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THE FORESTS ORDINANCE

THE FORESTS (PLANTED FORESTS) RULES, 1997

(Made under section 95 (1) (w) and (x))

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THE FORESTS ORDINANCE
THE FORESTS (PLANTED FORESTS) RULES, 1997

(Made under section 95 (1) (w) and (x))

In exercise of the powers conferred by section 95 (1) (w) *Cap. 126.* and (x) of the Forests Ordinance, the Director of Forests, with (1958 *Ed.*) the approval of the Majlis Mesyuarat Kerajaan Negeri, has made the following Rules:

PART I

GENERAL

1. These Rules may be cited as the **Forests (Planted Forests) Rules**, 1997, and shall come into force on the 1st day of March, 1997. Citation and commencement

2. In these Rules-

Interpretation.

"Director" means the Director of Forests, and includes any forest officer duly authorized by him to carry out the duties imposed upon him under these Rules;

"harvesting of timber" means the felling and removal of timber for commercial or industrial usage from a planted forest;

"harvesting plan" means the plan for harvesting of timber approved by the Director in consultation with the Minister, under rule 12(1);

"licence" means a licence issued pursuant to rule 3;

"Ordinance" means the Forests Ordinance;

Cap. 126.
(1958 Ed.).

"Register" means a Register maintained under rule 21;

"registered proprietor", in relation to alienated land, shall have the same meaning assigned to that term by the Land Code;

Cap. 81.
(1958 Ed.).

"security document" means any document evidencing the creation of an assignment, pledge, mortgage, charge over a licence or the conferment of any rights or privileges granted by the licensee on another person;

"State land" shall have the same meaning assigned to that term by the Land Code and includes land over which native customary rights are claimed, and land within a forest reserve, protected forest or communal forest constituted under the Ordinance;

Cap. 81.
(1958 Ed.).

"tree planting plan" means the plan for the planting of trees for the establishment of a planted forest, approved by the Director under rule 11(b).

PART II

LICENSING PROCEDURES AND CONDITIONS

Licence for
planted
forests.

3.--(1) No person shall establish, maintain and harvest a crop of trees on any land (whether State or alienated land) unless he has obtained from the Director, a licence in accordance with these Rules.

(2) Any person who contravenes subrule (1) shall be guilty of an offence: Penalty, a fine of twenty thousand ringgit, and in the case of a continuing offence, a further fine of one thousand ringgit for each day during which the offence continues.

Procedure for
application.

4. An application for a licence shall be made to the Director and such application shall state or provide--

(a) full particulars of the applicant;

(h) a precise description of the land on which the planted forest is to be established, including the status of such land, and if the planted forest is to be established on alienated land of which the applicant is not the registered proprietor, the application must be accompanied by a letter from the registered proprietor thereof, giving his consent to the use of the land for the planted forest;

(c) the species of trees intended to be planted;

(d) the intended usage of the trees or timber derived therefrom;

(e) a tree planting plan for approval by the Director for incorporation in the licence if the application is granted; and

(f) such other information or particulars as the Director may reasonably require for the discharge of his functions in relation to the application.

Consideration
of
application.

5.—(1) Upon receipt of the application, the Director shall consider and evaluate the same, and thereafter transmit the application including the proposed tree planting plan, with his comments, if any, to the Minister for his approval.

(2) In considering the application, the Director may require the applicant to

(a) carry out such boundary, soil or aerial survey of the land; or

(b) conduct a feasibility study of the tree planting plan, of the proposed usage of the trees to be planted, and generally, of the commercial viability of the proposed planted forest.

(3) Such survey or study, if required by the Director, shall be undertaken at the costs and expense of the applicant.

6. On receipt of the application and the comments of the Director, the Minister may approve or reject the application whether or not the Director recommends the approval or rejection thereof, and the Minister's decision thereon shall be final.

Minister's
consideration

7.—(1) If the application is approved by the Minister, the Director shall-

Issue of
licence

(a) upon payment of the annual licence fee for the first year; and

(b) upon the applicant depositing with the Director either such sum of money as may be determined by him, or security in the form acceptable to him in lieu thereof, to secure the due performance, observance and compliance of the conditions of the licence, the provisions of the Ordinance and these Rules and any other rules made pursuant to the Ordinance,

issue to the applicant a licence in the form as prescribed in the Schedule, provided always that where the land intended to be covered by the licence is subject to native customary rights, the licence shall only be issued after the requirements of rule 10(2) have been complied with.

