will immediately notify the Recipient of such non-appropriation, control or limitation.

ARTICLE 5 RECIPIENT TRAINING

Ministry Required and Approved Training

- 5.01 The Recipient will be paid their Price Offer rate while attending a program meeting or training course that has been approved in writing by the Administrator.
- 5.02 The Recipient will be paid their Price Offer rate for travel to and from the Work Area.
- 5.03 The Recipient will be paid while en route, to and from a program meeting or training course that has been approved in writing by the Administrator at the rates listed in the Cost Guidelines as amended from time to time and posted on the Ministry FFT website.
- 5.04 Charges for travel must not overlap with hourly rates for training, meetings, or regular work. For example, charges for Work do not commence until travel is completed.
- 5.05 The Recipient is responsible for ensuring that its staff and Subcontractors are properly trained in the knowledge, practices, procedures and standards to carry out FFT projects.
- (a) Subcontractors will not be compensated for their training, unless prior written pre-approval has been obtained from the Administrator.
- 5.06 The Administrator may give prior written pre-approval for compensation under the cost provisions of Sections 5.01, 5.02 and 5.03 and require the Recipient and/or its Subcontractors attend a training session or sessions.
- 5.07 Should the Recipient and/or its Subcontractors choose not to attend a training session or program meeting that the Administrator under Section 5.06 has required the Recipient and/or its Subcontractors to attend and errors, omissions, or any other mistakes of any kind, either directly or indirectly, are made that the training and/or meeting could have prevented, in the sole opinion of the Administrator, payments to the Recipient may be reduced or eliminated and any costs to rectify the errors, omissions, or other mistakes will be borne by the Recipient.

General Requirements for Recipient Training

- 5.08 In addition to Section 5.01 to 5.06, the Recipient must ensure that it and its Subcontractors are properly trained, and must proactively acquire training on its own volition and expense, over and above any training requirements specifically identified by the Administrator.

Marshalling points for Travel and Expenses

- 5.09 Travel time and expenses for field Work will utilize the most cost effective arrangement of travel and accommodation. Travel time and expenses will be paid on a portal-to-portal basis, provided the initial departure point is within the area covered under the Recipient's proposal as identified under Section 2.03. Travel time and expenses will not be paid for travel outside of the area covered by the Recipient's proposal, unless prior written pre-approval has been obtained from the Administrator.
- 5.10 Travel time and expenses for training or meetings will utilize the most cost effective arrangement of travel and accommodation. Travel time and expenses will be paid portal-to-portal from a departure point within the area covered under the Recipient's proposal as identified under Section 2.03 to the training or meeting location, or as pre-approved in writing by the Administrator.
- 5.11 Mileage rates and per diem rates, will be at Group I government rates as amended from time to time and identified in Cost Guidelines. These vehicle rates apply regardless of the GVW of the specific vehicle used, unless the training or meeting is held in the field, in which case vehicle rates for field activities as per the Cost Guidelines will apply.

ARTICLE 6 PERFORMANCE SECURITIES

- 6.02 Upon request of the Administrator, the Recipient shall furnish Performance Security in the amount specified by and in a form and manner acceptable to the Administrator as security for the faithful performance by the Recipient of all Work.
- 6.03 The Administrator may retain any Performance Security until all Work has been completed in accordance with this Agreement. The Performance Security is subject to forfeiture, at the discretion of the Administrator, if the Recipient fails to perform or to comply with this Agreement.
- 6.04 If the Recipient fails to perform or comply with this Agreement, the Administrator may, in addition to terminating the Agreement and claiming the Performance Security, pursue any other remedies available to it under this Agreement or the laws of the Province of British Columbia.

ARTICLE 7 GOODS AND SERVICES TAX

- 7.01 The Administrator certifies that the Work to be carried out pursuant to this Agreement is for the use of, and is being purchased by, the Province, with Crown funds, and is therefore not subject to the Federal Goods and Services Tax.
- 7.02 The Recipient acknowledges and confirms that any Projects and all goods and services funded under this Agreement are being purchased or paid for by the Ministry with Crown monies, and therefore are not subject to the goods and services tax ("GST").
- 7.03 The Recipient will not include GST with respect to any Project and will not claim GST as an Eligible Cost.
- 7.04 The Recipient acknowledges and confirms that the Project Completion Summary shall be submitted to the Administrator.
- 7.05 The Project Completion Summary and the Recipient Material shall be the property of the Ministry. 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 Work conducted by or the deliverables from the Recipient.
- 7.06 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.

ARTICLE 8 PARTY REPRESENTATIVES

Administrator Representative

The Administrator (who signs this Agreement) is the Program Expense Authority residing at Branch. The Administrator Representative is the Regional Lead looking after the program and the Ministry Representative is the Regional Lead's staff.

- 8.01 The Administrator may appoint one or more Administrator Representatives who, along with the Administrator, shall have full authority to act on behalf of the Province in connection with sections and paragraphs listed in section 8.05 and sections and paragraphs 11.12 (b), 11.12(c) ii, 11.14, 11.18, 17.06 (c), 26.01, 26.03, and Article 18 of this Agreement or otherwise determined by the Administrator.
- 8.02 Upon commencement of this Agreement, the Province shall notify the Recipient of the name of the Administrator Representative(s).
- 8.03 The Province may substitute a Administrator Representative at any time, and shall immediately notify the Recipient of the change.
- 8.04 The Administrator Representative may require the Recipient to do anything necessary to satisfy the Administrator Representative that the Work is being performed in accordance with the Contract Documents.

Ministry Representative

- 8.05 The Administrator Representative shall appoint a Ministry Representative who shall have full authority to act on behalf of the Province in connection with sections and paragraphs 2.06, 4.17, 5.01, 5.04(b), 5.05, 5.06, 5.08, 5.09, 8.08, 8.09, 8.11, 9.01, 9.02(a), 9.02(c), 9.03(c), 9.05, 9.06, 14.08, 16.03(f), 17.06 (a), (d), (e), (f), (g), (h), (i), (j) and (k), 26.07, 26.11 or 26.12 and Articles 12,13 or 15 of this Agreement or otherwise determined by the Administrator.
- 8.06 Upon commencement of this Agreement, the Province shall notify the Recipient of the name of the Ministry Representative.
- 8.07 The Province may substitute a Ministry Representative at any time, and shall immediately notify the Recipient of the change.

Recipient Representative

- 8.08 The Recipient shall appoint a Recipient Representative(s) fluent in English, who shall:
 - (a) have full authority to act on behalf of the Recipient in connection with the Work and the Agreement; and
 - (b) be available to the Ministry Representative, when requested.
- 8.09 Upon entering into this Agreement, the Recipient shall notify the Administrator of the name, address and telephone number of the Recipient Representative(s) appointed pursuant to Section 8.08.
- 8.10 The Recipient shall not substitute a Recipient Representative without the written consent of the Ministry Representative.
- 8.11 If, in the reasonable opinion of the Ministry Representative, a Recipient Representative is not suitably experienced or is unable to properly supervise the Work or communicate with the Ministry Representative, then the Recipient shall, upon receipt of written notice from the Ministry Representative, replace that representative and immediately notify the Administrator of that change.
- 8.12 All Work carried out by the Recipient or the Subcontractor must be under the direct and continuous supervision of the Recipient or the Recipient Representative(s).

