

Papua New Guinea Forest Authority

NATIONAL FOREST SERVICE

**GUIDELINES FOR
ISSUING TIMBER AUTHORITIES**

MARCH 1995



PAPUA NEW GUINEA FOREST AUTHORITY

GUIDELINES FOR ISSUING TIMBER AUTHORITIES

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GUIDELINES FOR ISSUING TIMBER AUTHORITIES

About these Guidelines:

These Guidelines have been issued by the Forest Authority to assist applicants, Forest Authority regional and project staff, Provincial Forest Management Committees and Provincial Governments with the allocation of Timber Authorities. It is intended that the Guidelines will be updated from time to time. Users can check whether they have an up to date copy of the Guidelines by contacting the PNG Forest Authority Resource Development Division.

1. Introduction—what are Timber Authorities

1.1 Timber Authorities and Timber Permits

Timber Authorities are one way of authorising the exercise of timber harvesting rights. Timber Permits also authorise harvesting, by allocating timber rights which the Forest Authority (or the State) has already acquired.

Timber permits must be used for harvesting timber from—

- (a) customary land over which there is a Forest Management Agreement; and
- (b) government land.

Timber permits are issued by the National Minister for Forests on the recommendation of the National Forest Board.

Timber Authorities can be used for—

- (a) harvesting timber from customary land over which there is no Forest Management Agreement; and
- (b) harvesting of forest produce other than timber.

Timber Authorities allow the exercise of harvesting rights which have been directly acquired from the landowners. They are issued by Provincial Forests Ministers on the recommendation of the Provincial Forest Management Committee, with the consent of the National Forest Board.

To work out whether a Timber Permit or a Timber Authority is appropriate for a specific project, see Attachment 3. **Remember that all harvesting from customary land requires either a Forest Management Agreement and a Timber Permit, or a**

1: Introduction

Timber Authority. Customary owners of timber require a Timber Authority if they cut more than 500 cubic metres of timber per year.

1.2 When a Timber Authority is permitted

A Timber Authority for harvesting of timber can only be granted outside the area of a Forest Management Agreement. This is because the timber rights within these areas have already been purchased by the State. Where it is proposed to harvest timber from a Timber Rights Purchase (TRP) Area over which there is no Timber Permit, the Forest Authority is responsible for revenue arrangements with landowners. There can be no re-purchase of timber rights which have already been acquired under a TRP Agreement.

However, Timber Authorities can be granted only for **four specific purposes**, set out in Section 87 of the Act. These are—

- TA-01 harvesting of less than 5,000 m3 annually of timber for domestic processing only;
- TA-02 harvesting of timber for roadline clearance;
- TA-03 harvesting of timber for clearing in preparation for agricultural or other land use;
- TA-04 harvesting of forest produce other than timber.

Timber Authorities are intended for projects other than export forestry projects. Export forestry projects can only take place under a Timber Permit. However, this does not prevent logs produced as a by-product of roadline or agricultural clearance being exported, provided a Timber Authority is in place.

The processes of applying for and granting a Timber Authority are set out in these Guidelines. Timber Authorities must be consistent with the National Forest Policy and relevant provincial government policies. To assist Provincial Forest Management Committees, standard form Timber Authorities, of the four types set out above, have been provided as Attachment 6 to these Guidelines.

2. Who can apply for a Timber Authority

2.1 Registration and Investment Promotion Authority approval requirements

Applicants must be registered under the *Forestry Act 1991* as forest industry participants and (if they are foreign enterprises) must have Investment Promotion Authority (IPA) approval to operate the project.

2: Who can apply for a Timber Authority

Under section 88 of the *Forestry Act 1991* applications for Timber Authorities can only be lodged by registered forest industry participants. Their registration number must be noted on the application form. Section 105 of the *Forestry Act* makes it an offence to apply for a Timber Authority without being a registered forest industry participant.

Special requirements apply to foreign companies. Under the *Companies Act*, a company cannot operate in Papua New Guinea unless it is registered with the Registrar of Companies.

A foreign company must also have IPA approval for its proposed activities before it applies for an authority (paragraph 2.2 below explains when IPA requirements apply to a company). It is an offence under the *Investment Promotion Act* to apply for a Timber Authority before IPA approval for that activity has been obtained.