(2) The licence shall contain the conditions stipulated in the said prescribed form and such other conditions as the Director, with the approval of the Minister, deems fit to impose.

(3) Upon the issuance of the licence, the conditions thereof shall not be varied, modified or amended without the approval of the Director.

8.—(1) A licence issued under these Rules shall be prepared in quadruplicate and serially numbered.

Copies of
licence and
number.

(2) The original copy of the licence shall be delivered by the Director to the licensee, and a duplicate thereof shall be retained by the Director to be bound up in the Register maintained under rule 21.

(3) A duplicate copy each of the licence shall be sent by the Director to the Permanent Secretary to the Ministry responsible for forestry and the Director of Lands and Surveys, Sarawak, for their record and custody.

(4) The original copy of the licence must be clearly marked or labelled as such, and the original copy shall be produced for the Director to endorse thereon the particulars of any approved transfer, assignment, pledge, charge or mortgage or conferment of interest.

9. No licence shall be issued if the area of land on which the proposed planted forest is to be established, is less than 1000 hectares.

Minimum
area of
planted forest.

State land. 10.—(1) Where a licence is issued over State land, the licensee shall have exclusive use and occupation thereof for the purpose of exercising the rights and privileges granted under the licence.

(2) Where native customary rights are claimed over any land proposed to be covered by the licence, no licence shall be issued until claims to such rights by the natives have been settled or

Cap. 81.
(1958 Ed.) extinguished in accordance with the Ordinance or the Land Code, and a document of title is issued for the land under the Land Code.

Planting of trees. 11. The planting of trees for the establishment of a planted forest pursuant to this licence shall

(a) not commence until the licensee has submitted to the Natural Resources and Environment Board an environmental impact assessment report for the establishment of the planted forest as required under the Natural Resources and

Swk, L.N.
45/94. Environment (Prescribed Activities) Order, 1994, and has obtained the Board's approval for that report; and

(b) be in accordance with the tree planting plan approved by the Director and all measures and conditions imposed by the said Board to mitigate against any damage that may be caused by the activities of the licensee on the environment.

Harvesting of timber. 12.—(1) The harvesting of timber from trees in the planted forest shall be in accordance with a harvesting plan to be approved by the Director in consultation with the Minister.

(2) The licensee shall submit the harvesting plan to the Director at least six months before the commencement of harvesting of the timber from the trees in the planted forest. The Director may impose such conditions on the harvesting plan when giving his approval thereto under subrule (1).

(3) The licensee must comply with the harvesting plan in the process of harvesting of the timber from the planted forest:

Usage of timber. 13. The timber from the planted forest shall be used only for such purpose as may be specified in the harvesting plan.

Term of licence. 14. The term of any licence issued under these Rules shall not exceed 60 years.

Extension. 15.—(1) Nothing in these Rules or in the licence shall be deemed to bind the Director to grant an extension of the term of a licence, provided always that any licensee desirous of having the term thereof extended shall, at least six months before the expiry of the licence, apply in writing to the Director for an extension thereof.

(2) The Director may extend the period of the licence for such period as the Minister may, in his absolute discretion, approve.

16. On expiry of a licence—

Expiry of
licence.

(a) where the land under the licence is State land, all trees planted and remaining thereon and all roads and buildings on such land, whether constructed by the licensee or his contractors or agents, shall become the absolute property of the State;

(b) where the land under the licence is alienated land, the planted forest thereon shall remain part of the permanent forests and the registered proprietor of such land shall not fell the trees or deal with any forest produce derived therefrom, except in accordance with such licence, permit or direction as may be issued by the Director with the approval of the Minister;

(c) all rights, interests and benefits accruing to an assignee, chargee, mortgagee or pledgee or any other person under a security document shall be deemed to have been extinguished, subject to the Director granting to any of them any extension of time that he may deem fit and proper to grant, to exercise or enjoy such rights, or any interests or benefits.

17.—(1) Subject to subrule (3), a licence issued under these Rules shall not be transferable.

Non-trans-
ferability of
licence.

(2) Where a licence is issued to a company or corporation registered under the Companies Act 1965 or to a firm registered under the Business Names Ordinance, any transfer of the controlling shares of the company or the majority interests in the firm, as the case may be, shall be deemed to be a transfer of the licence.

*Act 125.
Cap. 64.
(1958 Ed.)*

(3) The Director may, with the approval of the Minister, authorize the transfer of a licence subject to such terms and conditions as the Minister may impose in granting his approval.

