

**DECLARATION OF TRUST
SETTING OUT THE TERMS AND CONDITIONS OF THE
2011 CONTRACTOR MITIGATION ACCOUNT SUBTRUST,
BEING A SUBTRUST OF THE
BC FORESTRY REVITALIZATION TRUST II**

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2011 CONTRACTOR MITIGATION ACCOUNT SUBTRUST

This Declaration of Subtrust is dated for reference as of JANUARY 3, 2012.

BY:

ERIC VAN SOEREN, in his capacity as the sole holder of the office of Trustee of the **BC Forestry Revitalization Trust II** (hereinafter referred to as the “**2008 Trust**”), being a trust established on February 28, 2008

(hereinafter in his capacity as the trustee of the 2008 Trust referred to as the “**2008 Trustee**”)

BACKGROUND

Section 11.07 of the Declaration of Trust (hereinafter referred to as the “**2008 Trust Document**”) that created the 2008 Trust authorizes the 2008 Trustee to create a new trust and to transfer all the property of the 2008 Trust to that new trust, provided that such new trust meets the criteria set out in section 11.07 of the 2008 Trust Document.

The Minister has approved the terms and conditions set out in this Declaration and the Minister and the 2008 Trustee agree that those terms and conditions are consistent with the purpose set out in section 2.01 of the 2008 Trust Document.

In light of the above, the 2008 Trustee hereby signs this Declaration for the purpose of establishing the new trust described in this Declaration, which new trust is being established as a subtrust of the 2008 Trust.

PART 1 – ESTABLISHMENT OF SUBTRUST

1.01 CREATION OF SUBTRUST

- (1) The 2008 Trustee hereby declares that the 2008 Trustee henceforth holds all funds (hereinafter referred to as the “**2011 Property**”) of the 2008 Trust as property of the subtrust (hereinafter referred to as the “**Subtrust**”) set out in this Declaration and holds such property subject to the powers and provisions contained in this Declaration. As such, the 2008 Trustee is now the Trustee of this Subtrust.
- (2) The Trustee shall hold the 2011 Property and all other Trust Property in trust pursuant to the trusts described in this Declaration and subject to the powers and provisions contained in this Declaration and, to the extent not inconsistent with the provisions of this Declaration, the trusts described in the 2008 Trust Document.
- (3) The trusts established by this Declaration shall be considered to be a subtrust of the 2008 Trust and a continuation of the 2008 Trust.

PART 2 -- PURPOSE OF THE SUBTRUST

2.01 STATEMENT OF THE PURPOSE OF THE SUBTRUST

The purpose (hereinafter referred to as the “**Trust Purpose**”) of the Subtrust is to mitigate adverse financial impacts suffered as a result of any Eligible Income Tax assessed or reassessed against any Eligible Taxpayer in respect of any amount (hereinafter referred to as a “**FRT Contractor Mitigation Amount**”) received by an Eligible Contractor as a distribution out of

- (a) the contractor mitigation account established under the 2008 Trust (other than any distribution received under the terms of this Subtrust); or
- (b) the contractor mitigation account established under the BC Forestry Revitalization Trust (hereinafter referred to as the “**2003 Trust**”), which trust was established by a Deed of Trust (hereinafter referred to as the “**2003 Trust Document**”) dated March 31, 2003.

2.02 ELIGIBLE INCOME TAX

(1) **Eligible Income Tax** in respect of an Eligible Taxpayer means

- (a) Canadian federal income tax assessed or reassessed under Part I of the Income Tax Act (Canada) in respect of that Eligible Taxpayer, whether paid or unpaid; and
- (b) British Columbia provincial income tax assessed or reassessed under the Income Tax Act (British Columbia) in respect of that Eligible Taxpayer, whether paid or unpaid;

but, subject to sections 2.02(2) and 2.02(3), does not include any penalties or interest assessed or reassessed under either such statute or in respect of any such tax.

- (2) This section 2.02(2) applies if the Province or any other contributor contributes additional funds (hereinafter referred to as the “**Additional Funds**”) to the Subtrust and expressly provides that all or any portion of the Additional Funds may be used to mitigate adverse financial impacts suffered by Eligible Taxpayers in respect of interest or penalties (or both interest and penalties) payable in respect of any Eligible Income Tax (as defined in section 2.02(1), if read without reference to this section 2.02(2) and without reference to section 2.02(3)).
- (3) To the extent that section 2.02(2) applies in respect of any Additional Funds, the following rules shall apply in respect of those Additional Funds, distributions out of those Additional Funds and, unless otherwise directed by the contributor of those Additional Funds, any income earned in respect of those Additional Funds and any distributions made out of any such income.
 - (a) The definition of Eligible Income Tax shall be extended to include penalties or

interest (or both penalties and interest) to the extent specified in writing by the contributor of the Additional Funds at or before the time of the contribution of those Additional Funds. For this purpose, the contributor may place restrictions on the extent to which distributions out of those Additional Funds may be made in respect of penalties or interest.