ARTICLE 9 DUTIES OF THE RECIPIENT

- 9.01 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 Ministry 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

9.02 The Recipient will:

- (a) work with the Ministry to develop an estimated Management Unit Budget, consistent with the strategic direction of the Program, that is signed off by both the Ministry and Recipient, that is:
 - i. unless otherwise determined by the Ministry, the Recipient will, on or before January 15th of each Year, submit to the Ministry for approval a Management Unit Budget and Investment Schedule for the upcoming field season outlining the planned activities, hectares, projected budget figures and other parameters as requested by the Ministry; and
 - ii. subject to any changes from the Administrator's Investment Schedule or the budgetary process, the Management Unit Budget will identify a Recipient's expected deliverable Work for the Year which the Recipient is obligated to follow, unless directed otherwise by the Administrator or the Ministry.
- (b) submit projects in to PINES that include all Work ancillary to the completion of the projects approved in the Work Plan.
- (c) not exceed the Planned Expenditures for Projects, individually or in the aggregate, except where authorized in writing by the Administrator or except where permitted otherwise under this Agreement, or where such excess is paid by the Recipient from its own resources;
- (d) obtain and comply with the necessary Authorization Documents, as required, from the applicable government agency or ministry, before commencing any Work under this Agreement;
- (e) apply all Accountable Advances directly against Eligible Costs;
- (f) maintain accurate time records, accounting records, journals, documents, invoices, receipts, vouchers and other supporting documents (the "Books of Account") for the Work, in accordance with cost policies established by the Ministry 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 seven years after the earlier of:
 - iii. the completion of the Project;
 - iv. the end of the Term of this Agreement; or
 - v. the expiration or earlier termination of this Agreement;
- (g) retain on its own files for a period of not less than seven years all data, reports, photographs and maps required to be produced by a FIA Standard, FFT Standard or Ministry Standard.
- (h) 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;
- (i) within 30 days of receiving a request from the Administrator, submit further documentation, verification, or information to support the Eligible Costs claimed;
- (j) create a segregated trust account or imprest account into which the Investment Funding may be advanced.
- (k) place a reassignment clause in all contracts with its subcontractors that gives the option to reassign a contract with a subcontractor to HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, as represented by the MINISTER OF FORESTS AND RANGE.

9.03 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) despite paragraph 9.03 (a), a recipient may, without approval, enter projects into PINES as a preliminary step to the approval process.
- (c) provide all equipment, materials, supplies, labour, supervision and accommodation necessary to perform the Work;
- (d) ensure that all Work is completed to a level acceptable to the Ministry as identified in the Standards and Specifications, FIA standards, FFT standards, Ministry Standards or as specified by the Administrator as part of its approval;
- (e) Work may only be performed during biological and weather conditions appropriate to:
 - i. ensuring high efficacy of the Work, and
 - ii. attainment of the FIA Standards, FFT Standards, or Ministry Standards.
- (f) A Work Area must be unencumbered Crown land and not the subject of a research installation or other authorized activity with which an FFT activity may conflict.
- (g) 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;
- (h) 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;
- (i) 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;
- (j) 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;
- (k) 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;

Any failure by the Recipient to discover matters which affect or could affect the Work does not relieve the Recipient from its obligations under this Agreement; and

- (l) 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.
- (l) receive, on behalf of the Ministry, goods and services for Work that has been completed by Subcontractor(s) and assure that such goods and services have been received in a manner and quantity pursuant to Standards and Specifications.

First Nation Requirements

- 9.04 Where a proposed activity may have an impact on the forest land base and is outside of a review process required under Forest Practices Legislation or the *Integrated Pest Management Act*, the Recipient must carry out a process of information-sharing with potentially affected First Nations.
- (a) The results of this process must be presented to the District Manager prior to Work being initiated. The District Manager will consider the information provided and may require further consultation, mitigative measures, other activities, or may disallow the Work based on issues brought forward in relation to aboriginal interests.
- 9.05 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 under its 'First Nations Information Sharing and Consultation Guidelines', as amended from time to time, the Recipient shall notify the Administrator in writing on a timely basis.
- 9.06 If the Administrator provides written notice to the Recipient or if the Recipient receives written notice from any 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.

Treatment and Work Plans

- 9.07 Except as provided for in Section 9.17, the Recipient must have, for each Work Area, a Treatment Plan and a Work Plan in effect before Work commences on that area.
- 9.08 A Treatment Plan and a Work Plan:
- (a) must be consistent with:
- i. the FIA Standards, FFT Standards, or Ministry Standards,
 - ii. the use of Best Practices,
 - iii. general wildlife measures applicable to a wildlife habitat area, and
 - iv. the objectives, priorities and activities expressed in higher level plans, forest stewardship plans, or silviculture or forest health strategies unless the District Manager authorizes the Work to proceed despite the inconsistency,
 - v. Forest and Range Practices Act (FRPA) values,
- (b) are not in effect until signed by a Registered Professional Forester;
- (c) except as may be required under a pest management plan or unless requested by the District Manager, are not required to be submitted to a District Manager; and
- (d) are public documents and must be made available to a person on request.
- 9.09 A Treatment Plan or Work Plan that is not consistent with the FIA Standards, FFT Standards, or Ministry Standards is not in effect unless the inconsistent part of the plan is approved in writing by the Administrator.
- 9.10 If at any time a Treatment or Work Plan appears unsuitable or not in compliance with Forest Practices Legislation, particularly as a result of forest health factors, any portion of the Work affected by the unsuitable or non-compliant aspect of the Work must immediately be suspended and the Administrator informed.
- 9.11 All Work must meet or exceed the requirements of the applicable Treatment and Work Plans for each Work Area.

Treatment Plans

- 9.12 An approved backlog silviculture prescription or stand management prescription may constitute a Treatment Plan provided a Registered Professional Forester confirms the prescription is still valid.
- 9.13 In addition to the requirements of Section 9.08, a Treatment Plan must:
- (a) include a map showing the Work Areas and Treatment Units that are subject to the Treatment Plan;
 - (b) set out measurable objectives that are desired to be achieved on the Treatment Units;
 - (c) set out a schedule of silviculture or forest health treatments appropriate to achieving the objectives, and
 - (d) where not effectively already referred through another planning or approval process, be referred to any government resource agency or person that, in reasonable foresight, may be materially affected by the proposed plan, and to any agency or person as directed by the District Manager.
- 9.14 Except for surveys, where a Treatment Plan schedules a series of treatments to be carried out, Work may only commence on the first treatment in the series where there is reasonable expectation that sufficient funding will exist in the future to carry the Treatment Plan to completion.
- 9.15 A Treatment Plan not carried to completion must have a “.pdf” note attached to the Opening in RESULTS as to the reasons why treatments were terminated.

Work Plans

- 9.16 In addition to the requirements of Section 9.08, a Work Plan must:
- (a) be consistent with the Treatment Plan for a Work Area;
 - (b) be appropriate and specific to the silviculture activity to be carried out on a Work area; and
 - (c) have, at a minimum, the contents for a Work Plan Specified in a FIA Activity Standards Document, FFT Activity Standards Document or Ministry Activity Standards Document.
- 9.17 A Work Plan is not required where all the Specified requirements for a Work Plan are met within the Treatment Plan, and in such cases every reference in the FFT Standards, or Ministry Standards to a Work Plan shall mean the Treatment Plan.

Project Planning for Rehabilitation Work and Overstory Removal

- 9.18 The requirements for project planning (e.g., prioritizing candidate projects for expenditure, conducting access management planning, and if necessary, carrying out a public review process) for environmental maintenance projects (Roads Activity Area), permanent road deactivation, landslide and gully rehabilitation (Terrestrial Activity Area) and overstory Removal are provided in the FIA Activity Standards Documents or FFT Activity Standards Documents.

Activity Reporting

- 9.19 Silviculture and forest health projects must have FIA activity or FFT activity accomplishment reports and maps prepared and submitted as specified in reporting guidelines posted on the Ministry FIA website or Ministry FFT website.

ARTICLE 10 DUTIES OF THE ADMINISTRATOR

- 10.01 The Administrator will:
- (a) provide or arrange for the provision of Accountable Advances to the Recipient according to the terms of this Agreement;
 - (b) provide or arrange for the provision of payment of invoices for In-House Activity Work to the Recipient according to the terms of this Agreement;
 - (c) retain the appropriate internal and external personnel and facilities to carry out its responsibilities under this Agreement;

- (d) accept responsibility for any external personnel and facilities it retains to carry out its responsibilities under this Agreement; and
- (e) 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.
- (f) provide written approval or rejection of a person and pay rate requested to be placed on the Recipient's Price Offer as per section 4.17 within five working days of the request.