18.—(1) Where a licensee is desirous to assign, pledge, mortgage or charge his licence or confer rights or privileges granted thereunder, he shall submit his application for approval thereof under section 65B(6) of the Ordinance to the Minister, through the Director.

Assignment,
pledge, etc.,
of licence.

(2) The application must be accompanied by a copy of the security document.

(3) The security document must contain all the terms and conditions pertaining to the proposed assignment, pledge, charge, mortgage or conferment of rights and privileges granted under the licence.

(4) The security document, once approved by the Minister and duly executed by the parties thereto, shall be registered by the Director in the Register.

(5) Any security document shall be registered within 90 days from the date of creation thereof or within such extended period as the Director may permit in writing. For the purpose of this subrule, the date of approval by the Minister shall be deemed to be the date of creation of the security document.

(6) No variation of the terms and conditions of the registered security document shall be made without the approval of the Minister, provided always that the period and terms of repayment of any monies secured by the security document or the rate of interest chargeable thereon may be extended, varied, modified or reduced by the parties by the execution of a Memorandum in such form as may be prescribed by the Director, and such Memorandum must also be registered in the Register within 90 days of the execution thereof.

(7) Any security document or any Memorandum executed under subrule (6) which is not registered in the Register in accordance with subrule (5) or (6) shall be void and unenforceable.

(8) Prior to the enforcement of any rights under the security document or to the foreclosure thereof, the assignee, pledgee, mortgagee, or chargee shall serve notice in writing relating thereto, on the Director. Where a licence covers alienated land, such enforcement or foreclosure shall comply with section 148(2) of the Land Code.

(9) No security document shall confer on or vest in an assignee, pledgee, mortgagee or chargee or any other person any rights or privileges beyond or in excess of what had been granted under the licence.

(10) Where a licence is already subject to an assignment, pledge, mortgage or charge, no further or subsequent assignment, pledge, mortgage or charge shall be allowed without the prior written consent of the existing assignee, pledgee, mortgagee or chargee, as the case may be, and of the Minister.

(11) (a) Subject to this rule, an assignee, pledgee, mortgagee or chargee may apply to the High Court for such remedies as may be available to him for the enforcement of his rights under the security document.

(b) Such application shall be made by Originating Summons and the Rules of the High Court for the time being relating to Originating Summons shall apply.

(c) A copy of any Order made pursuant to such application shall be served on the Director within thirty days from the date of the making of such Order. On receipt thereof, the Director shall make or cause to be made a memorial on the Register of the terms of such Order.

19.—(1) The Director may, with the approval of the Minister, ^{Cancellation.} cancel the licence where there has been a transfer, assignment, pledge, mortgage or charge of the licence or conferment of rights or privileges thereunder in contravention of rule 17 or 18, or in such special circumstances as shall be expressly stipulated in the licence.

(2) The consequences of the cancellation of the licence shall be stated in the licence.

20.—(1) Where there has been a breach of any conditions ^{Default.} of the licence (other than the conditions of the licence which could result in a cancellation thereof) or where there has been a default by the licensee in the compliance thereof, the Director may

(a) make an order for the payment of a fine or penalty by the licensee, not exceeding two thousand ringgit within a specified time; and

(b) issue a notice in such form and manner as may be prescribed by him, specifying the necessary action to be taken to remedy the breach or default within a specified time.

(2) The Director shall serve on the licensee such order or notice as soon as the same is issued, and shall endorse or cause to be endorsed in the Register the particulars of such order or notice.

(3) Any licensee who fails to take action stipulated in the notice issued under subrule (1) *(b)* within the time stipulated in such notice, shall be guilty of an offence, and shall, upon conviction, be liable to a fine of ten thousand ringgit, and in the event of a continuing offence, to a further fine of one thousand ringgit for each day during which the offence continues.

PART III

REGISTER

21. The Director shall maintain a Register of licences issued ^{Particulars for} by him under these Rules, and the Register shall contain the _{Register.} following particulars

(a) the name and address of the licensee;

(b) the description and location of the land on which the planted forest is established;

(c) the period of validity of the licence;

(d) the serial number of the licence;

(e) the species of the trees approved for planting thereon;

(f) the name and address of any contractor or sub-contractor authorized by the Director to work on the planted forests;

(g) the name and address of any approved assignee, pledgee, mortgagee, or chargee and the conditions or restrictions, if any, imposed by the Minister for giving his approval thereto;

(h) the date of cancellation or termination of licence;

(i) the particulars of any order of Court made under rule 18(11) or any order or notice issued to the licensee under rule 20 (1);

(j) any other particulars as the Director may deem necessary.