An application by a person or a company which is not a registered forest industry participant, or which does not have IPA approval, if that is required, will be returned to the applicant.

2.2 Investment Promotion Authority Approval requirements

Amendments to the *Investment Promotion Act* in September 1994 mean that foreign companies must now have IPA approval before they apply for a Permit, Authority or Licence under the *Forestry Act*.

Under Section 25 of the *Investment Promotion Act*, a foreign enterprise 'shall not carry on business unless a certificate has been granted under this Part'.

The September 1994 amendments changed the definition of 'carrying on business' to include—
'(a) making application for any permit, licence, lease or authority issued for commercial purposes by the State or by a State body...'

A 'foreign enterprise' is defined as an enterprise in which 50% or more of the company is owned by non-citizens. Even if the company is a joint venture company involving landowners, a company which has 50% or more of its shares owned by foreigners, or foreign companies, is still classified as a foreign enterprise.

If the joint venture is not incorporated, then any joint venture partner with 50% or more foreign ownership must get approval for the activity to be carried out by the joint venture partners.

2: Who can apply for a Timber Authority

It should be noted that existing IPA approval for logging activities may not be enough to authorise a company to apply for a Timber Permit or Authority. IPA approvals specify only certain locations where the authorised activity may be carried out. For example, even though a company has an approval to carry on logging operations in Central Province, if it applies for a Timber Permit in New Ireland, it is committing an offence unless it gets a new IPA approval for the New Ireland operation first.

The amendments passed in 1994 also protect Papua New Guinea citizens from exploitation by foreign companies which have not had or do not have IPA approval. Under Section 41A of the *Investment Promotion Act* as amended, if a foreign enterprise enters into a contract with another enterprise which relates to activities for which the foreign enterprise did not have IPA approval at the time, then a court may set aside the contract as being unlawful.

A foreign enterprise which breaches the IPA Act is liable to a fine of up to K100,000.

2.3 Subcontracting is not permitted

Under the standard terms and conditions for Timber Authorities, subcontracting is not permitted. Where a customary group proposes to contract the harvest of timber under a Timber Authority, it should enter into a Sales and Purchase Agreement (see Attachment 2). The contractor should then apply for the Timber Authority.

As is noted later in these Guidelines, the customary owners of timber can negotiate fully on the price which is paid by the contractor for the timber. They are not obliged to accept the prevailing royalty rates. However, the prevailing royalty rate is the minimum amount which landowners must be paid.

Where a Timber Authority is for roadline clearance or agricultural clearance the agricultural developer or road builder (where they themselves do not intend to carry out the forest clearing) may assist their contractor to apply for the issue of a Timber Authority, but the Authority will be issued in the name of the company which is to undertake the harvesting.

Timber Authorities are non-transferable (see Section 87(4) *Forestry Act*).

3. Lodging an Application for a Timber Authority

3.1 Where to lodge the form

All applications for Timber Authorities must be made on the prescribed form (see the forms TA-01 to TA-04 in Attachment 1 of these Guidelines) and must be lodged with the Managing Director of the Forest Authority at Forestry Headquarters Hohola, or posted to PO Box 5055, Boroko.

If a regional or provincial forestry office receives an application for a Timber Authority they will return the application to the applicant with a written advice that the application must be lodged at the Managing Director's office.

3.2 What must be lodged with the Application?

There are four different application forms for Timber Authorities:

TA-01	Timber authorities for <u>harvesting under 5,000 cubic metres</u> of timber <u>per year</u> for domestic processing
TA-02	Timber Authority for <u>roadline clearance</u>
TA-03	Timber Authority for <u>agricultural clearance</u>
TA-04	Timber Authority for <u>other forest produce</u>

The four different kinds of Timber Authority have different requirements for supporting documentation. These are set out on the Timber Authority form, and are discussed in detail in Sections 5 to 8 below, which cover each different kind of Timber Authority. They are briefly listed below in Table 1.

The application must also be accompanied by a K100 application fee. If it is a cheque it should be made out to "PNG Forest Authority".

An application for a Timber Authority will not be accepted for processing unless all the required documents are attached to it and the application fee is included. If an application does not contain all the required information, it will be sent back to the applicant along with the K100 application fee. transferred into the Permits Table which is a more permanent record.