- (b) The Trustee shall keep separate accounts of those Additional Funds and of distributions out of those Additional Funds.
- (4) Eligible Income Tax in respect of a FRT Contractor Mitigation Amount shall be determined on the basis of the original income tax return filed by an Eligible Taxpayer in respect of the year in which that FRT Contractor Mitigation Amount first became received or receivable by an Eligible Contractor, including any subsequent refilings, amendments or adjustments but shall include subsequent refilings, amendments or adjustments made by an Eligible Taxpayer on or after August 16, 2011 only to the extent that such subsequent refilings, amendments or adjustments have the effect of reducing the amount of Eligible Income Tax that would otherwise be determined in respect of that FRT Contractor Mitigation Amount and that Eligible Taxpayer.
- (5) Eligible Income Tax does not include any income tax paid by a person other than an Eligible Contractor except in circumstances described in subsections (2), (3) or (4) of section 2.04. For the purpose of illustrating the foregoing principle, Eligible Income Tax does not include any income tax paid by
 - (a) a shareholder of a corporate Eligible Contractor in respect of a dividend or other distribution of profit by that corporate Eligible Contractor; or
 - (b) an employee of an Eligible Contractor on salary or wages (including bonuses) paid by that Eligible Contractor.

2.03 ELIGIBLE CONTRACTOR

A person is an **Eligible Contractor** if the person

- (a) was an “Eligible Person” as defined in the 2003 Trust Document or the 2008 Trust Document; and
- (b) has received a FRT Contractor Mitigation Amount.

2.04 ELIGIBLE TAXPAYER

- (1) A person is an **Eligible Taxpayer** if the person has either
 - (a) paid Eligible Income Tax; or
 - (b) been assessed or reassessed by the Canada Revenue Agency in respect of Eligible Income Tax that remains unpaid;

in respect of a FRT Contractor Mitigation Amount received by an Eligible Contractor.

- (2) If an Eligible Contractor is a partnership, a partner of the partnership may be an Eligible Taxpayer in respect of Eligible Income Tax paid, assessed or reassessed against that partner in respect of that partner's share of any FRT Contractor Mitigation Amount received by the Eligible Contractor.
- (3) If a deceased individual was, when living, an "Eligible Person" as defined in the 2003 Trust Document or the 2008 Trust Document and
 - (a) any one of the deceased individual, the executor or other personal representative of the deceased individual (in that personal representative's capacity as such) or a beneficiary of the estate of the deceased individual has received a FRT Contractor Mitigation Amount; and
 - (b) Any one of the deceased individual, the personal representative or the beneficiary has either
 - (i) paid Eligible Income Tax; or
 - (ii) been assessed or reassessed by the **Canada Revenue Agency** in respect of Eligible Income Tax that remains unpaid;

in respect of that FRT Contractor Mitigation Amount so received;

the personal representative or beneficiary of the deceased individual may be an Eligible Taxpayer.

- (4) If an Eligible Contractor is the executor of an estate or the trustee of a trust, the following persons may be an Eligible Taxpayer in respect of a FRT Contractor Mitigation Amount received by the executor or trustee in such capacity.
 - (a) The executor or trustee, to the extent that the executor or trustee paid tax in respect of the FRT Contractor Mitigation Amount.
 - (b) A beneficiary of the estate or trust, to the extent that the beneficiary can reasonably be considered to have paid tax in respect of an amount distributed to the beneficiary and arising out of a FRT Contractor Mitigation Amount.
- (5) Subject to subsections (2), (3) and (4) of this section 2.04, only an Eligible Contractor may be an Eligible Taxpayer.

PART 3 – ACCOUNTS

3.01 SUBTRUST TO CONSIST OF A SINGLE ACCOUNT

- (1) Subject to section 2.02(3)(b), the Subtrust shall consist of a single account known as the **2011 Contractor Mitigation Account**.

- (2) All amounts in the accounts of the 2008 Trust, as they existed immediately prior to the creation of the Subtrust, shall be contributed to the 2011 Contractor Mitigation Account.