ARTICLE 11 SUBCONTRACTING, TENDERING, ASSIGNMENT AND POOLING

Subcontracting

- 11.01 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.
- 11.02 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.
- 11.03 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.
- 11.04 The Recipient shall ensure that all Subcontracts under this Agreement will cause an assignment of its right or obligations under or any interest in the Subcontract to the Administrator in the event of expiry or sooner termination of this Agreement.
- 11.05 The Administrator may, for a reasonable cause, object to the use of an intended Subcontractor and require the Recipient to employ another qualified Subcontractor.
- 11.06 The Recipient acknowledges and agrees that the Subcontractor (or any of the Subcontractors' directors, officers or members) is not an affiliate or an associate of the Recipient (or any of the Subcontractors' directors, officers or members) within the meaning of the *Business Corporations Act of British Columbia*.
- 11.07 Nothing in this Agreement will create any direct or indirect contractual relationship between the Province and any Subcontractor or impose any obligation or liability upon the Province to any Subcontractor.
- 11.08 The Recipient must ensure all approved Subcontractors obtain WorkSafe BC coverage and comply with all conditions of the *Workers Compensation Act* and regulations thereunder and where general Worksafe BC coverage is not obtainable, the Contractor will ensure all Subcontractors obtain Personal Optional Protection under the *Workers' Compensation Act*, and upon request must provide the Administrator with proof of such compliance.
- 11.09 The Recipient shall ensure that all its Subcontractors performing services under this Agreement carry insurance in the form and limits as specified in Article 14.0, and upon request must provide the Administrator with proof of such compliance.
- 11.10 The Recipient shall ensure that all its Subcontractors meet the SAFE certification requirements set out in Schedule D SAFE Certification Requirements.
- 11.11 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 Article 11.

Tendering

- 11.12 Where Investment Funding of more than \$50,000 has been allocated to the Recipient in a Management Unit for the Year:
 - (a) the Recipient will make all efforts to achieve 25% First Nations participation in the Forests For Tomorrow Program by targeting 25% of their investment schedule to First Nation proponents, subject to their ability to:

- i. meet the eligibility requirements set out in the solicitation documents, and
- ii. negotiate rates comparable to the tendered portion of the investment schedule.

This restriction may be waived or altered in writing by the Ministry.

- (b) A maximum of 20% of the Field Work portion of the Investment Schedule may be conducted by Recipient staff or associated persons listed in the price offer unless the Administrator has given the Recipient prior authorization to conduct more Work with its own staff or associate persons listed in the price offer.
- (c) the Recipient will ensure that, in respect of its Projects,
 - i. all Subcontracts greater than \$75,000 for a given Project will be tendered through open invitation and such tendering must conform with the guidelines as provided on the Ministry FFT website;
 - ii. at least fifty percent of the value of all Subcontracts within the Management Unit for a given Year will be tendered through a competitive bidding process unless the Administrator has given the Recipient prior authorization to exceed this limit; and
- (d) where Subcontracts less than \$75,000 for a given Project must be tendered to comply with Sub-paragraph 11.12 (c)(ii) above they 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.

11.13 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 Ministry.

11.14 Prior to project approval, the Administrator may relieve the Recipient from tendering requirements under Sections 11.12 or 11.13 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

11.15 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.

11.16 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.

11.17 The Administrator may assign this Agreement or parts thereof to a third-party 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 third-party shall have all rights to act on behalf of the Administrator.

Pooling Investment Funding

11.18 Subject to the Recipient receiving the necessary approvals from the Administrator and Ministry and complying with any and all policies established by the Ministry, the Recipient may pool its allocated Investment Funding with one or more Recipients who have been allocated funding under the Program.

ARTICLE 12 REPORTS AND INSPECTION

Notice of Intervention

12.01 The Ministry may intervene and direct through a written Notice of Intervention that a practice or activity conducted by or for the Recipient be halted, revised, or changed where the Ministry deems it necessary. In such cases, the Ministry will explain in the Notice of Intervention the rationale for intervention, what actions are to be taken, and consequences regarding costs.

- (a) Coverage of the costs of any corrective action, as a result of an intervention will depend upon the reasons for the intervention, and any errors, omissions, or inadequate training on behalf of the Recipient or its Subcontractors.

Reports

- 12.02 The Recipient will input and submit the following reports to the Administrator:
- (a) a quarterly report showing actual expenditures against advances,
 - (b) for the first three Quarters of the Year, within 15 calendar days of the end of the Quarter, the Project exception report as determined by the Administrator;
 - (c) the Certificate of Project Completion, 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 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, whichever is earlier; and
 - (d) other information as may be prescribed from time to time by the Administrator.
- 12.03 The Recipient will use commercially reasonable efforts to ensure that the reports and all other information required under Section 12.02 are true and accurate in all material respects.
- 12.04 The Certificate of Project Completion in the Project Completion Summary must be certified by Certifying Professionals designated by the Recipient from both a financial and technical perspective and must be signed by a Certifying Professional as the Receiving Authority in a format as prescribed in Schedule "A".
- (a) The Receiving Authority for subcontracted Work may be staff of the Recipient.
- 12.05 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 PINES or otherwise to permit the Administrator to comply with the reporting requirements to which it is subject.
- 12.06 If the reports submitted under Article 12 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.
- 12.07 If the Recipient does not submit the reports set out in Article 12 within the times specified in Section 12.02, 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.
- 12.08 All reports submitted under Article 12 will be in addition to any reports that may be required under an Authorization Document.
- 12.09 The Province or the Administrator reserves the right to monitor and examine, at all times during the Term and without notice to the Recipient, any Work performed. Monitoring and examinations are conducted for the sole benefit of the Province, and do not release the Recipient from the responsibility of providing quality control measures to assure that the Work strictly complies with this Agreement.
- 12.10 The Administrator or a contractor working on behalf of the Administrator, may, after the Recipient's Quality Assurance has been completed as set forth in Standards and Specifications, inspect and determine the acceptability of the Work performed in carrying out the Project. Work shall be inspected in accordance with the objectives and standards as agreed to with the applicable Ministry and as set out in the Project. Work may include all aspects of the project including RESULTS entry.
- (a) Unless otherwise specified, all linear and area measurements are measured on the horizontal plane.
- 12.11 Where the Administrator or a contractor working on behalf of the Administrator has conducted an inspection as set out in Section 12.10, the results of this inspection will be basis for determining release of the Balance of funds or any other corrective action pursuant to section 17.06.

- 12.12 The Recipient is encouraged, but not required, to observe inspections, as set out under Section 12.10, while they are underway.
- 12.13 The Administrator shall provide the Recipient with a copy of inspection results.
- 12.14 All costs associated with bringing the Work to the Standards and Specifications set out in an approved Project following an inspection as set out in Section 12.10 will not be an eligible expense unless the Administrator has given the Recipient prior authorization to submit these costs for payment.

Re-Inspection

- 12.15 If the results of an inspection are unacceptable to the Recipient, it may, if it does so within three (3) Work Days of receiving the inspection results, request the Administrator to re-inspect the Work.
- 12.16 If the Recipient requests a re-inspection of the Work, the Administrator shall perform the re-inspection at a time mutually agreed to by the Parties, but in any event no later than ten (10) Work Days after receiving the request.
- 12.17 The results of the re-inspection shall be final and binding and be used for determining release of the Balance of funds or any other corrective action pursuant to section 17.06.
- 12.18 The Recipient shall pay the Administrator's costs of the re-inspection only if the difference in Work quality between the original inspection and the re-inspection is less than ten percent (10%) of the original inspection results.
- 12.19 If the Administrator bears the costs of the re-inspection, it shall also pay the Recipient or its Contractor Representative, if they are present for the entire re-inspection, the sum of two hundred and fifty dollars (\$250.00) for time spent re-inspecting.

ARTICLE 13 AUDITS AND FINACIAL STATEMENTS

Audits

- 13.01 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.
- 13.02 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 and the Recipient will provide such information on a timely basis.
- 13.03 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 Section 13.01 or 13.02.
- 13.04 Where the Administrator, an Auditor, the Ministry or a designate of the Ministry 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 Ministry 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.
- 13.05 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.
- 13.06 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 Ministry and performed by the Office of the Comptroller General. All audits shall be conducted in accordance with GAAS and shall be subject to thirty (30) days prior written notice to the Recipient before commencement, save and except where otherwise required by law.

