



This is the 1st affidavit of
Walker Main in this case and
was made on March 5, 2024

NO. S236214
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

1392752 B.C. LTD.

PETITIONER

AND:

SKEENA SAWMILLS LTD.
SKEEN BIOENERGY LTD.
ROC HOLDINGS LTD.

RESPONDENTS

AFFIDAVIT

I, **Walker Main**, with an address for service in this matter care of 300 – 1497 Marine Drive, West Vancouver, British Columbia, AFFIRM THAT:

1. I am the Vice-President of Terrace Timber Ltd. ("**Terrace**"), and as such I have personal knowledge of the matters and facts hereinafter set out, save and except where the same are stated to be based upon information and belief and where so stated I verily believe them to be true.
2. Terrace is a subsidiary company of Main Logging Ltd. ("**Main Logging**"). I am also the Vice-President of Main Logging. Main Logging was incorporated 1981 by my father and has operated continuously since.
3. Main Logging and its subsidiaries have operated on North and South Vancouver Island, in the Okanagan, Cariboo, northern Interior, North Coast (off-shore), northwestern BC (Kitimat to Iskut), Haida Gwaii, and Northern Alberta. In the past, Main Logging and subsidiaries having harvested more than one million cubic metres annually.
4. In 1997, Main Logging was selected by West Fraser Timber to purchase West Fraser Timber Skeena Sawmills woods division. The purchase was for the harvesting rights of Tree

Farm License 41 ("TFL 41") which had previously been harvested by West Fraser Timber Skeena Sawmills (woods division), a United Steel Workers ("USW") bargaining unit.

5. Terrace was incorporated in 1997 to facilitate the successorship of the bargaining unit and continue the harvest work on TFL 41.
6. Terrace and the Respondent, Skeena Sawmills Ltd. ("**Skeena**"), are parties to a replaceable stump-to-dump timber harvesting contract dated January 1, 2015 for TFL 41 (the "**Bill 13 Contract**"). A true copy of the Bill 13 Contract is attached to my Affidavit and marked as **Exhibit "A"**.
7. The Bill 13 Contract has a five-year term from January 1, 2015 to December 31, 2019, and is a replaceable contract under the provisions of the Timber Harvesting Contract and Subcontract Regulation, B.C. Reg. 22/96 (the "**Regulation**").
8. As a replaceable contract, Skeena was obligated to offer to Terrace a replacement contract for the Bill 13 Contract on substantially the same terms and conditions as the Bill 13 Contract. Skeena to date has yet to offer a replacement contract on substantially the same terms. For this reason, despite the expiry of its term, the parties continued to operate under the Bill 13 Contract from 2019 pursuant to the Regulation. Harvesting activities actively occurred on TFL 41 until the appointment of the receiver in these proceedings.
9. A key term of a replaceable contract is the security of future work, subject only to satisfactory performance. On this basis, contractors such as Terrace can invest in equipment necessary to complete the work.
10. Under the terms of the Bill 13 Contract, Terrace completes the harvesting, hauling, and road maintenance work in relation to the harvest of 100% of the volume harvested from TFL 41 each year (the "**Bill 13 Work**"). It is Skeena's obligation under the Bill 13 Contract to allocate the Bill 13 Work to Terrace; it is Terrace's obligation under the Bill 13 Contract to have the equipment and manpower available to complete the Bill 13 Work.
11. Terrace exists only to complete Bill 13 Work. It is a highly specialized cable logging operation with specialized USW crews.
12. TFL 41 has an AAC (Annual Allowable Cut) of 128,000 m³ although this volume has not been achieved by Terrace since 2019 due to work cessations directed by Skeena. This harvest

volume does not include work in progress specifically on Block Kit009 and Kit007, both of which are part of TFL 41. The work in progress has not been measured since scaling does not occur until the wood is delivered to scales by Terrace, but I estimate that outstanding payment for work in progress is ultimately around \$40,000.

13. In addition to nonpayment for the work in progress yet to be delivered to scales, Terrace is owed more than \$3,000,000 on account of harvesting performed at historical, outdated harvesting rates. This debt has not yet been ascertained as a result of Skeena's position that provisional harvesting rates paid since 2017 remain reasonable. To date, Terrace has accumulated more than \$200,000 in legal and expert costs preparing for arbitration with Skeena as required under the Bill 13 Contract – a process which has been stayed due to Skeena's insolvency. The arbitration process and retroactive rate adjustments is specifically contemplated and required under the Bill 13 Contract and the Regulation for rate disputes.

14. All of Terrace employees are generational local people with families and strong ties to the local community. Terrace employs 15 hourly USW employees from the local Terrace community. These individuals work solely on the harvesting of TFL 41. Most have worked for Terrace since 1997 and 3 – 4 employees previously worked on TFL 41 for West Fraser Timber.

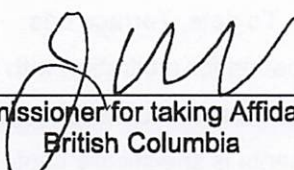
15. Since commencing operations in 1997, Terrace and its parent company, Main Logging, have continued to regularly invest in its operation including for equipment, safety, training, office space, facilities, renovations, preventative maintenance and laydown facilities. I estimate that Terrace has invested over \$10,000,000 since 1997 to ensure it can continue operations on TFL 41.

16. If the Bill 13 Contract is terminated, Terrace would be forced to liquidate its equipment and assets with no work to perform. As a result, Terrace stands to lose all investments it has made since 1997 as well as the asset of the Bill 13 Contract itself, which was previously valued at \$3,070,000. The valuation is based on 10% of the average stump to dump cubic meter rate with a multiplier of 4. I understand that the calculation was and is utilized by the government when allocating payout to Bill 13 Contract holders under Bill 28 – 2021: Forest Amendment Act, 2021.

17. Furthermore, all hourly employees of Terrace would be terminated and, I believe, would be unlikely to secure similarly paying jobs elsewhere.

18. I make this affidavit in support of Terrace's Application Response and objection to the Petitioner's attempt to circumvent the statutory requirements for transfer of tree forest licenses, permits and related Bill 13 Contracts as set out by the government including in the Forest Act and related administrative guides.

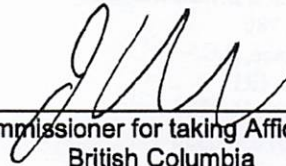
AFFIRMED BEFORE ME at the City of Terrace, in the Province of British Columbia, this 5th day of March, 2024.


A Commissioner for taking Affidavits for
British Columbia

JOHN BANDSTRA
Barrister & Solicitor
#200 - 4630 Lazelle Ave.
Terrace, BC V8G 1S6


WALKER MAIN

This is **Exhibit "A"** referred to in **Affidavit #1** of **Walker Main**, affirmed before me at the City of Terrace, in the Province of British Columbia, this 5th day of March, 2024.



A Commissioner for taking Affidavits for
British Columbia

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CONTRACT NO. TERTI-15-00

**REPLACEABLE COAST
STUMP TO DUMP TIMBER HARVESTING CONTRACT
(FIVE YEAR)**

THIS CONTRACT is made as of the 1st day of January, 2015

BETWEEN:

Name: SKEENA SAWMILLS LTD.
Delivery Address: 5530 Highway 16 West
 Terrace, British Columbia
Mailing Address: Box 780
 Terrace, B.C.
 V8G 4R1
Fax: (250) 635-4335
Telephone: (250) 635-6336
Contact: Greg DeMille
 (the "Company")

AND:

Name: TERRACE TIMBER LTD.
Delivery and Mail Address: 3103 Hampton Street
 Terrace, BC
 V8G 1N9
Fax: (250) 635-6598
Telephone: (250) 635-7150
Contact: Greg Main.
 (the "Contractor")

BACKGROUND:

- A. The Company is the holder of Tree Farm Licence 41 (the "Licence").
- B. The Company and the Contractor are parties to a replaceable timber harvesting contract under the Timber Harvesting Contract and Subcontract Regulation, B.C. Reg. 22/96 (the "Regulation") in respect of the Licence, dated January 1, 2010 (the "Previous Contract").
- C. The Company has offered and the Contractor has accepted this Contract as the replacement for the Previous Contract.

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NOW THEREFORE, for good and valuable consideration the receipt and sufficiency of which the Company and the Contractor each hereby acknowledge, the Company and the Contractor hereby agree as follows:

MAIN AGREEMENT

1. **Term.** The term of this Contract is 5 years beginning on January 1, 2015 and ending on December 31, 2019, unless terminated earlier in accordance with this Contract (the "Term").
2. **Scope of Work.** Subject to and in accordance with this Contract, the Contractor will perform stump to dump timber harvesting specifically limited to the following phases: felling, bucking, yarding, loading and hauling and all related services and obligations as described in, or allocated by the Company under, this Contract on lands subject to the Licence, or on such other lands as permitted under this Contract, (the "Work").
3. **Amount of Work.** Subject to the Regulation and subject to the provisions of this Contract permitted or required by the Regulation, the amount of Work that the Company will allocate to the Contractor, and the Contractor will perform, in each year during the Term is 100% of the total amount of the Volume of Timber Harvested from the Licence in each such year (the "Amount of Work").
4. **Allocation of Work.** The Company will allocate the Work to the Contractor in term sheets (each, a "Term Sheet") that the Company may issue from time to time, in which the Company will identify:
 - (a) the operating area in which the Work is to be performed (the "Operating Area");
 - (b) the time during which the Contractor is to perform the Work;
 - (c) the location to which the Contractor is to deliver logs produced from the Operating Area (the "Point of Delivery");
 - (d) the timber mark that applies in respect of the Operating Area;
 - (e) a map or logging plan that applies in respect of the Operating Area and the Work;
 - (f) such other reasonable terms and conditions, if any, in addition to those already specified in this Contract, that the Company determines apply to that Work.
5. **Rate.** The Company and the Contractor will make all commercially reasonable efforts to agree on the amount the Company is to pay the Contractor for the performance of the Work that the Company allocates under this Contract in accordance with Schedule "A" to this Contract, but, failing such agreement, the amount will be determined in accordance with Schedule "A" to this Contract (such amount, as agreed upon or determined, is the "Rate") and when a Rate is so agreed upon or determined, the Company will enter that Rate into the applicable Term Sheet and provide a copy of that Term Sheet to the Contractor.

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6. Contractor's Information. The Contractor's:

- (a) Federal Goods and Services Tax registration number is: 890509169;
- (b) Workers' Compensation Board number is: 585113-141;
- (c) insurance agent is:
 - (i) Name: Jardine Lloyd Thompson Canada
 - (ii) Delivery Address: 350 - 4396 West Saanich Rd.
Victoria B.C. V8Z 3B9
 - (iii) Mail Address:
 - (iv) Fax: 250-388-9926
 - (v) Telephone: 250-388-4416
 - (vi) Contact:
- (d) insurance underwriter and insurance policy numbers are:
 - (i) Underwriter: Lloyd's of London
 - (ii) Policy numbers: LTL1541474
- (e) subcontractor that has been consented to by the Company or its predecessor and that is a subsisting subcontract that meets the requirements of the Regulation as of the date of this Contract is Bonmor Felling Ltd., whose subcontract is for the felling phase of the Work.

7. Contract Components. This Contract (this "Contract") is comprised of all of the following as the same may be issued, amended, replaced or otherwise changed from time to time in accordance with this Contract:

- (a) this Main Agreement (the "Main Agreement");
- (b) the attached Schedule "A": General Terms and Conditions;
- (c) the attached Schedule "B": Log Quality Specifications; and
- (d) each Term Sheet issued under this Contract.

8. Entire Agreement. This Contract, and any amendments to it made in accordance with this Contract, constitutes the entire agreement between the Company and the Contractor, and supersedes all prior agreements, understandings, correspondence and documents of intent, if any such exist, in respect of the subject matter hereof.

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9. **Amendments.** Except as otherwise expressly provided in this Contract, the parties may amend this Contract only by agreement in writing, executed by both parties.

10. **Replacement of Previous Contract.** This Contract replaces the Previous Contract and the Prime Contractor Agreement referred to in Paragraph 7(o) of the main agreement in the Previous Contract, each of which is hereby terminated as of the commencement of the Term, and the Contractor does hereby remise, release and forever discharge the Company of and from all manner of actions, causes of action, notices of dispute, claims, demands, costs and expenses of any nature or kind the Contractor has or hereinafter can, will or may have by reason of any matter, cause or thing whatsoever existing to December 31, 2014.