PART 4 – DISTRIBUTIONS

4.01 DISTRIBUTIONS

- (1) Subject to the provisions of this Declaration, and subject at all times to the furtherance of the Trust Purpose, the Trustee may, at any time prior to the Termination Date, deal as follows with the income and capital of the 2011 Contractor Mitigation Account.
- (a) The Trustee may pay or distribute, at any time and from time to time prior to the Termination Date, so much of the income of the 2011 Contractor Mitigation Account in furtherance of the Trust Purpose as the Trustee from time to time determines, provided that such payment or distribution is likely to be of benefit to one or more Eligible Taxpayers.
 - (b) The Trustee may pay or distribute, at any time and from time to time prior to the Termination Date, so much of the capital of the 2011 Contractor Mitigation Account in furtherance of the Trust Purpose as the Trustee from time to time determines (even if the effect of such payment or distribution is to completely deplete the capital of the 2011 Contractor Mitigation Account), provided that such payment or distribution is likely to be of benefit to one or more Eligible Taxpayers.
 - (c) The Trustee may pay Administrative Expenses of the Subtrust out of the income or capital of the 2011 Contractor Mitigation Account. For this purpose, an Administrative Expense is any expenditure that constitutes neither a distribution from the Subtrust nor a contribution to another trust.
 - (i) Without limiting the generality of the foregoing, Administrative Expenses include remuneration paid to the Trustee, reimbursed expenses of members of the Advisory Board, amounts paid to third parties for services rendered to the Trustee and federal goods and services tax and any other Tax payable in respect of services rendered to the Trustee.
 - (ii) Administrative Expenses of the Subtrust shall be deemed to include any administrative expense or other liability of the 2008 Trust. For this purpose, the Subtrust shall be considered to be a continuation of the 2008 Trust.
- (2) Without limiting the generality of section 4.01(1), the following rules apply.
- (a) A payment made to the Canada Revenue Agency in respect of Eligible Income Tax paid by an Eligible Taxpayer in respect of a FRT Contractor Mitigation Amount shall be considered to be of benefit to that Eligible Taxpayer.
 - (b) To the extent that the Trustee is satisfied that an Eligible Taxpayer has paid to the

Canada Revenue Agency an amount on account of Eligible Income Tax in respect of a FRT Contractor Mitigation Amount, the Trustee may reimburse that Eligible Taxpayer in whole or in part for such amount and such reimbursement shall be considered to be of benefit to that Eligible Taxpayer.

4.02 GENERAL RULES REGARDING DISTRIBUTIONS

- (1) The Trustee may make a payment or distribution out of the 2011 Contractor Mitigation Account to or for the benefit of an Eligible Taxpayer only in the following circumstances.
 - (a) The Trustee must have determined that the making of such payment or distribution would further the Trust Purpose.
 - (b) The payment or distribution is likely to be of benefit to one or more Eligible Taxpayers.
 - (c) The payment or distribution must not be inconsistent with any Advisory Board guidelines or recommendations that are then in effect.
- (2) For purposes of this Declaration, a payment or distribution will not be considered to be inconsistent with guidelines or recommendations of the Advisory Board merely because there are no applicable Advisory Board guidelines or recommendations then in effect.
- (3) When the Advisory Board makes a guideline or recommendation in respect of any matter, the Trustee need not accept that guideline or recommendation but may instead remit the matter back to the Advisory Board for reconsideration if the Trustee considers that the guideline or recommendation is inconsistent with or would not further the Trust Purpose.

4.03 DISCRETIONARY POWERS OF THE TRUSTEE PREVAIL

A person (including an Eligible Taxpayer) has no right or entitlement to receive

- (a) any amount out of the 2011 Contractor Mitigation Account ; or
- (b) any benefit from the Subtrust;

unless and until the Trustee exercises a discretion in favor of that person.

4.04 NO DISTRIBUTION TO THE PROVINCIAL CROWN

- (1) No portion of the Trust Property may be distributed to, paid to, lent to or otherwise applied in favour of or for the benefit of Her Majesty in right of the Province of British Columbia.
- (2) The following shall not be considered as a distribution, payment, loan or other application of the Trust Property in favour of or for the benefit of Her Majesty in right of the Province of British Columbia.
 - (a) The payment of any Eligible Income Tax pursuant to the provisions of this

Declaration.