ARTICLE 14 INDEMNIFICATION AND INSURANCE

Indemnity

- 14.01 The Recipient shall indemnify and save harmless the Province, its employees, agents, and authorized representatives, and each of them from and against losses, claims, damages, actions, causes of action, costs and expenses (collectively referred to as "Claims"), that the Province or any of its employees, agents, or authorized representatives may sustain, incur, suffer or be put to at any time, either before or after this Agreement ends, that arises out of or occur, directly or indirectly, by reason of errors, omissions, or negligent acts of the Recipient or its Subcontractor(s), servant(s), or employee(s), under this Agreement, excepting always that this indemnity does not apply to the extent, if any, to which the Claims are caused by errors, omissions, or negligent acts of the Province, its other contractor(s), authorized representatives(s) or any other persons.
- 14.02 Neither the Minister of Forests and Range nor Administrator, nor the Administrative Representative, nor the Ministry Representative in charge, their agents, authorized representatives, or employees are personally liable for any act performed in the discharge of any duty imposed or in the exercise of any power or authority conferred upon them by, or within the scope of, the Agreement if it can be demonstrated that all reasonable care was exercised in the conduct of the operations; in all such matters these persons act solely as agents and representatives of the Administrator.
- 14.03 Neither the Province nor any of its employees, authorized representatives, or agents are liable to the Recipient or the Recipient's employees or agents for any injury, loss, or damage however occasioned to any of them or their equipment or livestock while being transported or conveyed in any vessel, boat, aircraft owned or operated by the Province, and the Recipient shall not undertake claims against the Province, its employees, authorized representatives, or agents to recover any such injury, loss or damage either on its own behalf or on behalf of its employees or agents. The Recipient shall indemnify and save harmless the Province, its employees, authorized representatives, or agents from any such claims initiated by the Recipient's employees, Subcontractors, servants, or agents.

Insurance

- 14.04 Without restricting the generality of the indemnification provisions contained in this Agreement, the Recipient shall, at its own expense and during the term of this Agreement, provide and maintain the following insurance with insurers licensed to underwrite such insurance in Canada and in forms and amounts acceptable to the Administrator and any additional insurance which it is required by law to carry or which it considers necessary to cover risks not otherwise covered by insurance specified herein in its sole discretion:
- (a) **Commercial General Liability** insurance protecting the Recipient, its servant(s), agent(s), or employee(s) against damages arising from personal injury (including death) and claims for property damage which may arise out of the operations of the Recipient, its Subcontractor(s), and their respective servant(s), agent(s), or employee(s) under this Agreement. Such insurance shall be for an amount not less than \$2,000,000.00 inclusive per occurrence. The Province is to be added as an "Additional Insured" under this policy, as follows: "Her Majesty the Queen in right of the Province of British Columbia as represented by the Minister of Forests and Range and any of its employees, servants or agents". Such policy(s) of insurance shall 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. Sudden and Accidental Pollution Liability with a limit of not less than \$250,000.

- (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 \$2,000,000 inclusive per occurrence.
- (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 Works under this Agreement.
- (d) Where the Recipient will be carrying out any aviation based activities under this Agreement (e.g. aerial surveys, aerial photography, aerial spraying, etc.) then the following insurance coverage will be required and the Province is to be added as an "Additional Insured" under the policy, as follows: "Her Majesty the Queen in right of the Province of British Columbia as represented by the Minister of Forests and Range and any of its employees, servants or agents".:

Owned Aircraft Liability on all aircraft owned by the Recipient and operated or used in the performance of the Works by the Recipient under this Agreement, in an amount not less than \$3,000,000 per occurrence including aircraft passenger hazard liability. And, where applicable, aerial drift or misapplication of fertilizers or herbicide chemicals in an amount not less than \$50,000 per occurrence.

Non-owned Aircraft Liability on all aircraft the Recipient is required to hire, rent, lease, or charter from others in order to perform the Works by the Recipient, in an amount not less than \$3,000,000 per occurrence and including passenger hazard liability. And, where applicable, aerial drift or misapplication of fertilizers or herbicide chemicals in an amount not less than \$50,000 per occurrence.

The Recipient will contact the Administrator for additional direction prior to commencing any aviation based Project.

- (e) **Watercraft Liability** where applicable, on all owned or non-owned craft operated or used in the performance of the Works by the Recipient, in an amount not less than \$1,000,000 per occurrence. The Province is to be added as an "Additional Insured" under this policy, as follows: "Her Majesty the Queen in right of the Province of British Columbia as represented by the Minister of Forests and Range and any of its employees, servants or agents".
- (f) **Motor Truck Cargo Liability** where the Recipient will be transporting property, of a value greater than \$50,000, owned by the Province, insurance on all owned and non-owned vehicles operated or used in the performance of the Work, in an amount sufficient to cover the loss or damage at a maximum value of the cargo being hauled at any one time. The Province is to be added as an "Additional Insured" under this policy, as follows: "Her Majesty the Queen in right of the Province of British Columbia as represented by the Minister of Forests and Range and any of its employees, servants or agents"

14.05 The Recipient shall ensure that all its Subcontractors performing Works under this Agreement carry insurance in the form and limits specified in Schedule D.

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

14.07 The Recipient will provide the Administrator with evidence of all required insurance prior to the commencement of the Work. Such evidence will be in the form of a completed Province of British Columbia Certificate of Insurance, excepting always proof of automobile liability, which is to be submitted in the form of a completed Insurance Corporation of British Columbia's *Confirmation of Automobile Insurance Coverage*. When requested by the Administrator, the Recipient will provide certified copies of required policies.

14.08 The insurance policies, except for ICBC Automobile Liability Insurance, shall provide that the insurance shall not be cancelled or materially changed so as to affect the coverage provided under the Agreement, without the Insurer giving at least thirty (30) days prior written notice to the Administrator. Material change with respect to Professional Liability Insurance does not require the Insurer to give thirty (30) days prior written notice to the Administrator.

- 14.09 If the insurance policies expire prior to the end of the Agreement Term, the Recipient shall provide the Administrator evidence of insurance renewal in the form of a completed Province of British Columbia Certificate of Insurance and ICBC's Form APV 47, if applicable, at least ten (10) days prior to the expiry date of the policies listed in this Schedule.

ARTICLE 15 PROTECTION OF WORK AND PROPERTY

General

- 15.01 The Recipient shall protect the Province's property, and property on or adjacent to the Work Area, from damage and is responsible for damage which may arise as the result of the Recipient's or its agents, employees, or its Subcontractors' operations under this Agreement, except damage which occurs as a result of the acts or omissions of the Province or its other contractors, agents and employees.

Protection of the Environment

- 15.02 In carrying out the Work the Recipient must not cause, or create conditions that are likely to cause, either directly or indirectly, Damage or risk to human life or safety.
- 15.03 If the Recipient causes harm contrary to Section 15.02, it must:
- (a) immediately stop the Work in the area affected;
 - (b) prevent any further Damage;
 - (c) immediately notify the Administrator; and
 - (d) take any remedial measures that the Administrator requires.
- 15.04 Work that has been stopped under Section 15.03 may be resumed when:
- (a) it can be resumed without breaching Section 15.02; and
 - (b) any remedial measures required under Section 15.03 have been carried out to the satisfaction of the Administrator.
- 15.05 If the Recipient encounters circumstances such as weather conditions or site factors where it knows or should reasonably know that when carrying out the Work may result in a breach of Section 15.02 the Recipient must:
- (a) immediately suspend such work in the area affected;
 - (b) immediately advise the Administrator; and
 - (c) upon the Administrator's instruction to proceed with such work, do so in accordance with the Administrator's instructions.
- 15.06 The Recipient shall not be deemed to be in breach of this Agreement for suspending Work pursuant to Section 15.05.
- 15.07 Work Areas must be kept free from any accumulation of waste products or debris resulting from the Work.
- 15.08 In addition to the notification requirements in Section 15.03 and 15.05, a Recipient must immediately notify the Administrator whenever any contravention of the Forest Practices Legislation occurs or is observed.

Practices

- 15.09 Trees in a Riparian Reserve Zone must not be felled or modified unless the felling or modification has been Specified in a Treatment Plan or Work Plan.
- 15.10 Slash or debris capable of damaging fish habitat or reducing water quality must not be placed in or around aquatic environments, or in a location where natural forces may subsequently transport the slash or debris into an aquatic environment.