IN WITNESS WHEREOF the parties have executed this Contract as of the date and year first above written.

SKEENA SAWMILLS LTD.

TERRACE TIMBER LTD.

Per:


 (Authorized Signatory)

Per:


 (Authorized Signatory)

Greg DeMille
 Name (Print)

GREG MAIN
 Name (Print)

Woodlands Manager
 Title (Print)

PRES
 Title (Print)

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CONTRACT NO.: TERTI-15-00

Schedule "A"
to
Replaceable Coast
Stump to Dump Timber Harvesting Contract
(Five Year)
between Skeena Sawmills Ltd. and Terrace Timber Ltd.
made as of January 1, 2015

GENERAL TERMS AND CONDITIONS

PART 1 INTERPRETATION

1.1 Definitions. In this Contract, unless this Contract specifies, or the context requires, otherwise:

- (a) "Access Roads" has the meaning given it in Paragraph 4.1;
- (b) "Agreement Year" means each 12 month period during the currency of this Contract commencing at the beginning date of this Contract;
- (c) "Amount of Work" has the meaning given it in Paragraph 3 of the Main Agreement;
- (d) "Amount of Work Compliance Period" means:
 - (i) subject to clauses (ii) and (iii), the 5 year cut control period for the Licence;
 - (ii) If the Company terminates the cut control period for the Licence early, then whichever of the following the Company elects in a notice to the Contractor:
 - (A) the 5 year period that would have applied if the cut control period had not been terminated early, and each consecutive 5 year period thereafter;
 - (B) for the cut control period that was terminated early, the duration of that cut control period, then each consecutive 5 year cut control period for the Licence thereafter; or
 - (C) such other reasonable period the Company specifies in a notice to the Contractor; or
 - (iii) such other period as the Company and the Contractor may agree on in writing;
- (e) "Applicable Laws" means all federal, provincial, regional and municipal laws, by-laws, rules and regulations, including the Key Legislation, and all applicable, valid and subsisting orders of courts, government tribunals and government officials that apply in respect of the Work or the performance of the Contractor's obligations or the exercise of its rights under this Contract;
- (f) "BCICAC" has the meaning given it in Paragraph 15.5(a);
- (g) "Business Day" means any day other than a day that is a Saturday, a Sunday or a statutory holiday in British Columbia;
- (h) "Caused", as it is used in Paragraphs 6.1 and 6.5, means to start, light, fuel, cause, allow, permit or enable, in all such cases whether directly or indirectly or intentionally or unintentionally and whether in breach of this Contract, negligently or willfully;

Replaceable Coast Stump to Dump Timber Harvesting Contract (Five Year)
Made as of January 1, 2015

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(j) "Company" has the meaning given it in the description of the parties to this Contract;

(j) "Company's Rules" means the Company's policies, plans, standards, procedures and like requirements as communicated by the Company to the Contractor in accordance with this Contract and pertaining to forest stewardship; health and safety; protection of the environment; wildfire prevention, detection and control; compliance with legislation; compliance with any certification system that applies in respect of the Company, the Licence or the Work; performance of the Work and other obligations of the Contractor under this Contract; and use of Operating Areas, Access Roads and Points of Delivery, as may be established, amended or added to from time to time during the Term in accordance with this Contract, including the:

- (i) Fire Preparedness Plan;
- (ii) Health and Safety Rules; and
- (iii) Road Rules;

(k) "Contract" has the meaning given it in Paragraph 7 of the Main Agreement;

(l) "Contractor" has the meaning given it in the description of the parties to this Contract;

(m) "Contractor's Workforce" means:

- (i) the directors, officers, employees and agents of the Contractor; and
- (ii) all other persons;

(A) whether individuals, companies, partners, partnerships, proprietorships, First Nations, government or otherwise;

(B) whether retained by, through, under, on behalf of or in any other relationship, direct or indirect, to the Contractor and whether similar to the foregoing or not;

(C) whether engaged as a contractor, subcontractor, agent or employee of any of the foregoing or in any other relationship, whether similar to the foregoing or not, including any director, officer, employee or agent of any of the foregoing; and

(D) regardless of where the person may be in the chain of relationships,

engaged, directly or indirectly, by the Contractor to exercise a right or perform an obligation of the Contractor under this Contract;

(n) "Environmental, Health and Safety Laws" means any statute, regulation, bylaw, judgment, decree, order, injunction, rule, guideline or ordinance in effect in British Columbia regulating the protection of the environment, forest stewardship or the health and safety of Workers as it relates to the Work or the performance of any of the Contractor's other obligations under this Contract, including any requirements under the Key Legislation;

(o) "Environmental Policy" means the Company's environmental management policy governing the performance of its activities and those of its employees and contractors;

(p) "Fire Preparedness Plan" means a plan that addresses any of the prevention, detection, reporting and control of wildfire, including any of the following:

- (i) compliance with the *Wildfire Act*;
- (ii) the number of people, types and numbers of tools and equipment and the anticipated location of the people and equipment during the performance of an industrial activity, including the tools and equipment to be available at a central cache;
- (iii) the names of key personnel and how they may be contacted;

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- (iv) training requirements in respect of fire prevention, detection, reporting and control;
 - (v) the names of personnel who meet training requirements;
 - (vi) restrictions on smoking and the use of open fires at Operating Areas;
 - (vii) the location of weather stations that will be used to monitor the weather at Operating Areas and on Access Roads;
 - (viii) responsibilities for determining fire danger class and impacts on operations at Operating Areas and on Access Roads, including early shift and shutdowns; and
 - (ix) fire watch;
- (q) "Firefighting Costs" means all costs and expenses, including costs and expenses pertaining to labour, equipment, materials, supplies, transportation and accommodation, reasonably incurred by the Contractor, the Company, or third parties, including the Contractor's Workforce, whose costs and expenses the Contractor or the Company is liable for, in connection with the containment, control or extinguishment of a fire that occurs on, spreads onto or from, or could reasonably be expected to spread onto or from an Operating Area or Access Road;
- (r) "Health and Safety Rules" means the Company's written policies, standards or requirements relating to occupational health and safety matters;
- (s) "Key Legislation" means the *Forest and Range Practices Act*, the *Wildfire Act*, the *Workers Compensation Act*, the *Fisheries Act*, the *Environmental Management Act*, the *Wildlife Act*, the *Species at Risk Act* and other legislation for the protection of the environment;
- (t) "Lands" means:
- (i) the land subject to the Licence;
 - (ii) if the Company requires the Contractor to perform Work under Paragraph 3.6, the land on which the Contractor is to perform that Work;
 - (iii) without limiting clauses (i) or (ii), each Operating Area, Access Road and Point of Delivery; and
 - (iv) any area not included in clauses (i) to (iii) where the Contractor is required to fight fire or perform other obligations under Part 6;
- (u) "Licence" has the meaning given it in Recital A of this Contract;
- (v) "Log Quality Specifications" means the log quality specifications attached as Schedule "B" to this Contract, including such log quality bonus and deduction provisions that are a part thereof, as amended from time to time by the Company in accordance with this Contract;
- (w) "Main Agreement" has the meaning given it in Paragraph 7(a) of the Main Agreement;
- (x) "Ministry" means the Ministry responsible for the *Forest Act*, and "Minister" has a corresponding meaning;
- (y) "Operating Area" has the meaning given it in Paragraph 4(a) of the Main Agreement;
- (z) "Operational Document" means any of the following documents:
- (i) the Licence;
 - (ii) any plan, prescription, cutting permit, road permit or other permit or like document applicable to the Lands, including a forest stewardship plan or site plan under the *Forest and Range Practices Act*; and
 - (iii) any foreshore lease, licence of occupation or other lease, licence or similar authority issued by a government or governmental agency and applicable to the Contractor's operations under this Agreement;

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- (aa) "Payment Schedule" has the meaning given it in Paragraph 8.6;
- (bb) "Point of Delivery" has the meaning given it in Paragraph 4(c) of the Main Agreement;
- (cc) "Pollutant" means any substance or material that does not occur naturally in the environment or which falls within the definition of "contaminants", "pollutants", "waste", "special waste", "deleterious substance", "hazardous chemicals", "hazardous waste", "dangerous goods", "toxic substances" or "pesticides" or any variation thereof or any similar term in any of the Environmental, Health and Safety Laws or other legislation applicable to the operations of the Contractor under this Contract;
- (dd) "Previous Contract" has the meaning given it in Recital B of this Contract;
- (ee) "Rate" has the meaning given it in Paragraph 5 of the Main Agreement;
- (ff) "Regulation" has the meaning given it in Recital B of this Contract;
- (gg) "Release" means to spill, leak, seep, pump, pour, emit, empty, throw, discharge, disperse, deposit, inject, escape, leach, dispose, dump or place, and includes migration;
- (hh) "Road Rules" means the Company's directions pertaining to the use of Access Roads, including hours of use, number of trips per day, locking of gates and closure of roads and bridges;
- (ii) "Term" has the meaning given it in Paragraph 1 of the Main Agreement;
- (jj) "Term Sheet" has the meaning given it in Paragraph 4 of the Main Agreement;
- (kk) "Volume of Timber Harvested", as it is used in Paragraph 3 of the Main Agreement, means the timber volumes that are attributed to the Licence in out control statements issued on behalf of the government to the Company, excluding any such volume attributed to the licence by the Minister under the authority of a regulation made under section 75(3)(b) of the *Forest Act*;
- (ll) "Work" has the meaning given it in Paragraph 2 of the Main Agreement;
- (mm) each of the following has the meaning given them in Paragraph 16.1:
 - (i) "Acquisition Agreement";
 - (ii) "Company Negotiation Period";
 - (iii) "Interest Notice";
 - (iv) "Termination Agreement"; and
 - (v) "Third Party Negotiating Period"; and
- (nn) each of the following terms has the meaning given them in the *Workers Compensation Act*:
 - (i) "Multiple-Employer Workplace";
 - (ii) "Owner";
 - (iii) "Prime Contractor";
 - (iv) "Worker"; and
 - (v) "Workplace".

1.2 References. For the purposes of this Contract, except as otherwise expressly provided:

- (a) a reference to a corporation includes, and is also a reference to, a corporation that is its successor;
- (b) a word referring to a corporation includes an individual;

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(c) a word in the singular includes the plural and vice versa; and

(d) a reference in the Main Agreement, a Schedule or a Term Sheet to a Paragraph or Part, as the case may be, by number is a reference to a Paragraph or Part, as the case may be, of that number in the Main Agreement, that Schedule or that Term Sheet, as the case may be.

1.3 **Headings.** All headings and subheadings in this Contract are inserted for convenience of reference only and will not affect the interpretation of this Contract.

1.4 **Use of "Including".** The word "including", when following any general statement, term or matter, is not to be construed to limit the general statement, term or matter to the specific items or matters set forth immediately following the word "including" or to similar items or matters, whether or not non-limiting language (such as "without limitation" or "but not limited to" or words of similar import) is used but, rather, the general statement, term or matter will be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such general statement, term or matter.

1.5 **Time of Essence.** Time is of the essence of this Contract.

1.6 **Sovereignty.** If any one or more of the provisions contained in this Contract is or are invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired thereby.

1.7 **Governing Law.** This Contract will be governed by and interpreted in accordance with the laws of the Province of British Columbia and the federal laws of Canada applicable therein.