Conclusive evidence.

22. Every licence duly registered under this Part shall be conclusive evidence of the issue thereof, the conditions contained thereon and the right of the licensee to establish, maintain and harvest the planted forest, and to have exclusive use and occupation of the land covered by the licence for the purpose of the exercise of the rights and privileges thereby granted.

Memorial on transfers, assignments, etc.

23. The Director shall enter in the Register a memorial of any transfer, cancellation, assignment, pledge, mortgage or charge of a licence or any variation, amendment, modification or alteration of any condition of a licence or a security document relating thereto, and change of address of the licensee or any matters affecting the status or any interests in the licence.

Rectification.

24. The Director may, upon such evidence as appear to him sufficient, correct or rectify errors or omissions in the Register or any entry or memorial made therein. Notice of such rectification shall be given to the licensee or any assignee, pledgee, mortgagee or chargee or any person who has acquired any rights or interests in the licence pursuant to rule 18 (1).

Entry in Register.

25. No person, other than the Director or an officer specially authorized by him in writing, may make any entry in the Register.

Place for Register.

26. The Register shall be kept at the Headquarters of the Forest Department.

Inspection.

27. Any person shall be permitted to inspect the Register and to have certified extract of any particulars, memorials or entries made therein by the Director upon payment of the prescribed fees, and during such hours and on such days as appointed by the Director in writing.

PART IV
FEES, CESS, ETC.

28.—(1) A licensee shall pay to the Director an annual licence fee which shall be assessed by the Director, based upon the size of the planted forest and stipulated in the licence issued by him. Annual licence fee.

(2) Unless varied by the Director under rule 32, the annual licence fee shall be computed on the basis of 10 sen per hectare of land under the licence, subject to a maximum of RM10,000.00 per annum.

29.—(1) Where a licence is issued over State land, the licensee shall pay to the Director an annual land rent at the rate of RM5.00 for each hectare of land covered by the licence. Annual rent for State land.

(2) The Director, with the approval of the Minister, may upon application by the licensee exempt him from payment of the annual land rent for a period up to six years from the date of commencement of a licence if the Director is satisfied that the quantity of standing timber on the land under the licence is not sufficiently sizeable for harvesting on a commercial scale.

30. Where any fee under rule 28 or rent under rule 29 is due and payable and the licensee defaults in the payment thereof, the arrears may be recovered by the Director from the security deposit lodged by the licensee with him under rule 7(1)(b), and thereafter, the Director may require the licensee to furnish further security for the purposes stipulated in rule 7(1)(b). Recovery of fee and rent.

31. The fees for the inspection of the Register shall be Other fees. RM10.00 for each inspection and certified copies of documents or particulars in the Register may be supplied at the cost of RM1.00 per folio.

32. The fees and rent set out in rules 28, 29 and 31 may be varied by the Director from time to time with approval of the Variation of fees and rent, Majlis Mesyuarat Kerajaan Negeri. The new fees and rent shall be published in the *Gazette*.

33. Cess shall be chargeable on all timber harvested from the planted forest. The rate of such cess shall be fixed by the Director with the approval of the Majlis Mesyuarat Kerajaan Negeri and published in the *Gazette*. Cess.

SCHEDULE

THE FORESTS ORDINANCE

LICENCE FOR PLANTED FORESTS
(Section 65n)

Cap. 126. In exercise of the powers conferred by section 65a of the Forests Ordinance,
(1958 Ed.), the Director of Forests, with the approval of the Minister, hereby grants a Licence to

.....
(name)

(hereinafter referred to as "the Licensee") of

.....
(address)

&w/r. L.N.
6/97.

to establish and maintain a planted forest on the parcel of land which is more particularly described in the First Schedule (hereinafter referred to as "the said land"), subject to the terms and conditions hereinafter contained and to the provisions of the Forests Ordinance ("the Ordinance"), the Forests (Planted Forests) Rules, 1997 ("the Rules") and any other rules made under the Ordinance.

Period of
Licence.

1. This Licence shall, subject to clause 19, be for a period of
years commencing from the day of.....
and ending on the day of.....

Rights
and
privileges.