3: Lodging an Application

<p>All TA Applications:</p>	<p>K100 application fee</p> <p>IPA Certificate for the activity and location covered by the Timber Authority (if foreign enterprise)</p> <p>Consent by Landowners (Incorporated Land Group or Clan Agents if customary land)</p> <p>Copies of all agreements with landowners, including Sales and Purchase Agreement.</p> <p>Copies of agreements for processing or marketing of forest produce</p> <p>Description and map of proposed project area showing areas of over 30° slope and land tenure</p> <p>Utilisation plan for forest produce harvested</p> <p>Where the application is for renewal or extension of a previous Timber Authority, a report on the activities undertaken, the quantity harvested and details of utilisation</p>
<p>THE FOLLOWING DOCUMENTS ARE ALSO REQUIRED:</p>	
<p>TA under 5,000 m3 TA-01</p>	<p>No further documents required</p>
<p>TA for Roadline Clearance TA-02</p>	<p>Map of proposed road route</p> <p>Details of road design including alignment and standards in accordance with DOW manual</p> <p>Details of construction including cost, funding, contracts, and implementation schedule</p> <p>Letter from Department of Transport approving route, construction timetable, and confirming funding for construction and ongoing maintenance</p> <p>Letter from Department of Works approving standard of construction</p>
<p>TA for Agricultural Clearance TA-03</p>	<p><u>Less than fifty hectares:</u></p> <p>Description of agricultural project and implementation schedule</p> <p><u>More than fifty hectares:</u></p> <p>Detailed agricultural development plan approved by Department of Agriculture and Livestock</p> <p>Supporting letters from DAL and any other relevant industry body as to viability of project</p> <p>Evidence of intention to carry out project</p> <p>Implementation schedule for clearing and planting approved by DAL</p> <p>Environmental Plan approved by DEC or letter of comfort from DEC</p> <p>Evidence of adequate land tenure arrangements</p>
<p>TA for other Forest Produce TA-04</p>	<p>Description of forest produce to be harvested and quantity to be harvested per annum</p>

Table 1: Information to be lodged with Timber Authority Applications

4. Processing of applications

4.1 Registration

All applications received must be registered in the Forest Authority Database under the Timber Authority Applications Table, regardless of whether or not they are accepted. Once a Timber Authority is actually issued, the information in this table will be transferred into the Permits Table which is a more permanent record.

The Timber Authority Applications Table records the following information about the application:

- Application ID number (allocated by the Forest Authority);
- Project name;
- Application date;
- Applicant particulars;
- Timber Authority type;
- Status ID;
- Remarks (for example, the reason why an application has been returned).

Timber Authority applications will receive an ID number preceded with the letters ATA, in chronological order of receipt. When the Timber Authority is actually granted, this application number will be changed to match the numbering system currently used in the Permits Table in the Database.

4.2 Checking applications for completeness

Timber Authority applications which are received by the Managing Director's Office will be forwarded to the Resource Development Division action officer, who will first check the application for completeness before it is accepted.

The action officer will check that—

- the application form is filled in properly and signed;
- the applicant is a registered forest industry participant;
- if the applicant is a foreign company, it has IPA approval for the activity and location covered by the Timber Authority application;
- all the required documents are attached;
- a K100 application fee is included.

A detailed checklist setting out the steps for checking an application is contained in Attachment 4 of these Guidelines. If any of the required accompanying

4: Processing Applications

documents are not included, the application will be sent back to the applicant together with the K100 application fee.

A sample letter for accompanying an application which is sent back, is included in Attachment 5.1. A copy of this letter must be sent to the regional and provincial offices.

The fact that an application has been returned will be noted in the register, and a copy of the application will be kept on file for future reference in case it is resubmitted.

4.3 Evaluation of Applications

Once an application has been accepted, it will then be evaluated.

The *Forestry Act* requires Timber Authority applications to be evaluated by the relevant Provincial Forest Management Committee with assistance from the National Forest Service.

To streamline the processing of applications, evaluations will be undertaken by staff of the Resource Development Division with assistance from the relevant regional and provincial staff.

Different criteria are used to evaluate the four different kinds of Timber Authority. These Guidelines set out in detail the criteria which are to be used for evaluating the application (see Sections 5 to 8 below and the detailed checklist for evaluation set out at Attachment 4).

A key issue in evaluating applications is to ensure that landowners have given proper consent to the project. This issue is dealt with in more detail later in these Guidelines (See Section 9 below).