1.8 **Legislation.** In this Contract:

(a) the following references to Acts have the following meanings:

- (i) "Arbitration Act" means the *Arbitration Act* R.S.B.C. 1996, c.55;
- (ii) "Canada Pension Plan" means the *Canada Pension Plan* R.S.C. 1985, c. C-8;
- (iii) "Employment Insurance Act" means the *Employment Insurance Act* S.C. 1996, c.23;
- (iv) "Employment Standards Act" means the *Employment Standards Act* R.S.B.C. 1996, c.113;
- (v) "Environmental Management Act" means the *Environmental Management Act* S.B.C. 2003, c.53;
- (vi) "Excise Tax Act" means the *Excise Tax Act* R.S.C. 1985, c.E-15;
- (vii) "Fisheries Act" means the *Fisheries Act* R.S.C. 1985, c. F-14;
- (viii) "Forest Act" means the *Forest Act*, R.S.B.C. 1996, c.157;
- (ix) "Forest and Range Practices Act" means the *Forest and Range Practices Act* S.B.C. 2002, c.69 and includes the *Forest Practices Code of British Columbia Act* R.S.B.C. 1996, c.159, as applicable thereunder and in its own right to the extent it remains in force;
- (x) "Forestry Service Providers Protection Act" means the *Forestry Service Providers Protection Act* S.B.C. 2010, c.16;
- (xi) "Income Tax Act (British Columbia)" means the *Income Tax Act* R.S.B.C. 1996, c.215;
- (xii) "Income Tax Act (Canada)" means the *Income Tax Act* R.S.C. 1985, c. 1 (5th Supp.);
- (xiii) "Species at Risk Act" means the *Species at Risk Act* S.C. 2002, c.29;
- (xiv) "Wildfire Act" means the *Wildfire Act* S.B.C. 2004, c.31;
- (xv) "Wildlife Act" means the *Wildlife Act* R.S.B.C. 1996, c.488;
- (xvi) "Woodworker Lien Act" means the *Woodworker Lien Act* R.S.B.C. 1996, c.491; and
- (xvii) "Workers Compensation Act" means the *Workers Compensation Act* R.S.B.C. 1996, c.492;

(b) any reference to an Act or regulation or a provision of the same is deemed to include:

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- (i) that Act, regulation or provision, as the case may be, as amended, restated, renumbered or replaced from time to time;
- (ii) in the case of an Act, all regulations, standards and other like legal instruments promulgated thereunder; and
- (iii) any successor Act, regulation, provision, standard or other like legal instrument to the same general intent and effect.

PART 2 OPERATING PROVISIONS

2.1 Performance of the Work. The Contractor will:

- (a) as directed by the Company from time to time, and in accordance with this Contract, perform all work and services required to perform, produce and deliver, within the time periods specified by the Company in the applicable Term Sheet, the Work allocated to the Contractor by the Company; and
- (b) provide all of the following necessary to perform the Work in accordance with this Contract:
 - (i) all skilled labour and adequate and competent supervision; and
 - (ii) all materials, equipment and supplies.

2.2 Specific Elements of the Work. Without limiting the definition of "Work" in this Contract, the Contractor will as part of the Work:

- (a) transport the Contractor's Workforce, supervisory staff, equipment, materials and supplies to, from and within each Operating Area;
- (b) mobilize and demobilize all equipment, materials and supplies at the commencement and the conclusion of the Work on each Operating Area;
- (c) prepare for Work on an Operating Area as follows:
 - (i) at all times be familiar with this Contract and the Company's Rules;
 - (ii) before commencing the Work:
 - (A) review the Term Sheet and each Operational Document that applies to that Operating Area;
 - (B) if and as requested by the Company, attend a pre-work conference with the Company in respect of that Operating Area;
 - (iii) if and as requested by the Company, ensure each person in the Contractor's Workforce attends a pre-work conference with the Company to review all aspects of the Work relevant to that person;
 - (iv) if the Company does not request that a person in the Contractor's Workforce attend a pre-work conference under clause (ii), ensure each such person attends a pre-work conference held by the Contractor to review all aspects of the Work relevant to that person;
 - (v) if a person in the Contractor's Workforce, does not attend a pre-work conference under clause (ii) or (iv), ensure that person is briefed in advance of performing their duties in respect of the Work of all aspects of the Work and of this Agreement relevant to those duties; and
 - (vi) despite any review or conference involving the Company under this subparagraph, be solely responsible for ensuring the Work and the Contractor's other obligations under this Agreement are carried out in accordance with this Agreement;
- (d) before commencing Work on an Operating Area, ascertain the boundaries of the Operating Area, including reserves within the Operating Area, and avoid any trespass;

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- (e) unless requested by the Company not to do so, on behalf of the Company and prior to commencing any Work on an Operating Area for which a notice of commencement is required to be given to the Ministry under the *Forest and Range Practices Act*, give such notice in accordance with the *Forest and Range Practices Act*;
- (f) not commence Work on an Operating Area until it has received written authorization from the Company to do so;
- (g) once the Contractor has entered onto an Operating Area to perform the Work, carry out that Work continuously and diligently until the Contractor completes it in accordance with this Contract;
- (h) ensure that, at all times while members of the Contractor's Workforce are engaged on an Operating Area, each such member has with them the map or logging plan applicable to that Operating Area provided by the Company and understands their responsibilities in respect of the Work;
- (i) perform the Work in accordance with maps, written instructions and oral instructions issued by the Company at the pre-work conference, during inspections and at any other time;
- (j) fell, limb, buck, yard or skid, process, sort, load, mark and haul to the Point of Delivery all timber to be produced under this Contract;
- (k) modify its felling and yarding or skidding techniques and practices as required by the Company in order to protect watercourses, resource features or other environmental elements;
- (l) inform the Company as soon as possible of any matter that suggests to the Contractor that the Company should consider revising the map or logging plan or any other aspect of the operations on an Operating Area to ensure the Contractor can achieve its obligations under this Contract;
- (m) take all reasonable precautions to ensure timber produced under this Contract is free of rocks, spikes, cables and other embedded material;
- (n) fell all snags; perform 3 in knockdown; pile all accumulations of slash and debris at landings or along roadside as instructed by the Company and, in any event, not within 10 metres of stream banks or a gully sidewall and, if practicable, on the low side of the road and at least 40 metres away from any standing timber; and place fire guards around each debris pile;
- (o) clean up all waste and debris, including all roadside logging debris, and clean all streams, creeks, gullies and other water bodies of all such waste and debris;
- (p) deactivate and, where directed by the Company, rehabilitate skid and backspur trails;
- (q) remove all garbage daily from each Operating Area and disposed of it in compliance with all Applicable Laws and any requirement of the Company;
- (r) where applicable, using stamping hammers having marks or brands approved by the Ministry and registered in the name of the Company, mark all timber produced from the Work with the appropriate timber mark specified in the applicable Term Sheet and in accordance with the *Forest Act* and any related policies or directives of the Ministry in effect from time to time and, without limiting any other remedy of the Company under this Contract, any seizure cost resulting from poor timber marking will be at the Contractor's expense;
- (s) cut, remove and deliver to the Company all timber within an Operating Area that is not reserved from harvesting that meets the Company's Log Specifications;
- (t) not deliver to the Company any timber that does not meet the Company's Log Specifications;

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(u) perform and keep all obligations under this Contract in respect of an Operating Area current with the Contractor's operations on that Operating Area;

(v) If a Term Sheet includes more than one Operating Area, or more than one Term Sheet is in effect at any particular time, complete the Work on one block before commencing the Work on the next block;

(w) make, keep and maintain accurate, current and proper:

- (i) maps and plans at, and regarding, each Operating Area and the Work to be performed there;
- and
- (ii) written books and records of the Contractor's operations under this Contract, including:

- (A) information relevant to the progress and performance of the Work, including the quantity, quality and species of logs felled, bucked, yarded, skidded or loaded at any particular time; and
- (B) such other reports pertaining to the Contractor's operations under this Contract as the Company may reasonably request from time to time;

(x) on request of the Company, immediately:

- (i) deliver to it the maps, plans, books and records referred to in subparagraph (w), except accounting records of the Contractor's income and expenses;
- (ii) such other records as the Contractor is required to keep under this Contract; and
- (iii) report to the Company on the progress of the Work and the Contractor's compliance with this Contract; and

(y) perform such other services related to the Work as reasonably requested by the Company from time to time.

2.3 **Standard of Performance.** Without limiting any other obligation of the Contractor under this Contract, the Contractor will perform the Work in an environmentally sound, safe, efficient, timely, continuous, good, prudent and workmanlike manner.

2.4 **Permits and Licences.** The Contractor will obtain and pay for all permits and licences (other than permits and licences held from time to time by the Company or available only to the Company) required for the performance of the Work, including the licensing and certification of equipment and operators.

2.5 **Supervision.** The Contractor will provide adequate supervision of the Contractor's Workforce, including permitted subcontractors.

2.6 **Training.** The Contractor will:

- (a) provide adequate and current training for its employees, and require employers within the Contractor's Workforce to do the same for their employees, including training in respect of safety, environmental protection, compliance with forest practices and prevention, detection and control of fire;
- (b) participate in, and as requested by the Company require that all other members of the Contractor's Workforce participate in, any training arranged or required by the Company, the Ministry or WorkSafe BC in respect of safety, environmental protection, compliance with forest practices and prevention, detection and control of fire or the Company's Rules or Operational Documents; and
- (c) without limiting Paragraph 2.2(w), make, keep and maintain accurate written records of all training referred to in subparagraphs (a) and (b), including the date the training occurred, the subject matter of the training and the persons who attended the training, and provide those records to the Company on a monthly basis as training occurs.

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2.7 Inspections. The Company may, to assess compliance with this Contract by the Contractor and the Contractor's Workforce, at any time, from time to time and without notice to the Contractor, inspect the Work of the Contractor, its use of the Lands permitted under this Contract, its labour, equipment, materials, supplies, records and other things provided or produced in connection with the Work and the exercise of any other right and the carrying out of any other obligation by the Contractor under this Contract, and the Contractor will:

- (a) co-operate with the Company in such inspections;
- (b) if and as reasonably requested by the Company, accompany the Company during an inspection; and
- (c) without limiting any other right of the Company under this Contract, if an inspection reveals any non-compliance with this Contract, take such action as the Company may reasonably direct the Contractor to take to remedy such non-compliance.

2.8 Representatives. Each Party will:

- (a) appoint, and maintain throughout the Term, a representative who:
 - (i) as of the commencement of the Term, is the contact listed on page 1 of the Main Agreement in the description of each Party to this Contract; or
 - (ii) is a person specified as a replacement representative in a notice from the Party to the other Party; and
- (b) empower and require the representative to act as the primary contact between the Parties in respect of issues regarding the operational fulfillment of the Parties' respective obligations under this Contract, and for greater certainty:
 - (i) a Party will first attempt to raise any such issue with the other Party's appointed representative but, if that is not practical in the circumstances, may raise the issue with another responsible representative of that other Party; and
 - (ii) nothing under this Paragraph affects or replaces:
 - (A) any right or obligation to give notice, or method for doing so, under this Contract; or
 - (B) the provisions of Part 15 regarding dispute resolution,

but nothing in this Paragraph precludes the Company from appointing an agent or field supervisor in respect of this Agreement.

2.9 Compliance. Without limiting the generality of any other provision of this Contract, the Contractor will perform the Work and any other obligation of the Contractor under this Contract and exercise the rights of the Contractor under this Contract to use the Access Roads in compliance with:

- (a) all Applicable Laws;
- (b) the Company's Rules;
- (c) each Term Sheet issued by the Company to the Contractor;
- (d) the applicable terms, conditions and operating standards of the Operational Documents;
- (e) except as expressly stated in this Contract, the Company's Log Quality Specifications in effect when the logs are produced;

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- (f) all lawful instructions of any government agency given to the Contractor or given to the Company and disclosed to the Contractor by the Company;
- (g) all lawful instructions of the Company disclosed to the Contractor in respect of health and safety, forest stewardship and environmental protection generally, and the Key Legislation in particular;
- (h) all other instructions given to the Contractor by the Company in accordance with this Contract;
- (i) contracts, agreements or other obligations binding on the Company that the Company has disclosed to the Contractor; and
- (j) without limiting subparagraph (i), with the requirements in the agreement between Rio-Tinto Alcan ("RTA") and the Ministry that permits access to the Bish Forest Service Road, or as directed by RTA or by the Company, for the use of facilities owned by RTA or when on property owned by RTA.

2.10 Enforcement. The Contractor will:

- (a) immediately notify the Company of:
 - (i) any possible contravention of the Key Legislation or the Company's Rules arising from or related to the Contractor's operations under this Contract;
 - (ii) any communication with government authorities in respect of the Contractor's operations under this Contract including any inspections or investigations under the Key Legislation; and
 - (iii) any allegation by government against the Contractor regarding contravention of any law arising from or related to the Contractor's operations under this Contract;
- (b) if and as reasonably requested by the Company, co-operate with the Company in assessing and developing defences against any allegations against the Company or the Contractor regarding contravention of any law arising from or related to the Contractor's operations under this Contract; and
- (c) immediately notify the Company of any fine or penalty, remediation order or like decision levied or made against the Contractor regarding contravention of any law arising from or related to the Contractor's operations under this Contract or contravention by the Contractor of any Key Legislation regardless of whether the contravention relates to operations under this Contract.