Fire Protection

15.11 The Recipient shall:

- (a) take every precaution to prevent unintentional fire from occurring on or about the Work Area,
- (b) ensure that no person burns any debris on or about the Work Area unless authorized under a Burning Reference Number issued by the Ministry, and
- (c) ensure that, with respect to smoking,
 - i. no person smokes except in areas that are free of or fully cleared of all flammable material,
 - ii. no burning material falls outside cleared areas, and
 - iii. all burning material is completely extinguished before leaving cleared areas.

ARTICLE 16 COMPLIANCE WITH THE LAW

16.01 This Agreement is governed by and is to be construed in accordance with the laws of the Province of British Columbia

16.02 The Recipient shall comply with all laws affecting the Work, including the *Workers Compensation Act* and its regulations and the *Employment Standards Act* and its regulations.

16.03 Without limiting Section 16.02, the Recipient:

- (a) will be the "Prime Contractor" for the Work, or designate a Prime Contractor;
- (b) shall be solely responsible for safety at the Work Area;
- (c) shall, at its own expense, provide the required compensation coverage for the Recipient, all employees and partners or other individuals employed or engaged in the execution of the Work and shall ensure all approved Subcontractors obtain compensation coverage; and, if the Recipient or its Subcontractors are not eligible for general compensation coverage, then the Recipient shall ensure that it and its Subcontractors obtain Personal Optional Protection under the *Workers Compensation Act*;
- (d) shall pay all assessments and levies associated with the Work and provide the Province upon request with proof of having done so;
- (e) shall promptly pay all persons employed or engaged in the execution of the Work; and
- (f) shall obtain all licences and permits required by law to carry out the Work, unless obtained by the Province and provided to the Recipient before commencement of the Work, and provide the Province with proof of having obtained those licences or permits.

16.04 Nothing in this Agreement shall relieve the Recipient from its responsibility to comply with all applicable provisions of the *Forest & Range Practices Act* and its regulations.

Builders Lien Act

16.05 Where the Builders Lien Act 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*.

16.06 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.

ARTICLE 17 TERMINATION, EVENTS OF DEFAULT AND REMEDIES

Termination

17.01 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 Article 17 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.

- 17.02 As of the date that this Agreement is terminated, whether under Paragraph 17.06(b) or Section 3.01, 4.19, or 17.01, 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.
- 17.03 The Administrator will have the right to audit 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

- 17.04 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.
- 17.05 The Recipient shall inform the Administrator in writing within five (5) business days of becoming aware that any of the forgoing matters has occurred or may occur.

Remedies

- 17.06 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 Section 17.07, do any or all of the following:
- (a) request, and the Recipient will deliver to the Administrator, within thirty (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 PINES;
- (f) require the Recipient to repay the Administrator all or a portion of the Investment Funding in accordance with Paragraph 17.09(b);
- (g) impose an Assessment;
- (h) use the Balance or repaid portion of the Investment Funding to remedy the Event of Default;
- (i) use the Performance Security to remedy the Event of Default;
- (j) request that the Recipient correct the Event of Default and require the Recipient to perform any and all necessary action at its own cost;
- (k) require the recipient to do no further Work until the Event of Default is corrected; or
- (l) take any other action the Administrator considers appropriate.

17.07 Save and except where amounts are owing to the Administrator by the Recipient or where Paragraph 17.04(g)(h)(i)(j)(k)(l) or (m) apply, the Recipient shall have 10 days after delivery of such written notice referred to in Section 17.06 from the Administrator to cure an Event of Default.

17.08 If this Agreement is terminated pursuant to Paragraph 17.06(b) or Section 3.01, 4.19, or 17.01 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 Owing

17.09 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 Section 4.12; and
- (b) any other money owing to the Administrator, within thirty (30) days of being required to do so hereunder, or request from the Administrator, whichever first occurs.

17.10 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 Section 4.12.

17.11 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.

ARTICLE 18 DISPUTE RESOLUTION

18.01 If a dispute occurs between the Parties concerning any matter governed by this Agreement, the disputing Party shall promptly advise the other Party and the Parties together shall use all reasonable efforts to resolve the dispute informally.

- 18.02 If the Parties are unable to resolve the dispute informally, within five (5) Work Days, the Recipient shall then give Notice, within ten (10) Work Days, of the complaint to the Ministry Representative, which particulars shall include the following:
- (a) a detailed description of the nature of the complaint;
 - (b) a list of the relevant provisions of the Contract Documents; and
 - (c) an evaluation by the Recipient of the matters in dispute.
- 18.03 The Administrator shall, within twenty (20) Work Days of receipt by the Ministry Representative of the written particulars, give the Recipient a decision, in writing, of one of the following:
- (a) that the Province accepts the position of the Recipient; or
 - (b) that the Province rejects the position of the Recipient.
- 18.04 If the Administrator accepts the position of the Recipient, the Parties shall enter into an Amending Document to reflect the Agreement.
- 18.05 If the Administrator rejects the position of the Recipient, the Parties shall proceed to mediation with a mutually agreed upon third party. If the dispute is not resolved within fifteen (15) Work Days of appointment of the mediator, then the Parties may, if they both agree, proceed to arbitration pursuant to the *Commercial Arbitration Act*.
- 18.06 If the matter in dispute is not resolved promptly pursuant to section 18.01, the Ministry Representative may give to the Recipient instructions that in his or her opinion are necessary to provide for the proper performance of the Work and to prevent delays.
- 18.07 If the Recipient receives instructions pursuant to section 18.06, the Recipient shall act immediately to carry out the Work pursuant to the instructions, but any Work performed by the Recipient in this respect shall be without prejudice to any claim the Recipient may have concerning the dispute.
- 18.08 Nothing in this Article precludes either Party from having a dispute resolved by a court of competent jurisdiction, although no steps shall be taken by either Party to initiate legal proceedings until after the process described in sections 18.01 through 18.03 has been completed.

ARTICLE 19 OWNERSHIP OF MATERIAL

- 19.01 The Recipient's proposal used in the Request for Proposal competition to become a Recipient Agreement holder becomes the property of the Ministry and will not be returned to the Recipient. Under this Agreement, the Recipient must assign copyright of the proposal to the Province.
- 19.02 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.
- 19.03 Ownership in any Administrator Material belongs exclusively to the Administrator or the Ministry and any Administrator Material held by or under the control of the Recipient, its 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.
- 19.04 Ownership in the Project Completion Summary and Recipient Material belongs exclusively to the Ministry and the Recipient hereby assigns to the Ministry 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.

- 19.05 The Ministry 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.

Ownership of Work or Improvements

- 19.06 Despite any Work or improvements on Crown land that may be performed or made by the Recipient, the sole ownership of all Work Areas and any improvements remains with the Province.

ARTICLE 20 REPRESENTATIONS AND WARRANTIES

- 20.01 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.

Non-Exclusive Allocation

- 20.02 The Recipient acknowledges and warrants that it does not have exclusive rights to FFT projects in the Management Unit(s). The Ministry, based on workloads, reforestation needs within the Management Unit(s), and a review of a Recipient's performance will, on an annual basis or more frequently as needed, under its sole discretion, award, direct, or advertise for other recipient agreements to carry out work under the FFT Program, within a particular management unit(s).

ARTICLE 21 FORCE MAJEURE

- 21.01 If either Party shall be delayed or hindered in or prevented from the performance of any act, covenant or obligation required to be performed hereunder by reason of earthquake, fire, flood, tempest or other acts of God, labour disputes, strikes, lock-outs (including lock-outs decreed or recommended for its members by a recognized contractors' association, of which the Contractor is a member or to which the Contractor is otherwise bound), 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, 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 the Recipient.

ARTICLE 22 RELATIONSHIP

Recipient Status

- 22.01 The Recipient is an independent Recipient and not a servant, employee, partner or agent of the Province.
- 22.02 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.
- 22.03 The Recipient shall accept instructions from the Administrator, but the Recipient is not subject to the control of the Province in respect of the manner in which instructions are carried out.