The main role of regional and provincial personnel will be to assess landowner awareness of the proposed Timber Authority, and to ensure that requirements regarding landowner consent to the issue of the Timber Authority are met.

4.4 Evaluation Report

The results of the evaluation will be presented in an Evaluation Report to the Provincial Forest Management Committee. The Evaluation Report must state a positive or negative recommendation as to whether or not the application should be accepted. If the recommendation is negative, reasons should be given.

The evaluation report will be made available to the regional office for comment before it is forwarded to the Provincial Forest Management Committee. However, if there is delay in receiving regional office comments these can be provided by Regional Office direct to the Provincial Forest Management Committee.

4.5 Consultation with other agencies

Other government agencies will be involved in the grant of Timber Authorities where the project is not a forestry project.

Projects involving roadline clearance and agricultural clearance are not forestry projects. A Timber Authority is issued in these cases to allow the commercial use of the timber which is a by-product of land clearing in preparation for development.

The Forest Authority and the Provincial Forest Management Committee will be mostly concerned to ensure that the projects are genuine, and to attach terms and conditions to the Timber Authority which fit the project scope and timing, negotiated with the line agencies responsible for them (Department of Agriculture and Livestock in the case of agricultural projects, and Departments of Transport and Works, and provincial departments in the case of roads).

Although these Guidelines contain specific conditions for these types of projects, consultation over the issue of particular Timber Authorities will also be required during the evaluation stage, especially when draft Timber Authority conditions are being set.

4.6 Drafting of Timber Authority

Once an evaluation is completed, the Resource Development Division will calculate an appropriate performance bond, and draft recommended terms and conditions for the Timber Authority. The formula for calculating a performance bond is set out in Section 10 below.

Many of the terms and conditions will be standard ones, similar to those contained in the standard Timber Authorities which form Attachment 6.

Variable terms and conditions may include the following:

- permitted annual allowable cut;
- permitted annual allowable area for harvesting;
- term;
- preconditions for the issue of further Timber Authorities.

4: Processing Applications

4.7 Application and Evaluation Report referred to Provincial Forest Management Committee

Once the application has been evaluated and an Evaluation Report prepared with recommendations, the Resource Development Division Action Officer will forward the application to the PFMC together with the evaluation report and a draft Timber Authority, under cover of a letter signed by the Managing Director. A copy of the letter must be sent to the Board Secretariat and to the regional office.

A sample letter advising the PFMC that the application has been evaluated, and enclosing the application, evaluation report and draft Timber Authority, is set out in Attachment 5.2.

4.8 PFMC evaluates the application and if it approves the application, refers to Provincial Forests Minister

The evaluation prepared by the Forest Authority Resource Development Division will be considered by the PFMC in coming to its decision as to whether or not to recommend a Timber Authority application to the Provincial Minister.

The Provincial Minister can only grant a Timber Authority where the PFMC has recommended it, and the Board has consented, under Section 87(1) of the *Forestry Act*:

87 (1) Upon the recommendation of the Provincial Forest Management Committee and the consent of the Board under Section 89 and otherwise subject to this section and to Sections 88 and 89, a provincial Minister shall grant to a registered forest industry participant a Timber Authority ... (description of different types of Timber Authorities follows).

4.9 Basis for PFMC evaluation

Under Section 89 of the *Forestry Act*, the PFMC evaluation should be made against specified criteria:

- 89 (2) An evaluation of an application will be made against -
- (a) the National Forest Policy; and
 - (b) any relevant provincial government policies, provided they are not inconsistent with the National Forest Policy; and
 - (c) the commercial viability of the project (including the financial resources of the applicant, the past performance of the applicant in forest industry and other projects, analysis of projected cash flows and the anticipated net benefit to the resource owners and to the State).

If the PFMC requires further information or assistance in evaluating the application, it can approach the Resource Development Division or the Regional office— See Section 89 of the *Forestry Act*:

89(3) In making an evaluation under this section, a Provincial Forest Management Committee may require the assistance of the National Forest Service and of any relevant Department.

(4) Where the Provincial Forest Management Committee, after having considered and evaluated an application, is of the opinion that it is satisfactory it shall recommend to the provincial Minister to grant a Timber Authority to the applicant.

Alternatively the PFMC may seek further information directly from the applicant.