2.11 Risk for Logs. The Contractor will bear the risk of damage to or loss of, and take all reasonable steps and precautions to safeguard and protect, each log produced under this Contract until the Contractor delivers the log to the Company at the applicable Point of Delivery.

2.12 Status of Operating Areas. The Contractor hereby:

- (a) acknowledges and agrees that:
 - (i) the Contractor has entered into this Contract relying solely on the basis of its own information;
 - (ii) before the Rate for an Operating Area is agreed upon or determined under this Contract, and any Work commences on an Operating Area, the Contractor will examine the Operating Area and satisfy itself as to all conditions in respect of the Operating Area, including the matters referred to in clause (ii);
 - (iii) the Company has not made any representation, or given any warranty, to the Contractor in respect of the quantity or quality of timber on any Operating Area, the conditions on any Operating Area, the ease or difficulty of the Work in respect of any Operating Area or the costs or profitability of performing the Work in respect of an Operating Area, all of which matters the Contractor will fully investigate and satisfy itself in respect of as indicated in clause (ii); and
- (b) absolutely releases the Company from any and all claims in respect of the foregoing matters.

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2.13 **Correction of Work.** The Contractor will as part of the Work, on request of the Company, remediate or re-perform any portion of the Work not performed to the satisfaction of the Company, acting reasonably, and, if directed by the Company, have such remediation or re-performance done by a third party satisfactory to the Company.

2.14 **Failure to Perform Work.** Without limiting any of the Company's other rights or remedies in respect of any breach of this Contract by the Contractor, if the Contractor fails to perform the Work or any other obligation under this Contract, or any portion thereof, in accordance with this Contract, following receipt of notice from the Company to do so within a reasonable period of time, the Company may, but is not obligated to, perform that Work, other obligation or portion thereof or arrange for a third party to perform that Work, other obligation or portion thereof, and the Contractor will, immediately on receipt of a demand from the Company to do so, reimburse the Company an amount equal to the expense incurred by the Company in doing so.

PART 3 CHANGES IN OPERATIONS

3.1 **Changes.** The Company may, for bona fide business and operational reasons and on reasonable notice to the Contractor, require the Contractor to do one or more of the following:

- (a) use timber harvesting methods, technology or silviculture systems that are different than those historically used by the Contractor under the Contract;
- (b) move to a new operating area;
- (c) comply with different operating specifications;
- (d) undertake any other operating change necessary to comply with a direction made by a government agency or lawful obligation imposed by a federal, provincial or municipal government,

and, subject to Paragraph 3.2, the Contractor will comply with such requirements.

3.2 **Termination Due to Substantial Changes.** If a requirement made by the Company under Paragraph 3.1 results in a substantial change in the Work, the Contractor may, within 15 days of receiving notice of the requirement, elect by notice to the Company, to terminate this Contract without incurring any liability to the Company in respect of such termination.

3.3 **Request for Rate Review.** If the Company makes a requirement under Paragraph 3.1 and the Contractor does not elect to terminate this Contract under Paragraph 3.2, either party may, within 30 days of the Contractor receiving notice under Paragraph 3.1, request a review of the Rate for the Work then in effect.

3.4 **Resolving Rate Dispute.** If either party requests a Rate review pursuant to Paragraph 3.3 and if, within 14 days after such notice is given, the parties are unable to agree upon a new rate, either party may give to the other party a notice specifying that the parties are unable to agree on a new rate, in which case the rate must be determined in accordance with Part 15 of these General Terms and Conditions and Division 4 of Part 5 of the Regulation and, for greater certainty, sections 25(1) to (3) of the Regulation apply as part of determining the rate.

3.5 **Contractor's Replacement of Equipment.** The Contractor will not replace the equipment it uses to perform the Work and its other obligations under this Contract without the prior written consent of the Company, which consent the Company will not unreasonably withhold.

3.6 **Substituting Work.** The Company may, in accordance with s.21.1 of the Regulation, allocate to the Contractor Work that pertains to timber that the Company is entitled to harvest outside the Licence, in which case, as and to the extent and in the manner required by the Regulation:

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- (a) the Company will inform the Contractor that the Work is being allocated in substitution for Work under the Licence before the Contractor commences the substituted work;
- (b) the Work is deemed to be allocated under this Contract and all the provisions of this Contract apply to the Work; and
- (c) there is no obligation for the Company to allocate any Work outside the Licence to the Contractor at any other time.

3.7 Changes to Company Documents and Directions. Without limiting any other provision of this Contract, the Company may, from time to time, by notice to the Contractor establish, specify, obtain, amend, replace, substitute or otherwise create or change any plan, direction, standard, specification, instruction, instrument, policy or other requirement, directive or document that applies in respect of the Contractor, the Work or the Lands, including any of the following, provided that such notice is given reasonably in advance and such amendment, replacement or other change is reasonable in the circumstances:

- (a) any Operational Document;
- (b) the Company's Rules, the Log Quality Specifications, the Payment Schedule and a Term Sheet; and
- (c) any direction or instruction the Company is permitted to give to the Contractor under this Contract.

PART 4 ROAD USE AND MAINTENANCE

4.1 Rights to Use Access Roads. The Company will, to the extent it has a right to do so, permit, or otherwise make commercially reasonable efforts to arrange for, the Contractor and the Contractor's Workforce to use roads to access the Operating Areas or to access the Points of Delivery from the Operating Areas, other than public highways, (collectively, the "Access Roads") on a non-exclusive basis and at their own risk, at reasonable times and subject to adverse weather conditions and restrictions on access imposed by land owners, government authorities or other persons with authority to restrict such access.

4.2 Road Rules. The Contractor will:

- (a) without limiting Paragraph 2.9, comply with the Road Rules; and
- (b) keep the Access Roads free and clear of all debris and other obstructions resulting from its performance of the Work in a manner consistent with the performance of a responsible and prudent operator.

4.3 Status of Roads. The Contractor hereby:

- (a) acknowledges and agrees that:
 - (i) before the Contractor uses an Access Road under this Contract, it will examine that Access Road to determine its condition and suitability for the Contractor's performance of the Work; and
 - (ii) the Company has not made any representation, or given any warranty, to the Contractor in respect of the matters referred to in clause (i); and
- (b) releases the Company from any and all claims in respect of the foregoing matters.

4.4 Access Road Maintenance. The Contractor will maintain all of the Access Roads the Contractor uses under this Contract that are the responsibility of the Company to maintain under the Applicable Laws or the applicable Operational Document and such maintenance will:

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- (a) be performed in accordance with the Company's obligations under the Applicable Laws and the applicable Operational Document;
- (b) include:
 - (i) grading and spot surfacing;
 - (ii) cleaning of culverts;
 - (iii) keeping ditches and culverts functioning at all times;
 - (iv) installing waterbars and cross ditches on all in-block roads, and on other Access Roads as directed by the Company, once hauling has been completed or when operations have been completed for the season; and
 - (v) such other activities as directed by the Company; and
- (c) without limiting subparagraph (a), must meet the objectives of:
 - (i) minimizing sediment into streams, creeks and other water bodies and keeping water in its proper channel at all times;
 - (ii) protecting the structural integrity of the road prism and clearing width; and
 - (iii) keeping the road safe for industrial use.

PART 5 SAFETY

5.1 WCB Registration: Without limiting the Contractor's obligations under Paragraph 2.9, the Contractor will:

- (a) obtain and, throughout the Term, maintain registration as an independent firm under the *Workers Compensation Act*;
- (b) by the time it executes this Contract, provide the Company with proof of such registration and the Contractor's Workers Compensation Board registration number; and
- (c) immediately inform the Company by notice of any change in the Contractor's status under the *Workers Compensation Act*.

5.2 Compliance with Safety Requirements. Without limiting the Contractor's obligations under Paragraph 2.9, the Contractor will:

- (a) before commencing the Work, review and ensure it is familiar with the *Workers Compensation Act*; and
- (b) plan and exercise every right and plan and perform every obligation of the Contractor under this Contract, and maintain every Workplace associated with all such rights and obligations:
 - (i) in compliance with the *Workers Compensation Act*, including Part 26 of the Occupational Health and Safety Regulation, whether or not the provisions of that Part 26 expressly impose an obligation on a specific person and, for greater certainty, in respect of all such rights and obligations, the Contractor is deemed for the purposes of this provision and s.26.2(2) of that Part 26, to be a person with knowledge and control of an activity in a Forestry Operation; and
 - (ii) in a manner that will ensure that at all times the Company is, in respect of such rights and obligations, in compliance with its obligations under:
 - (A) Part 3 of the *Workers Compensation Act* as an Owner or Employer; and
 - (B) Part 26 of the Occupational Health and Safety Regulation as an Owner of a Forestry Operation.

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5.3 Health and Safety Program. The Contractor will:

(a) maintain a health and safety program designed to prevent accidents involving the Contractor's Workforce or other persons present at the Workplaces associated with the Work, whether those other persons are associated with the Work or not; and

(b) provide to the Company, on such reasonable request as the Company may make from time to time, a copy of all documents that establish, describe or comprise the Contractor's health and safety program.

5.4 Pre-Work Requirements. The Contractor will:

(a) before commencing any Work, and so often thereafter as is necessary to ensure safety or compliance with the *Workers Compensation Act*, conduct a safety meeting with the Contractor's Workforce that communicates to the Contractor's Workforce:

(i) the health and safety hazards of:

(A) the Work; and

(B) any Workplace associated with the Work, including each Operating Area, Access Road and Point of Delivery; and

(ii) the Contractor's health and safety program and expectations, including emergency evacuation procedures; and

(b) provide the information referred to in subparagraph (a) to any person who joins the Contractor's Workforce after a meeting referred to in that subparagraph and before that person engages in any part of the Work.

5.5 Working with Others. The Contractor will:

(a) when performing the Work or any other obligation, or exercising any right, under this Contract on an area, coordinate the activities of the Contractor with those members of the Contractor's Workforce and any third party also working on that area for the purposes of ensuring that the activities of all persons on the area are safe; and

(b) without limiting subparagraph (a), if it is not the Prime Contractor in respect of a Multiple-Employer Workplace where the Work is being performed, including any Operating Area, Access Road or Point of Delivery, or another obligation or right under this Contract applies:

(i) determine who is the Prime Contractor for that Multiple-Employer Workplace; and

(ii) to enable that Prime Contractor to fulfill its obligations under the *Workers Compensation Act*, cooperate, and require all members of the Contractor's Workforce active at that Multiple-Employer Workplace to cooperate, with the Prime Contractor for that Multiple-Employer Workplace, in respect of the duties of that person as Prime Contractor as:

(A) directed by the Company; or

(B) in the absence of direction by the Company, as is appropriate in the circumstances and consistent with the Contractor's obligations under this Contract.

5.6 Directions from the Company. The Contractor will comply with all reasonable directions the Company may give it at any time and from time to time in respect of safety, provided, however, that at all times it is the Contractor's responsibility to ensure its operations and those of the Contractor's Workforce are safe and in compliance with the *Workers Compensation Act*.

5.7 Hazards and Incidents. The Contractor will:

Replaceable Coast Stump to Dump Timber Harvesting Contract (Five Year)
Made as of January 1, 2015

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(a) If a hazard exists in respect of the Work, any Workplace or the Lands that makes it unsafe to continue the Work or to perform any other obligation or exercise any right under this Contract, immediately cease or modify its operations so as to avoid injury and advise the Company of the hazard and the actions taken to avoid injury;

(b) Immediately notify the Company of:

(i) any serious accident, near miss or other safety incident involving the Contractor's Workforce whether or not the accident or other incident results in an inspection, investigation, order or other action under the *Workers Compensation Act*; and

(ii) the actions the Contractor is taking to avoid any such accident or incident from that time forward; and

(c) without limiting subparagraphs (a) or (b), or Paragraph 2.2(w), make, keep and maintain accurate, complete and written minutes of safety meetings, accident reports and near-miss reports and submit each such document to the Company within one month of the applicable safety meeting or safety incident, or earlier on the reasonable request of the Company.