- 22.04 The Recipient shall not purport to commit the Administrator to the payment of any money to any person.
- 22.05 The Recipient shall ensure all personnel hired by the Recipient to perform the Work are at all times employees of the Recipient and not of the Province. The Recipient is solely responsible for arranging reliefs and substitutions, pay, supervision, discipline, employment insurance, leave and all other matters arising out of the relationship of employer and employee.

Conflict of Interest

- 22.06 The Recipient shall not perform any service for any other person, firm or corporation which, in the reasonable opinion of the Administrator, may conflict with the Recipient's obligations under this Agreement.
- 22.07 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.

ARTICLE 23 POLICIES

- 23.01 The Parties acknowledge and confirm:
- (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 Ministry from time to time.

ARTICLE 24 NOTICES

- 24.01 Any notice or document required to be given under this Agreement shall be conclusively deemed to be validly given or delivered to and received by the Parties at the work site or at the address, facsimile, or email address specified in this Agreement (or at such other address as either Party may from time to time designate by notice in writing to the other):
- (a) if hand delivered to the Recipient or the Recipient's Representative, on the date of that personal delivery;
 - (b) if mailed, on the third business day after the mailing of the same in British Columbia by prepaid post;
 - (c) if delivered by courier service, on the third business day after collection by the courier service of the same in British Columbia;
 - (d) if sent by facsimile transmission, when transmitted. The onus of proving transmission and valid delivery lies with the transmitting Party, by copy of a successful facsimile transmission confirmation;
 - (e) if sent by electronic transmission, when it has entered the Party's electronic information system.
- 24.02 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.

ARTICLE 25 RIGHTS OF OCCUPATION AND SAFETY

Occupation

- 25.01 The Recipient has the right to occupy the particular Crown land specified by the Administrator solely for the purposes of carrying out FFT projects and only for so long as the Recipient is in compliance with this Agreement.

Safety

- 25.02 As occupier of lands used as a workplace, the recipient acknowledges that they are an owner as defined in *Workers Compensation Act Section 106*.
- 25.03 As owner of the workplace, the Recipient acknowledges that, in relation to a multiple-employer workplace, the Recipient will be the Prime Contractor or designate a Prime Contractor.
- 25.04 Where the Recipient has designated a Prime Contractor, the recipient must notify the Administrator the name of the contractor who they have entered into a written Prime Contractor agreement with.
- 25.05 The Recipient must be SAFE Certified in the BC Forest Safety Council SAFE Company program and must meet the SAFE Certification Requirements as specified in Schedule B.
- 25.06 The Recipient must ensure that, on all multi-employer workplaces, a worksite sign in a format as prescribed in Schedule "C" is posted on all access points to the worksite.

ARTICLE 26 MISCELLANEOUS

Confidentiality

- 26.01 The Recipient will treat as confidential and will not, without the prior written consent of the Province, disclose or permit to be disclosed, either before or after the expiration or sooner termination of this Agreement, any information supplied to, obtained by, or which comes to the knowledge of the Recipient as a result of this Agreement except if the disclosure is necessary to enable the Recipient to fulfill its obligations or to comply with applicable law, including the *Freedom of Information and Protection of Privacy Act* (FOI Act), or if it is information that is generally known to the public other than as a result of a breach of this Agreement.
- 26.02 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 FOI Act. 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 Act. The Recipient will promptly notify the Administrator of any and all requests for disclosure of information which it may receive. The Administrator shall have sole conduct of and responsibility for replying to requests for disclosure of information.

Non-Waiver

- 26.03 A waiver of any provision of this Agreement (including a FIA Standard, FFT Standard, or Ministry Standard) or a waiver of a breach by the Recipient of any provision of this Agreement (including a FIA Standard, FFT Standard, or Ministry Standard) is effective only if it is in writing and signed by the Administrator.
- 26.04 A written waiver by the Administrator of any provision of this Agreement or of any breach by the Recipient of any provision of this Agreement is not a waiver of any subsequent breach of the same or any other provision of this Agreement.

Recipient-Furnished Facilities

- 26.05 Except where specified otherwise in the Contract Documents, the Recipient shall undertake all Work and furnish at its cost all labour, equipment, supervision, transportation, supplies and incidentals necessary to perform the Work.

Unsuitable Workers

- 26.06 The Recipient shall ensure all persons employed to perform the Work are competent, adequately trained, fully instructed and supervised, and legally entitled to work in Canada.
- 26.07 The Recipient shall, upon request of the Ministry Representative, remove any person it employs for purposes of the Agreement who, in the reasonable opinion of the Administrator, is incompetent or has

conducted himself or herself improperly, and the Recipient shall not permit a person who has been so removed to perform any further Work.

Survival of Terms

- 26.08 All terms of this Agreement in favour of the Administrator and all rights and remedies of the Administrator, either at law or in equity, survive the expiry or sooner termination of this Agreement.

Site Clean Up

- 26.09 The Recipient shall maintain the Occupied Areas free from any accumulations of waste products or debris, other than that caused by the Province or other contractors.
- 26.10 Upon the Recipient vacating any Occupied Area, the Ministry Representative may inspect the area to determine, at his or her sole discretion, whether or not the area was left in an acceptable condition.
- 26.11 If the Ministry Representative determines the Recipient left the Occupied Area in an unacceptable condition, the Administrator may repair the area and charge the entire cost of the repairs to the Recipient.

Camping and Parking

- 26.12 Use of Provincial Crown forest land, including any roads, landings or recreational sites by the Recipient or the Recipient's employees or agents for the purposes of lodgings, camping or trailer parking in connection with Work under this Agreement, is permitted on recreational sites only with prior written approval of a representative of the Ministry of Tourism, Culture and the Arts and is permitted on other Provincial Crown forest land, including roads and landings only with prior written approval of a representative of the Ministry of Forests and Range. Such use, if approved, shall be without charge to the Recipient; but, the approval may be revised or revoked at any time by the Province.

Agreement Execution

- 26.13 This Agreement may be entered into by each Party signing a separate copy of this Agreement (including a photocopy, electronic copy, or faxed copy) and delivering it to the other Party.

Further Acts and Assurances

- 26.14 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.

The Parties hereto have duly executed this Agreement.

SIGNED AND DELIVERED on behalf of the Administrator by an authorized representative	SIGNED AND DELIVERED by or on behalf of the Recipient (or by an authorized signatory of the Recipient if a corporation)
_____ (Authorized Expense Authority)	_____ (Recipient or Authorized Signatory)
Dated this _____ day of _____, 20____	Dated this _____ day of _____, 20____



Ministry of
Forests and Range

Schedule A Certificate of Project Completion

File:

This **Certificate of Project Completion** dated for reference the **day (including 'nd' 'rd' or 'th' as applicable)** of **MONTH**, 20**YR**.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, as represented by the MINISTER OF FORESTS AND RANGE

Ministry of Forests and Range
P.O. Box 9513 Stn Prov. Govt
Victoria, BC V8W 9C2

Phone Number: **(Area Code) Phone No** **FAX Number:** **(Area Code) Fax No**
E-mail Address: **Administrator's Email Address**

(the "Administrator")

AND:

Recipient / Company Name
Physical & Mailing Address (including Postal Code)

Phone Number: **(Area Code) Phone No** **FAX Number:** **(Area Code) Fax No**
E-mail Address: **Recipient Representative's Email Address**
Corporate Business Number: **Recipient's Business Number for taxation purposes**
WorkSafe BC and/or Personal Optional Protection Number: **WCB / POP No.**

(the "Recipient")

referred herein to as "the Parties".

WHEREAS:

-
- A. The Parties entered into a Recipient Agreement dated for reference the **date of the Recipient Agreement**, (hereinafter called the "Agreement"),
- B. If any of the words in the Contract Documents are used in this schedule, they have the same meaning as in the Contract Documents unless the context dictates otherwise.
- C. The Recipient represents and warrants as follows:
- 1.01 The Recipient must use a photocopied, scanned or the pdf (provided by the Ministry that can be filled in digitally) of Schedule A and complete it for each project as per Section 12.04 of the investment Schedule.
- (a) Schedule A must not be reprocessed, cut and pasted or modified in any way.