- (b) The payment of any tax imposed by the Province of British Columbia.
- (c) The investment of Trust Property in marketable securities issued by the Province of British Columbia.

PART 5 – ADVISORY BOARD

5.01 ADVISORY BOARD

- (1) Part 5 of the 2008 Trust Document shall apply in respect of the Subtrust.
- (2) Subject to section 5.01(3), the advisory board established under the 2008 Trust Document shall be the Advisory Board for all purposes of the Subtrust.
- (3) The members of the Advisory Board are as set out in section 5.01(2) of the 2008 Trust Document except that Tom Jensen has replaced David Morel as the nominee of the Minister.

PART 6 – GENERAL

6.01 APPLICATION OF 2008 TRUST DOCUMENT

- (1) Parts 6 to 13 and Schedules A and B (hereinafter collectively referred to as the “**Applicable 2008 Provisions**”) of the 2008 Trust Document shall apply in respect of the Subtrust and any payment or distribution made out of the 2011 Contractor Mitigation Account, *mutatis mutandis*.
- (2) In applying any Applicable 2008 Provision to the Subtrust, the phrase *mutatis mutandis* shall include the specific modifications referred to in this Part.

6.02 FUNDING AGREEMENTS

In applying Part 6 of the 2008 Trust Document in respect of the Subtrust, each Funding Agreement entered into with an Eligible Taxpayer shall deal with the following additional matters.

- (a) The Eligible Taxpayer will agree to discontinue all notices of objection and appeals to the extent that such notices of objection and appeals relate to the taxation of a relevant FRT Contractor Mitigation Amount.
- (b) The Eligible Taxpayer will agree to accept all tax assessments or reassessments issued by the Canada Revenue Agency in respect of any relevant FRT Contractor Mitigation Amount, as determined by the Trustee after consultation with the Canada Revenue Agency.
- (c) The Eligible Taxpayer will authorize the Trustee

- (i) to make payments directly to the Canada Revenue Agency on behalf of the Eligible Taxpayer in respect of unpaid Eligible Income Tax; and
- (ii) to direct how any such payments are to be applied in respect of tax owing by the Eligible Taxpayer;

provided that any such authorization shall be subject to all laws (including any garnishment orders) that may become applicable in respect of any amount distributed to that Eligible Taxpayer.

6.03 SCOPE OF TRUSTEE DISCRETION

- (1) In applying section 7.02 of the 2008 Trust Document in respect of the Subtrust, the Trustee shall take into account the following additional factors.
 - (a) The manner in which an Eligible Taxpayer has reported or not reported the receipt of a FRT Contractor Mitigation Amount in filing an income tax return of the Eligible Taxpayer. For this purpose, the Trustee may take into account the reasonableness of any filing position adopted by the Eligible Taxpayer and any subsequent disclosure made by the Eligible Taxpayer.
 - (b) The manner in which an Eligible Contractor used a FRT Contractor Mitigation Amount and whether the use of the FRT Contractor Mitigation Amount was consistent with the purpose for which the FRT Contractor Mitigation Amount was paid.
 - (c) The manner in which an Eligible Taxpayer has generally complied with the tax obligations of that Eligible Taxpayer.
 - (d) Whether and to what extent an Eligible Taxpayer has unpaid tax liabilities relating to amounts other than FRT Contractor Mitigation Amounts.
- (2) In exercising a discretionary power, the Trustee may refuse to make a payment to or for the benefit of an Eligible Taxpayer if the Trustee believes that the Eligible Taxpayer, or the Eligible Contractor from whom the Eligible Taxpayer derived an amount in respect of which Eligible Income Tax arises, purposely failed to report the FRT Contractor Mitigation Amount or any related amount on an income tax return with the specific intention of evading the payment of tax on the FRT Contractor Mitigation Amount or the related amount.

6.04 DEFINED TERMS

- (1) In applying any Applicable 2008 Provision to the Subtrust, the following specific modifications shall apply.
 - (a) Each reference in the 2008 Trust Document to the defined term “Eligible Person” shall be read as a reference to an “Eligible Contractor” or an “Eligible Taxpayer” (as defined in this Declaration and as required by the context).