5.8 SAFE Certification. The Contractor will:

(a) if not SAFE Certified as of the commencement of the Term, use all commercially reasonable efforts to become so as soon as commercially reasonable, if requested by the Company to do so;

(b) if it is or becomes SAFE Certified, maintain SAFE Certified status throughout the remainder of the Term; and

(c) on the reasonable request of the Company, which the Company may make from time to time, provide evidence satisfactory to the Company of the Contractor's SAFE Certified status.

5.9 Qualified to be Prime Contractor. The Contractor hereby represents and warrants to the Company that:

(a) it has reviewed, and is familiar with, the qualifications and obligations of a Prime Contractor under the *Workers Compensation Act*; and

(b) it is qualified in accordance with the *Workers Compensation Act* to serve as the Prime Contractor for each Multiple-Employer Workplace where the Contractor is performing the Work or any other obligation of the Contractor under this Contract or exercising any right of the Contractor under this Contract.

5.10 Appointment as Prime Contractor. The Contractor will, subject to Paragraph 5.12(b):

(a) be the Prime Contractor for:

(i) each Multiple-Employer Workplace where the Work is being carried out; and

(ii) such other Multiple-Employer Workplaces that the Company designates the Contractor to be the Prime Contractor where the Contractor or the Contractor's Workforce is:

(A) operating on or using the Lands under this Contract; or

(B) exercising any other right or performing any other obligation of the Contractor under this Contract; and

(b) will, on the request of the Company, sign an acknowledgement in writing that it is the Prime Contractor for the Multiple-Employer Workplaces referred to in subparagraph (a)(ii).

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5.11 **Duties as Prime Contractor.** The Contractor will for those Multiple-Employer Workplaces for which it is the Prime Contractor under this Contract:

- (a) ensure each employer of Workers at those Multiple-Employer Workplaces has provided the Contractor the name of the person the employer has designated to supervise the employer's Workers at that Workplace;
- (b) perform the duties of a Prime Contractor under the *Workers Compensation Act*; and
- (c) without limiting subparagraph (b):
 - (i) send to the Workers' Compensation Board such Notices of Project in respect of the Work when and as may be required under the *Workers Compensation Act*; and
 - (ii) before such Work commences, provide to the Company by notice a copy of each such Notice of Project.

5.12 **Changes to Status as Prime Contractor.** The Contractor:

- (a) will immediately inform the Company if, for any reason, it becomes unqualified to serve as the Prime Contractor in accordance with the *Workers Compensation Act*;
- (b) will cease to be the Prime Contractor for a Multiple-Employer Workplace under this Contract for the time, circumstances, location or any combination thereof, and to the extent specified in, and in accordance with, any notice to that effect given by the Company to the Contractor, which the Company may give, amend or rescind from time to time; and
- (c) will not:
 - (i) assign or subcontract the Contractor's appointment, rights or responsibilities as Prime Contractor under this Contract or retain an agent to perform such responsibilities or exercise such rights; or
 - (ii) appoint anyone to act as Prime Contractor in respect of the Work.

PART 6

FIRE PREVENTION AND SUPPRESSION

6.1 **Fire Prevention and Control.** Without limiting the Contractor's obligations under Paragraph 2.9 or elsewhere in this Part:

- (a) the Contractor will use all reasonable efforts to prevent, detect, control, contain and extinguish all fires, howsoever caused, that occur on, spread onto or from or could reasonably be expected to spread onto or from an Operating Area or an Access Road or other area where the Contractor is required under the *Wildfire Act* to carry out such activity; and
- (b) for the purposes of assessing the Contractor's compliance with the *Wildfire Act* under Paragraph 2.9, the Contractor, in the context of its operations under this Contract, is deemed to be a person carrying out an industrial activity and will do all things such a person must do, and not do anything such a person must not do, to comply with the *Wildfire Act*.

6.2 **Fire Training.** Without limiting Paragraph 2.6, the Contractor will ensure at all times during the performance of the Work that a person who has been trained to a level acceptable to the Company and the Ministry in the area of fire suppression techniques, fire behaviour and fireline safety is present on the site where the Work is being performed.

6.3 **Costs of Equipment and Prevention.** Without limiting the obligations of the Contractor under Paragraph 8.14, the Contractor is responsible for all costs and expenses the Contractor incurs:

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(a) providing and maintaining in good operating condition firefighting equipment at each Operating Area, Access Road and Point of Delivery in accordance with the *Wildfire Act* and any related requirements of the Ministry or other applicable authority and as required by this Contract; and

(b) in taking precautions to prevent the occurrence of fires in the performance of the Work.

6.4 **Notification of Fire.** The Contractor will, in addition to its obligation under the *Wildfire Act* to report a fire, immediately notify the Company upon becoming aware of any forest fire in or around an Operating Area, an Access Road or any other area within the Lands.

6.5 **The Contractor's Responsibility for Firefighting Costs.** Subject to Paragraph 6.6(b), the Contractor will be responsible for all Firefighting Costs for fires that occur on or spread from the Operating Areas, or can reasonably be expected to spread onto any of the Operating Areas, except that:

(a) the Contractor's responsibility for Firefighting Costs incurred directly by the Contractor in respect of any such fires will be limited to \$100,000, except that such limit will not apply if the fire is caused by the clear and deliberate failure of the Contractor to perform its obligations under this Contract or applicable law;

(b) the Contractor's responsibility for Firefighting Costs other than those incurred directly by the Contractor in respect of any such fire will be limited to the amount by which \$500,000 exceeds the lesser of:

(i) \$100,000; and

(ii) the Firefighting Costs incurred directly by the Contractor in respect of such fire,

except that such limit will not apply if the fire is caused by the clear and deliberate failure of the Contractor to perform its obligations under this Contract or applicable law or to the extent that such Firefighting Costs are attributable to the clear and deliberate failure of the Contractor to perform its obligations under this Contract or applicable law; and

(c) the Contractor will not be responsible for Firefighting Costs for any fire caused by lightning or by the acts of third parties or the Company, except to the extent that such Firefighting Costs are attributable to the clear and deliberate failure of the Contractor to perform its obligations under this Contract or applicable law.

6.6 **The Company's Responsibility for Firefighting Costs.** The Company will:

(a) be responsible for Firefighting Costs for fires that occur on or spread onto the Operating Areas to the extent that the Contractor is not responsible for such Firefighting Costs under this Contract; and

(b) reimburse the Contractor for Firefighting Costs for any fire over which the Ministry assumes jurisdiction and control, but only to the extent that the Company receives payment from the Ministry for those Firefighting Costs incurred by the Contractor.

PART 7 ENVIRONMENT

7.1 **Preventing Damage to the Environment.** Without limiting the Contractor's obligations under Paragraph 2.9, the Contractor will:

(a) set up and maintain rainfall gauges at locations determined by the Company and record daily rainfall records and submit all records to the Company on a monthly basis;

(b) without limiting subparagraph (a), adhere to any rainfall shutdown guidelines issued by the Company;

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(c) If weather or site conditions are such that the Contractor's operations result or may result in the slumping or sliding of land, including a washout of a road or related structure; impairment of a drainage structure; inordinate soil disturbance; deterioration of water quality; or other environmental damage, including "damage to the environment" as that phrase and "damage" as that word is used in section 46 of the *Forest and Range Practices Act*, cease operations in the affected area, take all reasonable steps to prevent any or any further damage to the environment and immediately report to the Company the event or potential event and the actions being taken by the Contractor; and

(d) If the Contractor finds any feature of environmental, cultural or recreational significance or value in an Operating Area that is not identified in an Operational Document, modify or cease its operation in the vicinity of such feature to the extent necessary to refrain from harmfully altering, threatening, damaging or destroying it or rendering it ineffective, immediately advise the Company and not recommence such operation until informed by the Company to do so.

7.2 Pollutants. Without limiting the Contractor's obligations under Paragraph 2.9, the Contractor will:

(a) not Release, store or transport any Pollutant in or on any of the Lands and will not permit member of the Contractor's Workforce to do so except as expressly authorized in writing by the Company and in compliance with all Applicable Laws, the Company's Rules and to a standard not less than that generally applied in the forest industry, and, for the purposes of the written authorization referred to in this subparagraph, but subject to notice otherwise from the Company, the Company hereby authorizes the Contractor and the Contractor's Workforce to transport and store fuel and lubricants used by the Contractor and the Contractor's Workforce in the ordinary course of the Contractor's performance of its obligations under this Contract, subject to the conditions specified in this subparagraph;

(b) use all reasonable efforts to contain, clean up, and minimize damage resulting from Release of Pollutants by the Contractor on the Lands or on the lands or in the waters adjacent to the Lands; and

(c) immediately report to the Company any Release of any Pollutant in or on any of the Lands and the actions that Contractor is taking to rectify the Release.

PART 8

RATES, SCALING, VOLUME, PAYMENTS AND OTHER FINANCIAL MATTERS

8.1 Agreeing Upon a Rate. For the purposes of the reference in Paragraph 5 of the Main Agreement to the efforts by the Company and the Contractor to agree upon a Rate:

(a) the Contractor will by notice to the Company offer a rate for the Work allocated under each Term Sheet:

- (i) within 14 days of the Company issuing the Term Sheet to the Contractor; or
- (ii) If the Term Sheet specifies that the Work is to commence before that 14-day period ends, then by such earlier date as is practicable in the circumstances; and

(b) if:

- (i) the Contractor does not deliver an offer in accordance with subparagraph (a), the Company may, in addition to any other remedy it may have under this Contract, give notice to the Contractor specifying that the parties are unable to agree on a rate for the allocated Work; or
- (ii) within 10 days after the Contractor has delivered its offer in accordance with subparagraph (a), the parties have not agreed upon the applicable rate for the allocated Work, either party may give to the other party a notice specifying that the parties are unable to agree on a rate.

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8.2 **Determining a Rate.** If a party gives a notice under Paragraph 8.1(b)(i) or (ii), the rate at issue will be determined in accordance with Part 15 of this Contract and Part 5, Division 4 of the Regulation and, for greater certainty, sections 25(1) to (3) of the Regulation apply as part of determining the rate.

8.3 **Scaling.** The Company will scale all logs delivered to it pursuant to this Contract in accordance with the *Forest Act* and any applicable scaling policy of the Ministry in effect from time to time.

8.4 **Volume Determination.** The Company will determine the volume of logs delivered by the Contractor to the Points of Delivery as follows:

- (a) by weight-scale, using conversions developed by the Company based on samples scaled by licensed scalers or, when determined by the Company, by piece scale;
- (b) by selecting samples used to develop conversions randomly from deliveries made by the Contractor, including samples required by the Ministry as well as additional samples selected by the Company as required in its discretion;
- (c) without making any reconciliation between the volume determined through the Company conversion and any Ministry conversions;
- (d) where, as determined by visual inspection at the weigh scale, a load does not appear to meet stratum definitions in the Log Quality Specifications, logs on the load can be 100% piece scaled and excluded from the sample population; and
- (e) by adjusting the scaled volume using any applicable adjustment specified in the Log Quality Specifications.

8.5 **Tax Registration:** The Contractor will:

- (a) throughout the Term:
 - (i) maintain registration as required under the *Excise Tax Act* for the collection and administration of the Goods and Service Tax and inform the Company, by the date of execution of this Contract, of the Contractor's Goods and Services registration number; and
 - (ii) maintain registration as required under all federal and provincial legislation pertaining to a sales, commodity, services, harmonized sales and other like taxes that apply in British Columbia and give notice to the Company of its registration number in respect thereof by the later of the date of execution of this Contract and the date registration is required; and
- (b) give notice to the Company immediately upon any change in the Contractor's status under a registration required under subparagraph (a).

8.6 **Payment of Rates.** Subject to any deductions, holdbacks, set-offs and similar matters permitted or required under this Contract or at law, the Company will pay the Contractor the Rate applicable to Work performed under and in accordance with this Contract twice per month based on the volume of logs the Contractor delivers in accordance with this Contract prior to each pay period out of date in a month, which dates the Company will specify in a notice to the Contractor from time to time (the "Payment Schedule").