2.—(1) The Licensee shall have the right to establish, develop and maintain on the said land a planted forest in accordance with a tree planting plan approved by the Director of Forests under rule 11 (b) of the Rules and hereto exhibited in the Second Schedule, and to harvest the same in accordance with a harvesting plan to be approved by the Director in accordance with rule 12 of the Rules.

(2) The planting of trees within the planted forest shall comply strictly with the tree planting plan and no variation or deviation therefrom shall be permitted without the prior written approval of the Director.

(3) Without prejudice to subclauses (1) and (2), the Director may direct any amendment to the tree planting plan and the Licensee shall comply with such amended plan issued by the Director.

Use and
occupation of
land.

3.—(1) Where the said land or any part thereof is State land, the Licensee shall, for the purpose of exercising its rights and privileges hereby conferred, have the exclusive right to occupy and use such State land.

(2) In the case of any alienated land being subject to this Licence, the Licensee shall have such rights of occupation or use thereof as may be agreed upon between the registered proprietor and the Licensee.

Species to be
planted and
harvesting of
trees.

4.—(1) The species of trees to be planted under this Licence must be approved by the Director and specified in the tree planting plan.

(2) Any change in the species of trees planted on the said land must be approved by the Director in writing.

(3) The sources of the seeds, seedlings and other materials procured for planting on the said land must be notified in writing by the Licensee to the Director whose prior approval for the procurement from the proposed sources must be contained.

(4) The harvesting of trees in a planted forest shall be in accordance with a harvesting plan to be approved by the Director in accordance with the Rules.

Environmental
protection.

5. The Licensee shall, as soon as reasonably practicable after the issue of this Licence, submit to the Natural Resources and Environment Board, Sarawak, an Environmental Impact Assessment ("EIA") Report in accordance with the Natural Resources and Environment Ordinance, in relation to the establishment of the planted forest under this Licence.

Cap. 84.
(1958 Ed.).

6.—(1) Work on the establishment of the planted forests shall commence within three (3) months from the date of approval given by the Board of the Licensee's EIA Report, or within such extended period as the Director may agree in writing. Commence-
ment of
works.

(2) It shall be the duty of the Licensee to comply with and adhere to the conditions and measures which the Board may require the Licensee to undertake for the protection and enhancement of the environment.

7.—(1) Where the Licensee is also Subsisting
licence or
permit.

(a) the holder of a licence or permit previously issued to him under section 49, 50, 51 or 59 of the Ordinance; or

(b) an approved contractor of the holder of such licence or permit,

the land subject to this Licence would have to be excised from the area covered by such existing licence or permit. Before such excision takes place, the consent of such holder or approved contractor, as the case may be, would have to be obtained: Provided that the Director may waive the requirement for such consent if he considers that consent has been unreasonably withheld by either the Licensee or approved contractor.

(2) Where the said land is within an area covered by an existing licence or permit issued under section 49, 50, 51 or 59 of the Ordinance, the rights conferred by this Licence shall be subject to the subsisting rights and privileges of the holder of the existing licence or permit or the approved contractor, that is to say, the holder of the existing licence or permit or the approved contractor shall be allowed to fell and remove such timber as he may be entitled to fell or extract under his licence or permit within such time period as the Director, in consultation with the Minister, may permit in writing. The Licensee may only enter and occupy any part of the land which is subject to an existing licence or permit after expiry of the period which the Director has allowed the holder of the existing licence or permit or the approved contractor to remain thereon when the land shall be deemed to have been excised from the area under the previous Licence or permit.

(3) For the purpose of this clause, an "approved contractor" means a contractor who has been appointed, with the approval in writing of the Director, by the holder of an existing licence or permit to fell and remove timber from the forest area under that licence or permit.

8.—(1) Where there is any standing timber on the said land, the Licensee may, Standing
timber. subject to clause 7(2), fell, remove and sell such timber in accordance with the tree planting plan and harvesting plan.

(2) No standing timber may be fell or removed by the Licensee until

(a) the schedule for the harvesting of such timber has been approved by the Director in writing;

(b) if the Licensee were to appoint a contractor to harvest the standing timber, the contractor is approved by the Director after consultation with the Minister;

(c) the Licensee's EIA Report has been approved by the Board;

(d) such security (other than that provided under clause 15), as may be required by the Director for the payment of royalty, premium and other statutory contributions, has been lodged by the Licensee with the Director; and

(e) if any part of the said land is held under and subject to native customary rights, the written consent of the claimant of such rights has to be obtained or written evidence is furnished to the Director to show that such rights have been extinguished under any written law.