- (b) Each reference in the 2008 Trust Document to the defined term “Mitigation Account” shall be read as a reference to the 2011 Contractor Mitigation Account (as defined in this Declaration).
 - (c) Each reference in the 2008 Trust Document to the defined term “Administration Account” shall be read as a reference to the 2011 Contractor Mitigation Account (as defined in this Declaration).
 - (d) Each reference in the 2008 Trust Document to the defined term “Initial Property” shall be read as a reference to the 2011 Property (as defined in this Declaration).
- (2) To the extent that a term is defined in this Declaration for purposes of the Subtrust and the same or a similar term is defined in the 2008 Trust Document, the meaning assigned to that term in this Declaration shall prevail to the extent of any inconsistency.
 - (3) To the extent that a term is defined in the 2008 Trust Document but is not used in this Declaration, the meaning assigned to that term shall be considered to be irrelevant for purposes of interpreting this Declaration.
 - (4) The following terms have the following meanings for purposes of this Declaration and the Subtrust, unless the context otherwise requires.
 - (a) “2003 Trust” has the meaning assigned by section 2.01(b).
 - (b) “2003 Trust Document” has the meaning assigned by section 2.01(b).
 - (c) “2008 Trust” has the meaning assigned to that term on the initial page of this Declaration.
 - (d) “2008 Trust Document” has the meaning assigned to that term on the initial page of this Declaration.
 - (e) “2008 Trustee” has the meaning assigned to that term on the initial page of this Declaration.
 - (f) “2011 Contractor Mitigation Account” has the meaning assigned by section 3.01(1).
 - (g) “2011 Property” has the meaning assigned by section 1.01(1).
 - (h) “Additional Funds” has the meaning assigned by section 2.02(2).
 - (i) “Advisory Board” means the advisory board described in section 5.01.
 - (j) “Applicable 2008 Provisions” has the meaning assigned by section 6.01(1).
 - (k) “Declaration”, “herein”, “hereto”, “hereunder” and similar expressions refer to this Declaration of Subtrust (as supplemented and varied from time to time) together with all other deeds and writings which supplement or implement the

provisions of this Declaration of Subtrust or which are ancillary to the provisions of this Declaration of Subtrust.

- (l) "Eligible Contractor" has the meaning assigned by section 2.03.
- (m) "Eligible Income Tax" has the meaning assigned by section 2.02(1) as interpreted pursuant to the other provisions of section 2.02.
- (n) "Eligible Taxpayer" has the meaning assigned by section 2.04(1) as interpreted pursuant to the other provisions of section 2.04.
- (o) "FRT Contractor Mitigation Amount" has the meaning assigned by section 2.01.
- (p) "Subtrust" has the meaning assigned by section 1.01(1) and includes the trusts on which the Trustee holds the Trust Property and, where the context so requires, this Declaration itself or the Trust Property.
- (q) "Trust Property" at any time and from time to time as applied in respect of the Subtrust means the aggregate property of the Subtrust, less any amounts and property previously distributed to beneficiaries or expended in administering the Trust.
- (r) "Trust Purpose" has the meaning assigned by section 2.01.
- (s) "Trustee", at any time and from time to time, means the person who holds the Trust Property at that time upon the trusts set out in this Declaration.

BY SIGNING BELOW, Eric van Soeren acknowledges that this Declaration sets out the terms of the trusts on which the Trustee shall hold the 2011 Property pursuant to this Subtrust in trust for the beneficiaries on the terms set out in this Declaration and agrees that those terms and conditions are consistent with the purpose set out in section 2.01 of the 2008 Trust Document.

<p>SIGNED, SEALED AND DELIVERED BY Eric van Soeren in the presence of the following person.</p> <p><u>Gail Beattie</u> Signature of Witness</p> <p><u>GAIL BEATTIE</u> Print name of Witness</p> <p><u>155 WILLOWOOD CR S51 BC V8K2T9</u> Print Address of Witness</p>	<p><u>Eric van Soeren</u> (s) Eric van Soeren</p>
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BY SIGNING BELOW, the Minister on behalf of the Province approves the terms and conditions set out in this Declaration and agrees that those terms and conditions are consistent

with the purpose set out in section 2.01 of the 2008 Trust Document.

<p>SIGNED, SEALED AND DELIVERED on behalf of HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA by the Minister of Forests, Lands and Natural Resource Operations in the presence of the following person.</p> <p><u>A. H. Pellatt</u> Signature of Witness</p> <p><u>Agnes (Nan) Pellatt</u> Print name of Witness</p> <p><u>#336 550 YATES, HELOWDA</u> Print Address of Witness <u>BC V1V 1Z4</u></p>	<p><u>Steve Thomson</u> (s) The Honourable Steve Thomson, Minister of Forests Lands and Natural Resource Operations for the Province of British Columbia</p>
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JANUARY 3, 2012

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