8.7 **Payments by the Contractor.** The Contractor will at all times:

- (a) pay promptly as they become due all charges for and in respect of labour, materials, equipment, supplies, services and sub-contractors and other members of the Contractor's Workforce used or contracted for in the performance of the Work, including all wages, salaries and other remuneration due to employees, and all assessments and employee deductions, including as required under or referred to in the *Woodworker*

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Lien Act, the Employment Standards Act, the Workers Compensation Act, the Employment Insurance Act, the Income Tax Act (Canada), the Income Tax Act (British Columbia) and the Canada Pension Plan;

(b) on request, deliver to the Company evidence, to the Company's satisfaction, of the payment of the charges, assessments and deductions referred to in subparagraph (a), including:

- (i) receipted payrolls and certificates under or referred to in the *Woodworker Lien Act*; and
- (ii) a certificate from the Workers' Compensation Board confirming that the Contractor's assessments in respect of employees have been paid and that the Contractor is in good standing;

(c) pay as they become due all applicable income, sales, commodity, goods and services and all other taxes payable by the Contractor in respect of the performance of the Work; and

(d) when applicable, pay directly as they become due all rentals, taxes, rates and assessments that may at any time be imposed upon or assessed against any campsite buildings, or other facilities, owned, used or occupied by the Contractor within the area of the Licence, and provide written confirmation of such payments to the Company immediately upon request of the Company and, if paid by the Company, immediately reimburse the Company for such payment.

8.8 Payments to Subcontractors, Suppliers and Service Providers. The Company:

(a) may, prior to any payment by the Company to the Contractor for the Work, require that the Contractor deliver a statutory declaration to the Company, in the form required by the Company, accompanied by supporting invoices and documentation, setting out the amounts owing by the Contractor to each subcontractor, other member of the Contractor's Workforce, supplier or service provider relating to the Work performed during such payment period and containing a declaration by the Contractor that no other amounts are outstanding;

(b) as agent for the Contractor, may, but is not obligated to do so, or liable in any manner to the Contractor for doing so or not doing so, pay any amounts owing by the Contractor to the Contractor's subcontractors, other member of the Contractor's Workforce, suppliers, or service providers for which liens, charges or any other encumbrance of any nature may arise in respect of or attach to or be registered against any timber, logs or other property of the Company in respect of the Contractor's operations under this Contract, including under the *Woodworker Lien Act* or the *Forestry Service Providers Protection Act*, whether or not a statement is filed, such lien, charge or other encumbrance is registered or any other proceeding is taken in respect of such lien, charge or other encumbrance; and

(c) after such payment, but subject to this Contract, will pay the balance of monies owing, if any, to the Contractor.

8.9 Liens. The Contractor:

(a) will not, except as provided under the *Forestry Service Providers Protection Act*:

- (i) by reason of this Contract or anything done by it under or pursuant to this Contract, acquire any rights, interest or title in or to any timber, logs or other property of the Company, other than payments made to and received by the Contractor pursuant to this Contract;
- (ii) purport to mortgage, charge, pledge or otherwise encumber such property; or
- (iii) cause or permit any liens, charges or other encumbrances of any nature, including under the *Woodworker Lien Act* or the *Forestry Service Providers Protection Act*, to attach to or be registered against any timber, logs or other property of the Company, except any lien or charge that validly exists in favour of the Contractor under the *Forestry Service Providers Protection Act*; and

(b) will, immediately on demand of the Company, cause any such mortgage, lien, charge, pledge or other encumbrance of any nature as may attach or be registered to be discharged, except any lien or charge that

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validly exists in favour of the Contractor under the *Forestry Service Providers Protection Act*, until the payment that gave rise to such lien or charge is made.

8.10 **Failure to Discharge.** Without limiting any of the Company's other rights or remedies in respect of any breach of this Contract by the Contractor, if the Contractor fails to meet its obligations under Paragraph 8.7 or 8.9, the Company may take any steps reasonable in the circumstances to discharge any mortgage, lien, charge, pledge or other encumbrance referred to in that Paragraph, and the Contractor will, immediately on receipt of a demand from the Company to do so, reimburse the Company for the Company's reasonable expenses for doing so, including legal costs on a solicitor and own client basis.

8.11 **Set-Off.** The Company may at any time and from time to time satisfy any amount owing by it to the Contractor under this Contract or pursuant to any other agreement or obligation existing between them by way of deduction and set-off against any amount from time to time owing by the Contractor to the Company.

8.12 **Statutory Deductions and Holdbacks.** The Company may deduct, holdback or deduct and holdback the following amounts from amounts otherwise payable to the Contractor pursuant to this Contract and may remit such amounts to the applicable authority on the Contractor's behalf or pay such amount to the Contractor when permissible:

- (a) statutory deductions and holdbacks as required by applicable legislation; and
- (b) Workers Compensation remittances in the applicable amounts, unless the Contractor delivers to the Company evidence of payment of such amounts to the Workers' Compensation Board.

8.13 **Security Holdback.** In addition to, and not in substitution for, any other deduction, holdback, set-off or other right or remedy under this Contract or otherwise, the Company:

- (a) will, without liability, withhold an amount equal to 5% of each payment due to the Contractor for Work performed in accordance with this Contract;
- (b) will hold any such amount as security for the performance of the Contractor's obligations under this Contract in respect of the Operating Area to which the payment applies;
- (c) may apply that amount to remedy any breach of this Contract by the Contractor in respect of that Operating Area; and
- (d) will release to the Contractor any portion of such holdback unused under subparagraph (c) only on the later of the date when, as determined solely by the Company:
 - (i) the Contractor has performed all of the Work in the Operating Area to which the holdback pertains and met all obligations of the Contractor under this Contract in respect of that Work; or
 - (ii) the Company has remedied any and all breaches in respect of the Work in that Operating Area under subparagraph (c).

8.14 **Expenses.** Except as this Contract expressly provides otherwise, each party will exercise its rights and perform its obligations under this Contract at its expense.

8.15 **Billing for Waste within Specifications:** The Contractor:

- (a) is liable to the Company for the amount of any monetary waste billing applied by the government of British Columbia in respect of residue or waste in any Operating Area where the waste or residue is within the Log Quality Specifications; and
- (b) will forthwith on receipt of an invoice therefor from the Company, reimburse the Company for that billing.

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8.16 Adjustment to Rates Payable. The Rate the Company will pay to the Contractor in respect of timber delivered under this Contract is subject to adjustment in accordance with the Log Quality Specifications.

PART 9 CURTAILMENT AND EVENTS BEYOND PARTY'S CONTROL

9.1 Curtailment and Suspension of Operations. The Company:

(a) may, from time to time during the Term, direct the Contractor to curtail or temporarily suspend performance of the Work or other operations of the Contractor under this Contract for a specified or indefinite period if, in the opinion of the Company, such curtailment or suspension is required due to changes in the law, natural disasters, interference by a person who is not party to this Contract or any other event beyond the reasonable control of the Company, including adverse weather conditions, fire, flood, earthquake, war, insurrection, riot, blockades, protests or other civil disobedience, strike, lockout or other labour dispute or disturbance, market conditions, over supply of log inventory, failure of carriers to transport or provide transportation, any order, requisition or regulations of any court or governmental or regulatory authority whatsoever or the lack of any permit, approval or authorization from the applicable governmental or regulatory authorities required for the harvesting of timber under this Contract, but not including a change in the market price of logs; and

(b) will, on or before the date on which the Contractor is permitted to resume performance of the Work or other operations under this Contract, notify the Contractor of any adjustments to the Amount of Work or extensions of time for the production of the Amount of Work, such extensions to allow a reasonable time for the Contractor to produce the Amount of Work as adjusted.

9.2 Events Beyond Control of Company. The Company is not liable to the Contractor for any failure to allocate to the Contractor in any Agreement Year the Amount of Work, as adjusted pursuant to Paragraphs 10.2, 10.3 or 10.5 or as otherwise provided for in the Regulation, as a result of a curtailment or suspension pursuant to Paragraph 9.1.

9.3 Events Beyond Control of Contractor. The Contractor is not liable to the Company for any failure to perform the Work allocated by the Company to the Contractor in any Agreement Year if the failure results from changes in law, natural disasters, interference by a person who is not a party to this Contract or any other event beyond the reasonable control of the Contractor including those described in Paragraph 9.1, other than a change in the market price of logs.

PART 10 AMOUNT OF WORK

10.1 Reduction in Amount of Work. The Company will not reduce the Amount of Work in any Agreement Year of this Contract except as provided in the Regulation or in this Contract.

10.2 Experiments. In any Agreement Year during the Term, the Company may allocate to the Contractor, and the Contractor must perform, an amount of Work that is less than the Amount of Work, if:

- (a) the reduction in the Amount of Work is necessary to enable the Company to experiment with timber harvesting methods, technology or silviculture systems different than those used historically by the Company on the Licence;
- (b) the Contractor receives reasonable notice of the reduction;
- (c) the experiment is for bona fide business and operating reasons;
- (d) it is not practicable for the Contractor to perform the work required to conduct the experiment; and

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(e) the Company has used reasonable efforts to distribute the reduction of Work associated with any experiments fairly among Company operations and other contractors carrying out timber harvesting operations under the Licence.

10.3 Differing Amount of Work. In any Agreement Year during the Term, the Company may allocate to the Contractor and the Contractor must perform an amount of Work that differs from the Amount of Work, provided that:

- (a) the difference is attributable to *bona fide* business and operating reasons on the part of the Company; and
- (b) the amount of Work that the Company allocates to the Contractor and that the Contractor is required to perform under this Contract over each Amount of Work Compliance Period of the Licence is equal to or greater than 95% of the aggregate of the Amount of Work provided for during that Amount of Work Compliance Period, less the aggregate of any reductions in that Amount of Work implemented during that Amount of Work Compliance Period under Paragraphs 9.1, 10.2 or 10.5.

10.4 AAC Reduction Proposal. The Company may make a proposal to the Contractor to reduce the Amount of Work or to terminate this Contract in accordance with section 27 of the Regulation if:

- (a) the allowable annual cut of the Licence is reduced; or
- (b) the Licence is subject to a fibre basket agreement and such agreement expires, is cancelled or is surrendered.

10.5 Amendment or Termination. The Company and the Contractor will resolve any proposal made under Paragraph 10.4 in accordance with Division 5 of Part 5 of the Regulation and the Amount of Work will be amended or this Contract will be terminated in accordance with such resolution.

10.6 Termination Due to Work Reduction. If the Amount of Work is reduced as a result of a proposal made under Paragraph 10.4, the Contractor may, within 90 days of the reduction taking effect, by giving notice to the Company, terminate this Contract without incurring any liability to the Company in respect of such termination.

10.7 Volume Charged to Amount of Work. Without limiting the definition of "Volume of Timber Harvested" in this Contract, but for greater certainty, if the Contractor leaves within an Operating Area residue or waste that is within the Log Quality Specifications, the volume left will be deemed to be part of the Amount of Work allocated by the Company to the Contractor under this Contract.

PART 11 TERMINATION

11.1 Termination by the Company. The Company may terminate this Contract immediately by giving notice of termination to the Contractor:

- (a) except as provided in subparagraph (b), if the Contractor breaches any of its material obligations under this Contract and, in the event of a breach that is capable of being remedied, such breach is not remedied within 20 Business Days after notice specifying the default is given by the Company to the Contractor; or
- (b) if the Contractor has failed to comply with any material provision of the Key Legislation, and, in the event of a failure that is capable of being corrected, the Contractor has not promptly taken all reasonable steps to correct that non-compliance.

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11.2 **Termination on Expiry of Licence.** If the Licence expires or is cancelled or surrendered, this Contract may be terminated by either the Company or the Contractor without liability to the other party.

11.3 **Termination on Bankruptcy.** This Contract will be deemed to terminate immediately, without liability to the Company, upon the Contractor becoming insolvent or upon the Contractor's dissolution, general assignment for the benefit of creditors, appointment of a receiver or the filing of any petition or assignment in bankruptcy.

11.4 **No Bankruptcy Assets.** The parties hereby acknowledge and agree that none of the Work, the timber harvested by the Contractor or this Contract will be an asset of the Contractor in the event of the bankruptcy of the Contractor.