Recipient : _____
Investment Schedule No.: _____
Project Name or No.: _____

Financial

1.02 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 certification:

1. I have personal knowledge of the financial matters of this Project.
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.
3. The Work complies with the tendering rules set out in the Recipient Agreement.

SIGNED AND DELIVERED by the authorized Certified Professional:	
Authorized Financial Certified Professional	Title
Printed Name	Professional Designation
Dated this _____ day of _____, 20____	

Recipient : _____
Investment Schedule No.: _____
Project Name or No.: _____

Technical

1.03 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 certification:

1. I have personal knowledge of the technical matters of this Project.
2. The Project has been completed in accordance with the objectives and Standards and Specifications 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 Ministry 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.

SIGNED AND DELIVERED by the authorized Certified Professional:	
Authorized Technical Certified Professional	Title
Printed Name	Professional Designation
Dated this _____ day of _____, 20____	

Recipient : _____
Investment Schedule No.: _____
Project Name or No.: _____

Administrative

1.04 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 certification:

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 Agreement.

SIGNED AND DELIVERED by the authorized Recipient representative:	
Authorized Representative	Title
Printed Name	
Dated this _____ day of _____, 20____	

Recipient : _____
Investment Schedule No.: _____
Project Name or No.: _____

Choose one of the following options:

Option 1 – In-house Work

1.05 ☐ The project was done by the Recipient, its staff or associated persons.

Option 2 – Goods and Services Received for Subcontracted Work

1.06 ☐ The project was done by subcontractors.

1.07 I, _____,

in my capacity as _____

of _____

do hereby receive, on behalf of the Ministry of Forests and Range, goods and services for this Project that have been completed by Subcontractor(s) and assure that such goods and services have been received in a manner and quantity pursuant to Standards and Specifications (Receiving Authority):

SIGNED AND DELIVERED by the authorized Recipient "Receiving Authority" representative:	
Authorized Representative	Title
Printed Name	
Dated this _____ day of _____, 20____	



Ministry of
Forests and Range

Schedule B

SAFE Certification Requirements

File:

Attachment to the Forests for Tomorrow Recipient Agreement with **Recipient / Company Name**.

1. Prior to commencement of the Work or Services under the Recipient Agreement, the Recipient must ensure that all of the Recipient's Subcontractors are:
 - (a) Certified in the BC Forest Safety Council SAFE Company Program; or
 - (b) Endorsed by BC Forest Safety Council as new entrants to the industry; or
 - (c) Certified under another safety scheme recognized by BC Forest Safety Council or BC Timber Sales; and that certification or endorsement is maintained in good standing while working or providing direction on the Place of Work or Work Area.
2. The Recipient may apply in writing to the Province for exemption of the requirement for certification in the SAFE Companies Program of its Subcontractors under the following situations:
 - (a) where the Work or Services is not normally performed by persons working in the forest industry;
 - (b) where, by requiring SAFE Company certification, the Recipient would put an undue hardship on its Subcontractors performing the Work or might prevent required Work from being done under the Recipient Agreement.
3. The Province must provide exemption approval in writing. Where approval or conditional approval is given, the Recipient must ensure its Subcontractors comply with the terms and conditions of the approval.
4. The Recipient's and its Subcontractor's good standing in the SAFE Company Program or other recognized program will be a factor of consideration for contract extensions or renewals under the Recipient Agreement.
5. Should the Recipient or its Subcontractors no longer be in good standing in the SAFE Company Program or other recognized program at any time during the Term of the Recipient Agreement, the Recipient shall immediately advise the Province and shall submit to the Province, within five (5) days, evidence satisfactory to the Province that the Recipient or its Subcontractors are actively engaged with the BC Forest Safety Council or other applicable organization in obtaining re-certification.

The Recipient or its Subcontractors must achieve re-certification within a reasonable period of time, and the reasonable period of time will be determined by the Province in its sole opinion.

When re-certification is obtained, the Recipient shall promptly submit proof of re-certification to the Province.



Ministry of
Forests and Range

Schedule C Workplace Signage

File:

Attachment to the Forests for Tomorrow Recipient Agreement with **Recipient / Company Name**.

1.01 The sign in the format below must:

- i. when posted, at a minimum, include Prime Contractor, Supervisor and Contact Information for Supervisor
- ii. be 24" X 32" on 3/8" Corplast

1.02 The sign must be posted at the worksite as described in section 25.06 of the Forests for Tomorrow Recipient Agreement.

Active Worksite

BEFORE ENTERING
All persons **MUST** contact the owner
or supervisor for safety briefing

OWNER (Recipient): _____

PRIME CONTRACTOR: _____

SUPERVISOR: _____

CONTACT SUPERVISOR AT: _____

ROAD/SITE RADIO FREQUENCY: _____

TIMBER MARK: _____



Prime Contractor (Recipient)
or Designated Prime Contractor

Phone #

if applicable



Schedule D

Insurance Requirements for Subcontract Work

Does the contract involve:			Insurance Requirement	
	Yes	No	Type	Minimum Amount
<ul style="list-style-type: none"> • A major works contract? Or • Labour intensive services or construction work that takes place in a location that is: <ul style="list-style-type: none"> (a) adjacent or nearby private property; or (b) located where members of the public are or may be present, beside the site, or passing through; such that it poses some potential for damage to private property or injury/loss to a member of the public? • A requirement for professional liability insurance as determined above and coverage of liabilities relating to the performance of the contract on the work site is warranted? • An activity which is inherently dangerous, such as shoring, blasting, excavating, underpinning, demolition, removal, pile driving and caisson work, work below ground surface, and tunnelling and grading? 	☐	☐	Commercial General Liability (CGL) as per Paragraph 14.04 (a) of the Recipient Agreement	Ministry must be ‘additionally insured’. \$2,000,000 per occurrence.
	☐	☐	CGL as per Paragraph 14.04 (a) of the Recipient Agreement.	\$2,000,000 per occurrence.
	☐	☐	CGL as per Paragraph 14.04 (a) of the Recipient Agreement, with the appropriate dangerous peril named as being covered by insurance	\$2,000,000 per occurrence.
<ul style="list-style-type: none"> • Work in a forested location during fire season where the contractor may be exposed to claims to pay fire fighting expenses for fire caused by the contractor, its employees, or subcontractors? Intended for use where there is a real possibility the contractor could start a fire from ground operations (i.e., sparks from equipment, etc.) 	☐	☐	Fire Fighting Expense Endorsement to the CGL policy.	☐ \$500,000 - outside fire season. ☐ \$1,000,000 - during fire season.

Does the contract involve:			Insurance Requirement	
	Yes	No	Type	Minimum Amount
<ul style="list-style-type: none"> Potential for any form of pollution to <i>suddenly</i> and accidentally cause environmental or property damage (i.e., an oil or poisonous fluid spill by a dump truck or excavator beside a fish bearing stream). 	☐	☐	Sudden and Accidental Pollution Endorsement to the CGL policy. It is a mandatory requirement of all works contracts. (see also Environmental Impairment Liability for seeps, drips or leaks, etc., that <i>eventually</i> cause damage over time)	☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 The level of coverage will be based on the hazards of the operations, likelihood of occurrence, frequency of an occurrence, potential damages, etc. The higher the impact, the higher level of coverage required.
<ul style="list-style-type: none"> Services of a <u>licensed</u> professional (foresters, geo-scientist, engineers, architects, land surveyors, lawyers, accountants, etc.), including information technology or management consulting professionals, where, if the advice provided, the written specifications, a prescription, or the design of a structure is negligent or faulty by means of error or omission of the professional could result in significant losses or damages to the ministry or a third party? <p>NOTE: professional liability insurance would not be required if the professional's advice will not be the final recommendation and solely relied on without further review by internal ministry or other 3rd party expertise.</p>	☐	☐	Professional Liability (Errors or Omissions) as per Paragraph 14.04 (c) of the Recipient Agreement. For architects and engineers only (not for any other professional) , the following indemnification clause must be inserted into the Contract: The Contractor hereby agrees to indemnify and save harmless the Province, its successor(s), assign(s) and authorized representative(s) and each of them from and against all losses, claims, damages, actions and causes of action (collectively referred to as "claims") that the Province may sustain, incur, suffer or be put to at any time either before or after the expiration or termination of this Agreement, that arise out of errors, omissions or negligent acts of the Contractor or its subcontractor(s), servant(s), agent(s) or employee(s) under this Agreement, excepting always that this indemnity does not apply to the extent, if any, to which the Claims are caused by errors, omissions or the negligent acts of the Province, its other contractor(s), assign(s) and authorized representative(s) or any other person.	<ul style="list-style-type: none"> Contract valued \$0.00 to \$2.5 million = \$250,000 per occurrence and \$250,000 aggregate per Term; Contract valued \$2.5 million to \$7.5 million = \$500,000 per occurrence and \$500,000 aggregate per Term; Contract valued \$7.5 million to \$15.0 million = \$1 million per occurrence and \$1 million aggregate per Term; or Contract valued over \$15.0 million = \$2 million per occurrence and \$2 million aggregate per Term.