4.10 Changing the Standard Draft Timber Authority

It should be noted that draft Timber Authorities which are forwarded to PFMCs by the Resource Development Division will conform to these Guidelines. Any alteration to these conditions may mean that the Board will not consent to the issue of the Timber Authority.

If a PFMC proposes to change the draft Timber Authority, it should consider whether the proposed changes will still conform to the Board's requirements. PFMCs or regional office staff who assist them can check with Resource Development Division staff that proposed changes to terms and conditions will still meet the requirements for Board consent.

In order to streamline the processing of Timber Authorities sent in from Provincial Ministers for Board consent, the PFMC (or regional office staff who assist them) should inform the Resource Development Division if the terms and conditions of draft Timber Authority have been altered when the PFMC makes its recommendation to the Provincial Minister.

If the Resource Development Division is notified that the draft terms and conditions of a Timber Authority are to be changed, it should alert the Board Secretariat so that the proposed Timber Authority can be properly checked for compliance with the Guidelines when it comes through for Board consent.

4.11 Provincial Minister notifies Board of intention to issue Timber Authority and requests consent

When a Provincial Minister proposes to act on the recommendation of a PFMC and issue a Timber Authority, he or she must first give notice of that intention to the Board—see Section 89 of the *Forestry Act*:

4: Processing Applications

89(5) On receipt of a recommendation under Subsection (4) (from the PFMC), the provincial Minister shall give notification to the Board that he intends to grant a Timber Authority over the project area and shall request the consent of the Board to the grant.

(6) Where the Board does not respond to a notification under Subsection (5) within four weeks of the date on which notification was given, consent to the grant of the Timber Authority to which the notification relates, shall be deemed to have been given.

In giving notice, the Minister must forward to the Board a copy of the Timber Authority which she or he proposes to issue, together with any other documents which form part of the Timber Authority (such as development plans, feasibility studies etc.). If the Minister does not forward a copy of the Timber Authority, notice will be deemed not to have been given under the Act.

Notification operates from the time of receipt by the Board. If the copy of the Timber Authority is lost in the post, it will not be deemed to have been notified to the Board.

4.12 Board consideration of proposed Timber Authority

It should be noted that the Board has only four weeks to refuse to consent to a Timber Authority otherwise consent is deemed to have been given. Therefore, proposed Timber Authorities received from Provincial Ministers will have to be evaluated by the Resource Development Division as a matter of urgency.

If the proposed Timber Authority conforms to the standard conditions specified in these Guidelines, urgent Board consideration of the request for consent will not be sought. In these situations consent to the Timber Authority will be implied by the Board's lack of response within the statutory four week period (see Section 89(6) of the *Forestry Act*). This will eliminate much unnecessary Board processing of Timber Authority notifications.

Where the Timber Authority does not conform to the Guidelines, an urgent "walk-around" Board submission will be prepared to enable the Board to consider the application and, if it wishes, to refuse consent to the application within four weeks of the notification.

Because of the urgency of Board consideration, the Resource Development Division will have to make its assessment of a proposed Timber Authority within strict time limits.

5. Domestic Processing Timber Authorities (TA-01)

5.1 Evaluating applications

The main concerns in evaluating domestic processing Timber Authorities are to ensure that—

- the Act is complied with;
- the project is genuinely for domestic processing;
- landowners have been fairly treated and have given proper informed consent to the project; and
- harvesting of the timber will be by selection logging and environmental standards will be observed.

Evaluation will be undertaken by the Planning Section of the Resource Development Division with assistance from Regional and Provincial staff.

5.2 Criteria for Evaluation

Criterion One: Annual allowable cut must be under 5,000 cubic metres

The application must specify an annual allowable cut under 5,000 cubic metres.

If the applicant already has another Timber Authority within 10 kilometres of the boundary, then the total annual allowable cut is 5,000 cubic metres.

For the purposes of fixing the cut in the Timber Authority which is applied for, the cut for the existing Timber Authority should be subtracted from 5,000. The balance remaining is the maximum cut allowed for the new Timber Authority. Both cuts should always add up to no more than 5,000. If there are already two other Timber Authorities held by the applicant within 10 kilometres of the boundary, deduct the cuts for both of them from 5,000. The amount remaining is the maximum allowable for the third, proposed Timber Authority.