11.5 **Effect of Termination.** If this Contract terminates for any reason, including expiry, whether under this Part or otherwise:

- (a) all rights and privileges of the Contractor hereunder will cease except the Contractor's rights under subparagraphs (d) and (e) and the Contractor's right to be on an Operating Area to remove items in accordance with Paragraph 11.6;
- (b) the Contractor will immediately cease performing the Work;
- (c) the Company will be deemed to be in possession of all the Work performed under this Contract, including all of the products, including felled timber and logs, produced from that Work;
- (d) the Contractor will be entitled to payment for the Work for log volumes actually produced and delivered to the applicable Point of Delivery before the termination, less any amounts set off by the Company for monies owing to the Company by the Contractor;
- (e) the Contractor will be entitled to payment for the Work for log volumes produced before the termination but not delivered to the applicable Point of Delivery, only when such logs are delivered to the applicable Point of Delivery and only to the extent that such payment exceeds the cost to the Company of completing the Work in respect of such log volumes and obtaining delivery to the Company; and
- (f) without limiting Paragraph 13.3, the Company will not be liable to the Contractor for any consequential, direct or indirect damages of any kind under this Contract in respect of such termination, howsoever caused and whether arising in contract, tort (including negligence) or otherwise, whether as a result of a loss by the Contractor of present or prospective profits, expenditures, investments, or commitments made in connection with this Contract, or on account of any other reason or cause.

11.6 **Removal of Machinery, Equipment, Supplies, Buildings, Structures or Improvements.** If this Contract terminates for any reason, including expiry, the Contractor will remove its machinery, equipment, supplies, buildings, structures and improvements no later than the 20th Business Day following the day of receipt of notice from the Company to do so, or such earlier date specified in the notice for reasons of health, safety or environmental protection, and if not removed within that period, the Company may, without liability to the Contractor for loss, damage or compensation, either:

- (a) take, keep or use the Contractor's machinery, equipment, supplies or any buildings, structures or improvements as its own property; or
- (b) dismantle, if required, the Contractor's buildings, structures and improvements and deal with and dispose of them and any machinery, equipment and supplies in such manner as it may, in its absolute discretion, determine and the Contractor will reimburse the Company immediately on receipt of demand for all direct and indirect costs and expenses incurred by the Company in excess of any monies realized by the Company in such disposition.

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PART 12 CONTRACT REPLACEMENT

12.1 **Replacement Contract.** Provided that the Contractor has satisfactorily performed the Contractor's obligations under this Contract, and subject to the Contractor continuing to do so, the Company will, at least 3 months before the expiry of this Contract, offer the Contractor a replacement contract that:

- (a) commences on or before the expiry of this Contract;
- (b) except as otherwise provided in subparagraph (c) and in the Regulation, has substantially the same terms and conditions as this Contract; and
- (c) provides for payment to the Contractor for Work at rates to be agreed upon by the parties, or failing agreement, determined by the method of dispute resolution provided for in the contract.

12.2 **Acceptance of Replacement Contract.** An offer under Paragraph 12.1 will be open for acceptance for a period of 20 Business Days and, if not accepted by the Contractor by giving notice of acceptance to the Company within such period, will terminate at the end of the 20th Business Day after which the offer is made.

12.3 **Repeal or Amendment of Regulation.** If the Regulation is repealed or amended to eliminate or vary the requirement that a provision be contained in this Contract, this Contract will be deemed to be amended to delete or vary the provision as contemplated by the Regulation.

PART 13 INDEMNITY

13.1 **Indemnity.** Subject to Paragraph 13.2, the Contractor will indemnify and save harmless the Company, its directors, officers, employees, servants and agents from and against any and all claims, demands, actions, causes of action, damages, losses, settlements, costs, expenses, lawsuits, administrative sanctions (including orders under *Will/Pro Act* s.27(1)(d)), remediation orders, tickets, penalties or fines that the Company, its directors, officers, employees, servants or agents may sustain, incur or be subject to, including legal costs on a solicitor and own client basis, arising out of, whether directly or indirectly:

- (a) the failure of the Contractor, or any member of the Contractor's Workforce, to comply fully with any term, condition, representation or warranty in this Contract; or
- (b) the carrying out of the obligations of the Contractor under this Contract or any matter or thing done, permitted or omitted to be done by the Contractor or any member of the Contractor's Workforce.

13.2 **Contributory Negligence.** To the extent that a penalty, fine or other sanction or order referred to in Paragraph 13.1 is, in part, a result of prior actions of the Company or a contractor of the Company other than the Contractor or persons in that other contractor's workforce, the Contractor's liability under that Paragraph will be limited to a reasonable proportionate share of such liability.

13.3 **No Consequential Damages.** The Company will not be liable to the Contractor for any consequential damages of any kind under this Contract, howsoever caused and whether arising in contract, tort (including negligence) or otherwise, and whether as a result of a loss by the Contractor of present or prospective profits, expenditures, investments, or commitments made in connection with this Contract, or on account of any other reason or cause.

13.4 **Survival.** This Part and Paragraphs 8.8 to 8.16 survive the expiry or earlier termination of this Contract.

PART 14 INSURANCE

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14.1 Insurance Coverage. The Contractor will, as of the commencement of the Term, obtain and, thereafter throughout the Term, maintain Insurance:

(a) that:

- (i) is on terms and with insurers satisfactory to the Company;
- (ii) except for statutory motor vehicle insurance, names the Company as an additional insured;
- (iii) is primary and does not require the sharing of any loss by any insurer of the Company;
- (iv) includes a waiver of subrogation by the insurer as against the Company and its officers, directors, employees and agents; and
- (v) is endorsed to require at least 30 days' prior notice from the insurer to the Company of alteration, cancellation or expiration;

(b) that will protect the Company and its directors, officers, employees, agents and contractors and subcontractors not within the Contractor's Workforce from claims that may arise directly or indirectly out of the operations of the Contractor and the Contractor's Workforce in respect of this Contract, the Work and the operations pertaining thereto; and

(c) that includes the following coverage to not less than each relevant minimum limit specified in Paragraph 14.2 on a per occurrence basis:

(i) Comprehensive General Liability covering liability for all bodily injury, death, property damage and property loss, and which will include, but not be limited to:

- (A) products and completed operations liability;
- (B) owner's and contractor's protective liability;
- (C) blanket contractual liability covering the Contractor's liability under this Agreement and any other agreement with the Company, including every indemnity provided by the Contractor hereunder or thereunder;
- (D) contingent employer's liability and contingent liability in respect of the Contractor's subcontractors;
- (E) personal injury liability;
- (F) non-owned automobile liability;
- (G) cross liability;
- (H) employees as additional insureds arising out of their duties as employees;
- (I) broad form property damage;
- (J) forest fire fighting expense;
- (K) fire suppression liability, including contractual liability;
- (L) first aid malpractice;
- (M) unlicensed and specially licensed vehicles;
- (N) attached machinery liability;
- (O) occurrence property damage;
- (P) any premises or property of the Contractor including unlicensed motor vehicles or provisionally licensed motor vehicles while operating off the public highway, and all operations of the Contractor;
- (Q) liability for watercraft and aircraft that is owned, leased, used, operated, chartered or otherwise engaged by the Contractor in the performance of the Work or any operations related thereto; and
- (R) blasting liability, if blasting is part of the Work;

(ii) Statutory Motor Vehicle Liability Insurance on all motor vehicles and licensed equipment owned, operated by or for or leased or licensed in the name of the Contractor and used under this Agreement, including, without limitation, all provisionally licensed motor vehicles while operating on a public highway and all all-terrain vehicles, whether licensed or not;

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- (iii) Environmental Impairment Insurance covering losses caused by pollution conditions including, without limitation, Release of Pollutants, that arise from the operations of the Contractor, and including coverage for bodily injury, including death; loss of or damage to property, including loss of use of damaged property or of property that has not been physically injured; cleanup costs; and costs and expenses incurred in the investigation, defence, or settlement of claims, and not subject to limitation based on a reporting period; and
- (iv) Aviation Insurance covering physical damage to aircraft that is owned, leased or non-owned and non-leased and used, operated, chartered or otherwise engaged by the Contractor in the performance of the Work or any operations related thereto.

14.2 Minimum Limits. For the purposes of the reference to minimum limits of insurance in Paragraph 14.1(c), the minimum limits are:

- (a) for Comprehensive General Liability Insurance, except forest fire fighting expense, \$5,000,000;
- (b) for forest fire fighting expense insurance: \$1,000,000;
- (c) for Statutory Motor Vehicle Liability Insurance, \$5,000,000;
- (d) for Environmental Impairment Insurance, \$1,000,000; and
- (e) for Aviation Insurance, \$5,000,000.

14.3 Certificates and Policies: The Contractor will, at the request of the Company, provide to the Company as of the commencement of the Term and at such times thereafter as the Company may reasonably request:

- (a) a certified copy of each policy required under this Part; or
- (b) a certificate of insurance in a form satisfactory to the Company, evidencing the coverage required by this Part; signed by the Contractor and certified by the insurer.

14.4 Increase in Minimum Limits. The Company may, by notice to the Contractor given reasonably in advance, require that the limits of insurance specified in Paragraph 14.2 be increased by a reasonable amount, and, on receipt of such notice, the Contractor will obtain the additional coverage and provide to the Company evidence of the additional coverage in accordance with Paragraph 14.3.

PART 15 RESOLUTION OF DISPUTES

15.1 Application to Disputes. All disputes between the parties arising out of or in connection with this Contract (in this Part, called a "Dispute") will be dealt with in accordance with this Part, except:

- (a) a Dispute in respect of the Amount of Work, which will be resolved in accordance with Division 3 of Part 5 of the Regulation; and
- (b) as otherwise specified in this Part.

15.2 Informal Resolution. If a Dispute, other than a rate determination referred to in Paragraph 3.4 or 8.2, arises between the parties, and one party gives notice to the other party that a Dispute exists, describing in the notice the nature of the Dispute, the parties will endeavour to resolve the Dispute informally and as between them by amicable negotiations involving their duly authorized representatives, including personnel with decision making authority regarding the Dispute, and, to do so, will provide frank, candid and timely disclosure of all relevant facts, information and documents to facilitate those negotiations.

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15.3 Mediation and Arbitration. All Disputes that arise between the Contractor and the Company under or in connection with this Contract will be referred to mediation and, if not resolved through mediation, will be referred to arbitration in accordance with the dispute resolution systems established in the Regulation, except that:

- (a) if there is a conflict between sections 6(2) or (3) of the Regulation and this Part, this Part governs to the extent of the conflict;
- (b) sections 8(1) to (7) and 25(5)(a) and (b) of the Regulation do not apply; and
- (c) the reference in section 25(e) of the Regulation to "paragraph (b)" is deemed to be a reference to Paragraph 15.5(b) of this Contract and a reference in section 25(f) of the Regulation to "paragraph (e)" is deemed to be a reference to that paragraph (e) as modified by this subparagraph.

15.4 Notice of Mediation for Non-Rate Disputes. If a Dispute that is subject to Paragraph 15.2 is not resolved within 14 days after the notice referred to in that Paragraph is given, either party may give notice to the other party requiring that the Dispute be referred to mediation, provided that the notice under this Paragraph must be given within 28 days after the notice referred to in Paragraph 15.2 is given and, if a notice is not given in accordance with this Paragraph, the Dispute is deemed to be terminated and not subject to further dispute resolution under this Part or otherwise.

15.5 Appointment of Mediator. If:

- (a) a notice is given under Paragraph 15.4, a single mediator will be appointed by agreement of the parties or, if they do not do so agree within 14 days of that notice being given, either party may, within 28 days of that notice being given, ask the British Columbia International Commercial Arbitration Centre (the "BCIAC") to appoint a single mediator (other than a person who is a registered mediator under the Regulation), and if a party makes such request, it will, on the same date it makes the request, deliver to the other party by notice a copy of that request; or
- (b) if a rate Dispute is deemed to exist under section 25(4) of the Regulation, and the parties have not agreed on the mediator within 7 days of the rate Dispute being deemed to exist, either party may, within 14 days of the rate Dispute being so deemed to exist, ask the BCIAC to appoint a single mediator (other than a person who is a registered mediator under the Regulation), and if a party makes such request to the BCIAC, it will, on the same date it makes the request, deliver to the other party by notice a copy of that request,

and, if the parties do not agree on a mediator or a party does not ask the BCIAC to appoint a mediator in accordance with this Paragraph, the Dispute is deemed to be terminated and not subject to further dispute resolution under this Part or otherwise and, if the Dispute is a rate Dispute, the rate that, as between the parties, is the rate most recently offered or proposed by a party in accordance with this Contract is deemed to be the applicable Rate.