Does the contract involve:			Insurance Requirement	
	Yes	No	Type	Minimum Amount
<ul style="list-style-type: none"> The use of one or more vehicles owned, operated, or licensed in the name of the contractor, which are used extensively in the performance of the work/services by the contractor while on Crown Provincial forest land or ministry property (excluding driving to/from the work site and not using the vehicle any further) (e.g., recreation site maintenance)? 	☐	☐	Automobile Liability Insurance (ICBC), as per Paragraph 14.04 (b) of the Recipient Agreement.	\$2,000,000 on a claims made basis.
<ul style="list-style-type: none"> The use of contractor-owned aircraft necessary for the performance of the contract (e.g., aerial or drift misapplication of herbicide or fertilizers)? 	☐	☐	Owned Aircraft (Aviation) Liability Insurance	<p>\$3,000,000 per occurrence.</p> <p>Increase this minimum by \$1 mil. per passenger seat when exceeding 5 passenger seats.</p> <p>Minimum \$50,000 aerial drift or misapplication.</p> <p>Ministry must be 'additionally insured'.</p>
<ul style="list-style-type: none"> The contractor's use of non-owned aircraft necessary for the performance of contracts involving particularly hazardous operations and where the contractor would be directly involved in controlling the use of the aircraft (i.e., infrared scanning, aerial or drift misapplication of herbicide or fertilizers)? <p>(Incidental use as a means of transportation to and from the worksite does not require this liability insurance.)</p>	☐	☐	Non-Owned Aircraft (Aviation) Liability Insurance	<p>\$3,000,000 per occurrence.</p> <p>Increase this minimum by \$1 mil. per passenger seat when exceeding 5 passenger seats.</p> <p>Minimum \$50,000 aerial drift or misapplication.</p> <p>Ministry must be 'additionally insured'.</p>
<ul style="list-style-type: none"> The use of owned or non-owned watercraft necessary for the performance of the contract (e.g., silviculture contract requiring the barging of crew/equipment to the work site)? 	☐	☐	Watercraft Liability Insurance	<p>\$1,000,000 per occurrence.</p> <p>Ministry must be 'additionally insured'.</p>
<ul style="list-style-type: none"> Stand-alone contract to supply transportation of ministry owned machinery or equipment? 	☐	☐	Motor Truck Cargo Insurance as per Paragraph 14.04 (f) of the Recipient Agreement	Ministry must be 'additionally insured'.



Ministry of
Forests and Range

Schedule E

Recipient's Request for Proposal

- 1.01 As described in Section 2.02 and 2.03 of the Recipient Agreement, the Recipient's Request for Proposal form an integral part of the Agreement , shall be referred to as Schedule E and will be appended to this agreement.



Ministry of
Forests and Range

Forests for Tomorrow Recipient Agreement

Table of Contents

ARTICLE 1	DEFINITIONS	1
ARTICLE 2	AGREEMENT DOCUMENTS	7
	ENTIRE AGREEMENT	7
	CONTRACT DOCUMENTS	7
	PROPOSAL	7
	AMENDING DOCUMENTS	7
	INTERPRETATION	7
ARTICLE 3	TERM OF CONTRACT AND COMMENCEMENT OF WORK.....	8
ARTICLE 4	INVESTMENT FUNDING.....	8
	CONDITIONS OF INVESTMENT FUNDING	8
	DISTRIBUTION OF PAYMENT	9
	PRICING FOR SUBSEQUENT YEARS.....	10
	PRICE OFFER.....	10
	APPROPRIATION	11
ARTICLE 5	RECIPIENT TRAINING	11
	MINISTRY REQUIRED AND APPROVED TRAINING	11
	GENERAL REQUIREMENTS FOR RECIPIENT TRAINING	12
	MARSHALLING POINTS FOR TRAVEL AND EXPENSES	12
ARTICLE 6	PERFORMANCE SECURITIES.....	12
ARTICLE 7	GOODS AND SERVICES TAX.....	12
ARTICLE 8	PARTY REPRESENTATIVES.....	13
	ADMINISTRATOR REPRESENTATIVE	13
	MINISTRY REPRESENTATIVE	13
	RECIPIENT REPRESENTATIVE	13
ARTICLE 9	DUTIES OF THE RECIPIENT	13
	CONTRACT ADMINISTRATION.....	14
	FIRST NATION REQUIREMENTS	16
	TREATMENT AND WORK PLANS	16
	TREATMENT PLANS.....	17
	WORK PLANS.....	17
	PROJECT PLANNING FOR REHABILITATION WORK AND OVERSTORY REMOVAL	17
	ACTIVITY REPORTING	17
ARTICLE 10	DUTIES OF THE ADMINISTRATOR.....	17
ARTICLE 11	SUBCONTRACTING, TENDERING, ASSIGNMENT AND POOLING	18
	SUBCONTRACTING	18
	TENDERING.....	18
	ASSIGNMENT	19
	POOLING INVESTMENT FUNDING	19
ARTICLE 12	REPORTS AND INSPECTION.....	19
	NOTICE OF INTERVENTION.....	19
	REPORTS.....	20
	RE-INSPECTION	21
ARTICLE 13	AUDITS AND FINANCIAL STATEMENTS.....	21

AUDITS	21
ARTICLE 14 INDEMNIFICATION AND INSURANCE.....	22
INDEMNITY	22
INSURANCE	22
ARTICLE 15 PROTECTION OF WORK AND PROPERTY	24
GENERAL	24
PROTECTION OF THE ENVIRONMENT	24
PRACTICES	24
FIRE PROTECTION	25
ARTICLE 16 COMPLIANCE WITH THE LAW	25
BUILDERS LIEN ACT	25
ARTICLE 17 TERMINATION, EVENTS OF DEFAULT AND REMEDIES.....	25
TERMINATION	25
EVENTS OF DEFAULT.....	26
REMEDIES	26
AMOUNTS OWING	27
ARTICLE 18 DISPUTE RESOLUTION	27
ARTICLE 19 OWNERSHIP OF MATERIAL.....	28
OWNERSHIP OF WORK OR IMPROVEMENTS	29
ARTICLE 20 REPRESENTATIONS AND WARRANTIES	29
NON-EXCLUSIVE ALLOCATION.....	29
ARTICLE 21 FORCE MAJEURE	29
ARTICLE 22 RELATIONSHIP	29
RECIPIENT STATUS.....	29
CONFLICT OF INTEREST	30
ARTICLE 23 POLICIES.....	30
ARTICLE 24 NOTICES.....	30
ARTICLE 25 RIGHTS OF OCCUPATION AND SAFETY.....	30
OCCUPATION	30
SAFETY	31
ARTICLE 26 MISCELLANEOUS.....	31
CONFIDENTIALITY	31
NON-WAIVER	31
RECIPIENT-FURNISHED FACILITIES	31
UNSUITABLE WORKERS	31
SURVIVAL OF TERMS.....	32
SITE CLEAN UP	32
CAMPING AND PARKING.....	32
AGREEMENT EXECUTION	32
FURTHER ACTS AND ASSURANCES	32
Schedule A Certificate of Project Completion.....	1
Schedule B SAFE Certification Requirements	1
Schedule C Workplace Signage	1
Schedule D Insurance Requirements for Subcontract Work.....	1
Schedule E Recipient's Request for Proposal	1