(3) The export of any standing timber fell pursuant to this clause shall be subject to the approval of the Minister and shall be subject to section 67A of the Ordinance.

(4) The Director may require any part of the standing timber to be used for such specific purpose as the Minister may direct.

Commence- ment of planting.	<p>9.—(1) The Licensee shall notify the Director in writing of the date of his commencement of planting of trees on the said land,</p> <p>(2) The Licensee shall submit half yearly reports to the Director of the progress of the planting of the trees and the development and management of the planted forest including the maintenance of nurseries for the preparation of seedlings and associated research facilities to support the planted forest. Such report shall be in a form prescribed by the Director.</p> <p>(3) The first half-yearly report shall be submitted six (6) months from the date of commencement of planting stipulated in the notice given under subclause (1).</p>
Roads, buildings, and said land: other facilities.	<p>10.—(1) Only such roads or buildings as are necessary for the establishment and maintenance of the planted forests may be built or constructed on the said land: other facilities. Provided that no such roads and buildings may be constructed without the prior written approval of the Director.</p> <p>(2) Before the granting of approval required under subclause (1), the Director shall require the Licensee or any person duly authorized by him, to submit a detailed road or building plan to him for consideration. Such plan shall show the precise alignment of the road or the location of the building.</p> <p>(3) Where roads or buildings are built on alienated land of which the Licensee is not the registered proprietor, no approval shall be given for the construction or building thereof by the Director, unless a written consent is given by the registered proprietor of the land for the building or construction thereof.</p> <p>(4) Where roads or buildings are to be constructed or built on State land, such roads or buildings shall, upon the expiry of this Licence, become the absolute property of the State, and the Licensee shall have no right or interest over the same after the expiry of this Licence.</p>
Right of entry and inspection.	<p>11. The Director or any forest officer shall be entitled to enter the said land at any time to carry out such inspection or survey on the progress of the planting of the trees and the development and management of the planted forests or the harvesting of any trees or any nurseries or tree research facilities therein and generally, to ensure that the terms and conditions of this Licence and the Ordinance or any rules made thereunder are complied with by the Licensee.</p>
Right to issue directive, etc,	<p>12. The Director or any forest officer duly authorized by him, may from time to time issue directives or orders to the Licensee, which are not inconsistent with the terms and conditions of this Licence or the Ordinance or any rules made thereunder, with regard to the implementation of the tree planting plan and harvesting plan and any other conditions of this Licence, and the Licensee shall duly comply with such directives or orders.</p>
Fees.	<p>13. The Licensee shall pay an annual fee for this Licence. The annual fee' for this Licence is</p>
Royalty.	<p>14. (1) Royalty for standing timber taken pursuant to clause 8 shall be at the rate stipulated in the First Schedule to the Ordinance.</p> <p>(2) The Licensee shall pay such cess for timber derived from trees planted pursuant to this Licence at such rate as may be prescribed in the Rules.</p> <p>(3) Where the land subject to this Licence is State land, the Licensee shall pay to the Government such annual rent as may be prescribed by the Rules.</p> <p>(4) The Director may, subject to section 95 of the Ordinance, make Rules regarding to the payment of any other duties, levies, premia, and contributions for timber produce taken from the planted forest established under this Licence.</p>
Security deposit. of	<p>15.—(1) The Director shall require the Licensee to deposit with him such sum of money as he may require or to furnish security in such form as may be acceptable to him equivalent in value to the sum of money required to guarantee the due performance by the Licensee of all terms and conditions stipulated under</p>

this Licence or the provisions of the Ordinance or the Rules and any other rules made thereunder, or the payment of fees, cess, rent, royalties and such other levies, premia, and contributions as may be imposed by the Director by the Rules.

(2) The amount of the security deposit for this Licence shall be RIVI

(3) The amount stated in subclause (2) may be varied by the Director from time to time.

(4) In the event of the cancellation of this Licence, the sum deposited under subclause (2) shall be forfeited or the security furnished hereunder shall be realised by the Director and the sum so realised shall be forfeited to the Government.

(5) Where there has been a default in the payment of cess or other payment due under this Licence, the Director may recover the arrears of such payment from the said security deposit.

16.—(1) This Licence is not transferable.