If the applicant applies for more than one Timber Authority at a time, and the boundaries of the Timber Authorities are within 10 kilometres of one another, the total volume applying to all the proposed Timber Authorities is 5,000.

If it appears that the applicant is seeking a number of Timber Authorities in order to construct a project with a permitted cut well in excess of 5,000 cubic metres, then the project is probably not appropriate for a Timber Authority and should be reconsidered as a forest

5: Domestic Processing Timber Authorities (TA-01)

development project under a Forest Management Agreement.

Note also that the volume is an annual maximum. Only 5,000 cubic metres may be harvested in any one twelve month period. Some Timber Authorities have been issued in the past which give a right to a further allowable cut after the 5,000 cubic metres has been exhausted. This is not permitted. Once the 5,000 cubic metres has been cut, harvesting must cease until the first anniversary of the date of commencement of the Timber Authority, when a further Timber Authority can be issued to authorise harvesting of a further 5,000 cubic metres over the next twelve months.

Criterion Two: The area of the Timber Authority must not be inside a Forest Management Agreement Area

A check should be done with the Mapping and Acquisitions Branches to ensure that there is no Forest Management Agreement over the area of the proposed Timber Authority, and that there is no application for a Forest Management Agreement over the area. Timber Authorities cannot be issued over an existing Timber Authority area.

If it is proposed to issue a Timber Authority over the area of an existing Timber Rights Purchase Agreement, special procedures apply. The Forest Authority will negotiate revenue arrangements with the landowners, because the timber rights in these areas have already been purchased by the State.

Criterion Three: Utilisation for domestic processing

The Utilisation Plan which accompanied the application should specify the sawmill or other processing facility which will use the timber. Timber harvested under an Authority for 5,000 cubic metres for domestic processing must not be exported in log form.

5.3 Landowner Issues

Clan agency agreements should provide the basis for consent given by landowners to domestic processing Timber Authorities, where no Land Groups are in existence. The formation of Land Groups for these small timber authorities would be impractical.

Where consent to the issue of a Timber Authority is to be given by a Clan Agent, the consent form must be signed in the village where the customary resource owners reside, and must be witnessed by the Village Court Magistrate or the local land mediator. This is intended to provide maximum protection against agency consents being given without the knowledge of the majority of landowners.

Local Forest Authority staff may undertake a site visit to confirm that the consent is valid and that all clans have been included.

Revenue arrangements proposed must reflect at least the minimum royalty rate (see Section 9.2).

5.4 Conditions attaching to Domestic Processing Timber Authorities

Standard recommended conditions for Timber Authorities for domestic processing appear in the draft Timber Authority at Attachment 6.

Term and permitted cut

The maximum recommended duration of a domestic processing Timber Authority is one year. The permitted annual cut must not exceed 5,000 cubic metres and export of the timber in unprocessed form is not permitted. Where two or more Timber Authorities located within ten kilometres of each other are held by the same person, the total annual permitted cut cannot exceed 5,000 cubic metres. If the applicant has not declared the existence of another Timber Authority within 10 kilometres of that which is applied for, then the Timber Authority is void.

Prohibition against subcontracting

If subcontracting were permitted under Timber Authorities, then large contractors would be able to avoid the 10 kilometre rule by establishing landowner companies to apply for the Timber Authorities. Accordingly, subcontracting (other than by the employment of individual contract labourers) is prohibited. Harvesting by any person other than the person or company named in the Timber Authority is an offence and will lead to cancellation of the Timber Authority.

Environmental and Forest Management requirements

Timber Authorities for domestic processing authorise harvesting by normal selection logging methods aimed at sustained yield. The Timber Authority will be subject to the Code of Logging Practice and the Key Standards for Selection Logging. Until these standards become part of regulations, they should be attached to each Timber Authority for domestic processing as supplementary conditions. (Copies of the Key Standards can be obtained from the Operations Division or from the Resource Development Division of the PNG Forest Authority.)

5: Domestic Processing Timber Authorities (TA-01)

Performance Bond

Domestic processing Timber Authorities will be subject to payment of a performance bond. The formula for calculating the performance bond is set out below (see Section 10).

Revenue

Proposed revenue payments to landowners will be included as a condition of the Timber Authority. These will be drawn from the Sales and Purchase Agreement submitted for each clan.