15.6 Participation in Mediation. The parties will participate in good faith in the mediation before a mediator appointed under Paragraph 15.5

15.7 Notice of Arbitration for Non-Rate Dispute Not Resolved by Mediation. If a Dispute subject to a notice of mediation given under and in accordance with Paragraph 15.4 is not resolved by mediation within 14 days of a mediator being agreed upon by the parties or appointed under Paragraph 15.5(a), or upon earlier written notice by the mediator to the parties that the Dispute is not likely to be resolved through mediation:

- (a) either party may, within 28 days of the mediator having been agreed upon or appointed as aforesaid, commence arbitration proceedings by giving a notice of arbitration setting out a description of the dispute to the other party; and
- (b) if a notice is not given in accordance with subparagraph (a), the Dispute is deemed to be terminated and not subject to further dispute resolution under this Part or otherwise.

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15.8 Appointment of Arbitrator for Non-Rate Disputes. If a notice is given under Paragraph 15.7, a single arbitrator will be appointed by agreement of the parties or, if they do not so agree within 14 days of that notice being given, either party may, within 28 days of that notice being given, ask the BCICAC to appoint a single arbitrator (other than a person who is a registered arbitrator under the Regulation) and:

(a) If a party makes such request to the BCICAC, it will, on the same date it makes the request, deliver to the other party by notice a copy of that request; and

(b) If the parties do not agree on an arbitrator or a party does not ask the BCICAC to appoint an arbitrator in accordance with this Paragraph, the Dispute is deemed to be terminated and not subject to further dispute resolution under this Part or otherwise.

15.9 Arbitration Procedure. Subject to this Part, all arbitrations under this Contract will be conducted in accordance with the *Arbitration Act* and the *Domestic Commercial Arbitration Shorter Rules of Procedure* of the BCICAC.

15.10 Location of Arbitration. All arbitrations under this Contract will take place at Terrace, British Columbia.

15.11 Participation in Arbitration. The parties irrevocably submit to arbitration pursuant to this Part and each party will make every reasonable effort to ensure the arbitration process is conducted as speedily and inexpensively as possible.

PART 16 ASSIGNMENT AND SUBCONTRACTING

16.1 Right of First Refusal. Before the Contractor invites, makes or accepts an offer or counter-offer to sell and assign this Contract, or any of its rights or interests under this Contract, to a person other than the Company (a "Third Party"):

(a) the Contractor will:

- (i) give notice to the Company that, subject to this Part, it intends to do so; and
- (ii) include with such notice a copy of any such invitation, offer or counter-offer, if any, that the Contractor has made or intends to make to or received from the Third Party;

16.2 Assignment. If the Contractor has entered into a legally binding, written agreement with a Third Party in accordance with Paragraph 16.1, the Contractor may assign this Contract, or any of its rights or interest under this Contract, in accordance with that agreement, provided that the Contractor first:

- (a) gives a notice to the Company that requests the consent of the Company and describes the intended assignee; and
- (b) obtains the written consent of the Company.

16.3 Consent of Company. The Company will not unreasonably withhold its consent to any assignment proposed by the Contractor in accordance with Paragraph 16.2.

16.4 Grounds for Withholding Consent. Without limiting the circumstances in which Company may reasonably withhold its consent to an assignment referred to in Paragraph 16.3, the Company will be deemed to reasonably withhold its consent if the assignee:

- (a) already has a contract with the Company;
- (b) has previously had a contract with the Company that the Company terminated for default;

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(c) does not have the skills, experience, equipment or financial capability to carry out the Contractor's obligations under this Contract;

(d) has a record of non-compliance in respect of the Key Legislation that is out of the ordinary course of business for contractors engaged in the type of work required under this Contract; or

(e) is or has been subject to any of the matters or committed any of the acts referred to in Paragraph 11.3.

16.5 Other Transfers. Except as provided in Paragraph 16.2, the Contractor will not at any time assign, mortgage, pledge, transfer, encumber or otherwise grant security over any of its rights or interest under this Contract, except:

(a) the right to receive payments for Work completed in accordance with this Contract; or

(b) with the prior written consent of the Company.

16.6 Company Approval of Subcontractors. The Contractor will not subcontract, or otherwise permit the performance of, any part of the Work by any person other than the Contractor's employees (for the purposes of this Part, a "Subcontract") without the prior written approval of the Company, which approval the Company will not unreasonably withhold.

16.7 Continuing Obligations. No assignment, mortgage, pledge, transfer, encumbering or other granting of security by the Contractor of or over its rights or interest under this Contract, nor any consent by the Company to any such action or to a Subcontract, will release the Contractor from any of its obligations under this Contract, whether arising before or after such action, unless the Company has executed and delivered to the Contractor an express written release of such obligations.

16.8 Change in Control. If the Contractor is a corporation or partnership, any event or transaction by which effective management control or voting control of the Contractor changes or will change from one person or group of persons to another person or group of persons will be deemed, for the purposes of Paragraph 16.2, to be an assignment by the Contractor of this Contract or its rights and interest under this Contract.

16.9 Conditions. The Contractor will comply with all conditions to a consent given by the Company under this Part and will:

(a) deliver to the Company, together with its request for consent, a copy of any agreement or instrument by which an assignment, Subcontract or change in control referred to in this Part has occurred or will occur;

(b) only enter into a Subcontract on terms and conditions expressly approved by the Company; and

(c) deliver to the Company, together with its request for consent, reasonable information requested by the Company regarding the experience, training, financial capacity and suitability of any proposed assignee, Subcontractor or person acquiring control of the Contractor.

16.10 Copy of Subcontracts Consented to. The Contractor, upon request of the Company, will provide to the Company a copy of each Subcontract the Company consents to under this Part.

PART 17

TRANSFER, SUBDIVISION AND CONSOLIDATION OF THE LICENCE

17.1 Licence Transfer. If the Company transfers the Licence, the Company will require as a condition of the transfer of the Licence that the transferee of the Licence either:

(a) assume the Company's obligations under this Contract; or

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- (b) offer a new contract to the Contractor on substantially the same terms and conditions as this Contract.

17.2 Licence Subdivision. If the Licence to which this Contract pertains is amended such that the harvesting rights granted under that Licence are granted under two or more licences, and the Contractor's rights under this Contract are affected by the amendment, the Company will offer the Contractor one or more contracts that:

- (a) commence on the date of amendment;
- (b) terminate and replace this Contract;
- (c) pertain to one or more licences that arise from the subdivision;
- (d) specify an amount of work that, in aggregate with all contracts offered to the Contractor under this Paragraph, is equivalent to the Amount of Work; and
- (e) except as otherwise provided in this Paragraph, are on substantially the same terms and conditions as this Contract.

17.3 Licence Consolidation. If the Licence, together with one or more other licences held by the Company, are replaced with a single licence, the Company will offer the Contractor a contract that:

- (a) commences on the date of replacement;
- (b) terminates and replaces this Contract;
- (c) pertains to the licence that arises from the replacement;
- (d) subject to subparagraphs (e) and (f), specifies an amount of work equal to:

$$N \times (O + P)$$

where:

- (i) N = the Amount of Work specified in this Contract;
- (ii) O = the allowable annual out of the Licence; and
- (iii) P = the allowable annual out of the replacement licence;

- (e) specifies the same Amount of Work as this Contract if this Contract specifies the Amount of Work as a fixed amount or a percentage;
- (f) specifies the equivalent Amount of Work as this Contract if this Contract specifies that Amount of Work in a manner other than as a fixed amount or a percentage; and
- (g) except as otherwise provided in this section, is on substantially the same terms and conditions as this Contract.

PART 18 GENERAL PROVISIONS

18.1 No Implied Waiver. The failure of either party at any time to require performance by the other party of any provision under this Contract will not affect in any way the right to require such performance at any later time nor will the waiver by either party of a breach of any provision under this Contract be taken and held to be a waiver of such provision at any later time.

Replaceable Coast Stump to Dump Timber Harvesting Contract (Five Year)
Made as of January 1, 2015

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18.2 Status of Contractor and Relationship of Parties. The Contractor is an independent contractor and the Contractor and the Company expressly disclaim any intention to create, and nothing in this Contract may be construed as creating, an agency, except as expressly provided in this Contract, partnership, joint venture, contract of employment or joint and several liability between the Parties.

18.3 Notices. Every notice, demand, consent, request or direction (each, for the purposes of this section, a "notice") required or permitted under this Contract by either party to the other will be:

- (a) in writing;
- (b) given by one of the following means:
 - (i) delivered by hand;
 - (ii) sent by facsimile transmission; or
 - (iii) sent by registered or certified mail postage prepaid and mailed in any government post office in British Columbia;
- (c) sent or delivered to:
 - (i) the address of the applicable recipient or the facsimile number set out in the descriptions of the parties on the first page of this Contract; or
 - (ii) such other address or facsimile number in British Columbia as is specified by the particular party by notice to the other; and
- (d) deemed to be given and received:
 - (i) if delivered by hand, on the date of actual delivery;
 - (ii) if sent by facsimile transmission, on the Business Day following the day the sender receives the facsimile upon confirmation of receipt by telephone call from the party giving the notice to the party receiving the notice to the telephone number of the party set out in the descriptions of the parties on the first page of this Contract or, if not confirmed by telephone, 72 hours after the time of sending, provided that the sender has evidence that the notice was received by the facsimile machine of the party to whom the notice was sent; or
 - (iii) if mailed, on the earlier of the day of receipt and the fifth day after the day of mailing, provided that, if a notice is sent by mail and mail service between the point of mailing and the destination is interrupted by strike, slowdown, force majeure or other cause within seven days before or after the time of mailing, the notice will not be deemed to be received until actually received, and the party sending the notice will use another service which has not been so interrupted or will deliver the notice in order to ensure prompt receipt.

18.4 Authority and Binding Agreement. The Company represents and warrants to the Contractor and the Contractor represents and warrants to the Company that:

- (a) it has the power and authority to enter into this Contract and to make and fulfill its promises, covenants, representations, warranties and agreements set out in this Contract; and
- (b) this Contract is a legal, valid and binding obligation on it.

18.5 Execution. This Contract:

- (a) may be executed in any number of counterparts, each of which will together, for all purposes, constitute one and the same instrument binding on all the parties, and each of which will together be deemed to be an original, notwithstanding that all of the parties are not signatory to the same counterpart; and

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- (b) is properly executed and delivered if executed by the parties in counterparts and executed copies exchanged by the parties by facsimile.

18.6 Further Assurances. Each party will, on the reasonable request of the other party, make, do, execute or cause to be made, done or executed all further and other lawful acts, deeds, things, devices, documents, instruments and assurances for the better and more perfect and absolute performance of the terms and conditions of this Contract.

18.7 Confidentiality. The Contractor will, and to the extent this Contract is revealed to a member of the Contractor's Workforce or an external advisor, will require that member of the Contractor's Workforce or that external advisor to, keep all terms and conditions of this Contract, including Rates, confidential unless, but only to the extent:

- (a) disclosure is required by law or by order of a court or administrative tribunal of competent jurisdiction or is to an arbitrator in an arbitration under this Contract;
- (b) the Company gives its prior written consent to the disclosure;
- (c) the Contractor must disclose this Contract to a financial institution to obtain financing to perform the Work and that institution agrees with the Company to keep such disclosed information confidential; or
- (d) the Company has disclosed this Contract to the public.

18.8 Enurement. Subject to Paragraph 18.9, this Contract will enure to the benefit of and be binding on the Company and its successors and assigns and the Contractor and its permitted successors and assigns.

18.9 Non-Corporate Contractors. The heirs, executors and administrators of a deceased Contractor will be entitled to the benefit of this Contract only to the extent of receiving payment of amounts, after all applicable deductions, to which the Contractor would have been entitled under this Contract up to the date of the Contractor's death whereupon this Contract will terminate.

END OF GENERAL TERMS AND CONDITIONS

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CONTRACT NO.: TERTI-15-00

Schedule "B"
to
Replaceable Coast
Stump to Dump Timber Harvesting Contract
(Five Year)
between Skeena Sawmills Ltd. and Terrace Timber Ltd.
made as of January 1, 2015

LOG QUALITY SPECIFICATIONS