Non-transfer-ability

(2) A transfer of this Licence shall be deemed to have been effected if

(a) the controlling shares in the Licence-Company (if this Licence is issued to a company incorporated under the Companies Act 1965); or *Act 125.*

(b) the majority shares in a partnership firm (if issued to a firm registered under the Business Names Ordinance), *Cap. 64. (1958 Ed.).*

are transferred.

(3) Without prejudice to subclauses (1) and (2), the Director may, with the approval of the Minister, authorize in writing the transfer of this Licence subject to such terms and conditions as he may, in his absolute discretion, stipulate.

17.—(1) The holder of this Licence shall not, without the prior written approval of the Minister,—

Assignment, pledge, etc., of licence.

(a) assign, pledge, mortgage or charge this Licence; or

(b) confer any rights or privileges granted under this Licence,

to any other person or party.

(2) No approval would be given by the Minister, until and unless a copy of the proposed assignment, pledge, mortgage or charge or the document proposing to confer rights and privileges has been submitted to him for his consideration.

(3) In giving such approval, the Minister may impose such conditions or restrictions on the rights of the assignee, pledgee, mortgagee or chargee in dealing with the planted forest or any trees thereon or any forest produce derived therefrom.

(4) The enforcement of any rights under an assignment, pledge, mortgage or charge must be in accordance with the procedure laid down in the Rules.

18. The prior written approval of the Director must be obtained before the Licensee appoints any contractor or sub-contractor or agent to plant or harvest trees on the said land covered by this Licence. *or contractors, etc.*

19.—(1) Where the Licensee

Cancellation.

(a) transfers, assigns, pledges, mortgages this Licence or confers rights and privileges granted hereunder in contravention of clause 16 or 17; or

(b) abandons the establishment or maintenance of the planted forest,

the Director with the approval of the Minister, shall cancel this Licence by service of a written notice of cancellation on the Licensee. Upon service of such notice, the Licence shall be cancelled forthwith and the Director shall cause an appropriate endorsement of such cancellation on the Register.

(2) For the purpose of this clause, the Licensee shall be deemed to have abandoned the planted forests

(a) if the Licensee fails or neglects to commence work on the planted forests in accordance with clause 6(1); or

(b) if the Licensee ceases to carry out or undertake any work in the planted forests in accordance with the tree planting plan despite service of a written notice by the Director to carry out or undertake such work; or

(c) if the rate of progress of planting is behind that stipulated in the tree planting plan and the Licensee fails and neglects to accelerate his tree planting work despite service on him by the Director of a written notice requiring him to do so; or

(d) where the planted forest is substantially destroyed by fire, storm, civil unrest, war, natural calamities, or any other causes, and the Licensee fails or neglects after service upon him of a written notice by the Director, to replant or rehabilitate the same in such manner as may be required of him by the Director.

Consequences of cancellation. 20.—(1) Upon cancellation of the Licence, the Licensee shall forthwith cease to have any of the rights and privileges granted by this Licence and shall immediately remove all his moveable properties from the said land and vacate the same.

(2) If the said land is State land, all trees planted thereon and any roads, buildings and other structures erected thereon by the Licensee shall become the absolute property of the State.

(3) If the said land is alienated land, the registered proprietor thereof shall not fell, remove or take away any of the trees planted pursuant to this Licence without the prior written approval of the Director and the said land shall, notwithstanding the cancellation or termination of this Licence, remain part of the permanent forests of the State.

(4) The rights of any authorized assignee, pledgee, mortgagee or chargee of this Licence to the planted forest shall be regulated by conditions and restrictions stipulated in the assignment, pledge, mortgage or charge. The Director may also, with the approval of the Minister, grant to the assignee, pledgee, mortgagee or chargee or any person appointed by them, a Licence for a planted forest over the same area or any part thereof, upon such terms and conditions as the Director may deem fit to impose.

Default. 21. Where the Licensee

(a) fails to comply with any order or directive issued by the Director or his duly authorized officer under clause 12; or

(b) contravenes or breaches any of the terms and conditions of this Licence other than clauses 16 and 17,

the Director shall give notice in writing to the Licensee of such failure, breach or contravention, and shall require the Licensee to remedy and rectify the same, within a period of not more than sixty (60) days, failing which, the Director may impose such fines or penalties as may be prescribed in the Rules

Native customary rights.

22.—() Nothing in this Licence shall be deemed to affect rights which any native has, prior to the issue of this Licence, lawfully acquired over the said land under the Land Code or the Ordinance. Such rights shall be referred to in this Licence as "native customary rights".

(2) It shall be the duty of the Licensee, at his own costs and expense, to comply with the provisions of the Rules relating to the establishment of planted forests over land subject to native customary rights claims.

State land.

23. Where any State land is covered by this Licence, other than the rights conferred by clause 3, the Licensee shall not be entitled to claim any proprietary rights to the State land either during or after the expiry or the cancellation of this Licence.

24. Time wherever mentioned herein shall be of the essence.	Time.
25. Until and unless otherwise notified in writing by either the Director or the Licensee, the address for service of any notice, directive or order or other documents required to be served, issued or given under this Licence shall be: Director of Forests: Forest Department, Tingkat 14, Wisma Sumber Alam, Jalan Stadium, Petra Jaya, 93660 Kuching.	Address for service.
Licensee:	
26. The Licensee shall comply with such additional conditions as are stipulated in the Third Schedule.	Additional conditions.
27.—(1) This is the ORIGINAL/DUPLICATE* of this Licence.	Copies of Licence.
(2) The original copy shall be issued and handed over to the Licensee.	
(3) Duplicate copies of this Licence shall be issued to the following persons only	
(a) Permanent Secretary to Ministry for Resource Planning, Sarawak;	
(b) Director of Lands and Surveys, Sarawak,	
and a further duplicate copy shall be retained by the Director.	
(4) For the purpose of any authorized transfer, assignment, pledge, mortgage or charge pursuant to clauses 16 and 17, the ORIGINAL copy of this Licence shall be produced.	
28. __ (1) In this Licence the following words or expression shall have the following meanings	Interpretation.
"alienated land" shall have the same meaning as that assigned by the Land Code;	<i>Cap. 81. (1958 Ed.)</i>
"Board" means the Natural Resources and Environment Board established under the Natural Resources and Environment Ordinance;	<i>Cap. 84. (1958 Ed.)</i>
"Director" means the Director of Forests or any other forest officer duly authorized by him in writing to discharge the duties of his office;	
"EIA Report" means a report required under the Natural Resources and Environment (Prescribed Activities) Order, 1994;	<i>Swk. L.N. 45/94.</i>
"establishment of planted forests" includes all preparatory works relating to the development or setting up of the planted forest, the removal of standing timber and the setting up of nurseries for seedlings required for planting in accordance with the tree planting plan;	
"Government" means the State Government of Sarawak;	
"harvesting plan" means the plan for the harvesting of timber approved by the Director under rule 12(1) of the Rules;	
"Licensee" includes any permitted assigns or any person claiming any interest under or in the name of the Licensee;	
"Ordinance" means the Forests Ordinance and any amendment or variation or statutory re-enactment thereof;	<i>Cap. 126. (1958 Ed.)</i>

*Delete whichever not applicable.

"Register" means a Register which the Director is required to maintain under section 652(7) of the Ordinance;

*Swk. L.N.
6/97.*

"Rules" means the Forests (Planted Forests) Rules, 1997;

"standing timber" means trees or forest produce found on the land covered by this Licence at the date of issue hereof or any trees grown naturally on the said land and not planted pursuant to this Licence;

"tree planting plan" means the plan for the planting of trees on the said land approved by the Director under rule 11(b) of the Rules and exhibited in the Second Schedule.

(2) The Schedules to this Licence shall be deemed an integral part of this Licence.

(3) Words importing one gender include all other genders and words importing the singular shall include the plural and *vice versa*.

(4) The marginal notes are inserted for convenience only and shall not affect the construction or interpretation of the substantive provisions of any clause of this Licence.

(5) Where there is any ambiguity or uncertainty in any of the provisions of this Licence, such ambiguity or uncertainty shall be referred to the Minister for a ruling and his ruling thereon shall be final.

Issued at Kuching this.....day of..... 199

.....
Director of Forests

.....
Minister for Resource Planning

FIRST SCHEDULE
DESCRIPTION OF LAND

Lot/Plot No.:

Locality:

Size/Area:

Locality Plan:
(to be shown below or attached)

SECOND SCHEDULE
(Clause 2(1))

TREE PLANTING PLAN

THIRD SCHEDULE
(Clause 26)

ADDITIONAL CONDITIONS, IF ANY

Made this 23rd day of January, 1997.

CHEONG EK CROON, *Acting Director of Forests*

Approved by the Majlis Mesyuarat Kerajaan Negeri this 23rd day of January, 1997.

KIT SU LEN,
Clerk to Majlis Mesyuarat Kerajaan Negeri