Forest Management and Reforestation levies will be also applied to Timber Authorities. Section 9 details the precise amounts of these levies. Until such time as these levies are imposed by regulation and or Ministerial notice, payment of them will be specified in the Timber Authority terms and conditions.

Revenue will be payable on all timber scaled and monthly summaries of scaling must be submitted to the PNGFA Revenue Accountant at Forestry headquarters, with log scale record sheets attached. Receipts should be attached to each summary to show payment to landowners has been completed. Cheques for payments due to Provincial Government, the Forest Authority and the Internal Revenue Commission should also be attached.

Failure to make payment of these amounts within the time limits provided will result in suspension of the Timber Authority.

6. Timber Authorities for Roadline Clearance
(TA-02)

6.1 Evaluating applications

The main concerns when evaluating an application for roadline clearance are to ensure that-

- the project is a genuine road construction project;
- harvesting is confined to the minimum area necessary for the road to be built;
- landowners have been fairly treated and have given proper informed consent to the project; and
- environmental standards will be followed in the harvesting and construction.

Evaluation will be undertaken by the Planning Section of the Resource Development Division with assistance from Regional and Provincial forestry staff.

6.2 Criteria for evaluation

Criterion One: The project must be outside an existing Timber Rights Purchase or Forest Management Agreement Area

Road construction under Timber Authorities is only permissible outside the area of an existing Timber Rights Purchase (TRP) area or Forest Management Agreement Area. Within a TRP area or Forest Management Agreement Area the timber rights have already been acquired and cannot be sold again. Road construction can occur through these areas, but only by arrangement with the Forest Authority and any permit holder.

A check should be made with the Policy and Planning Division (Mapping Branch) to ensure that timber rights over the area have not already been acquired.

Criterion Two: Evidence that the road will actually be constructed

There have been a number of Timber Authorities in the past which have been issued for roadline clearance. In some cases no road was ever constructed.

The most certain way to ensure that a road will be constructed is to insist that **funding for the construction is secured first**. Roothing is expensive. Even the lowest grade logging road cannot be paid for with timber harvested from its corridor. Thus it is not feasible to fund a rooding project entirely from the proceeds of harvesting.

The Forestry Authority must satisfy itself that the project is viable and that the road will actually be constructed. Accordingly, applicants must provide the following evidence that plans are already in place for the road to be built-

- copy of construction contract (if the applicant is not going to undertake construction);
- details of equipment and manpower suitable for road construction and evidence of past experience with road construction (if the applicant is to undertake construction);
- details of cost of road construction and sources of funding;
- implementation schedule showing planned rate and location of harvesting and road construction.

It should be noted that to be effective, road construction should take place within three to six months of clearing, or the bush will begin to grow back and clearing will have to be repeated. The evaluation should therefore ensure that the implementation

6: *Timber Authorities for Roadline Clearing (TA-02)*

schedule shows road construction following closely behind clearing.

Criterion Three: Roading will be of an approved standard

Some roads built under Timber Authorities have been constructed to no particular alignment or standard, apparently for the primary purpose of harvesting timber from the cleared road corridor.

Problems will result if the road does not meet proper standards or is not on the correct alignment to meet up with other roads in the area. If construction of a road has not been approved by the appropriate authorities then there may not be adequate funds in the future to maintain the road.

In order to ensure that the road construction is properly authorised, the Department of Transport or relevant Provincial Department is required to provide a letter certifying that the road route is in accordance with relevant Provincial and National infrastructure plans and that funding is available to maintain the road in the future. A letter is also required from the Department of Works to the effect that the standard of construction proposed is appropriate to the nature of the road and that the alignment is acceptable.

It is the applicant's responsibility to provide these certificates. Applications which are submitted without certificates will not be accepted.

Criterion Four: Minimum disturbance of the forest

The third criteria for evaluating a Timber Authority for roadline clearance is the amount of clearing proposed. Some Timber Authorities have proposed clearing of corridors up to 1 kilometre wide (more than 30 times the width of the road), which cause great unnecessary damage to the forest.

The Forest Authority Report on *Sustained Yield Forest Harvesting—Roading and Selection Logging Standards*¹ recommends a maximum clearing width of 40 metres for all roads.

Accordingly, any application which proposes a clearing width in excess of 40m should be rejected. The applicant may be invited to resubmit the application using a maximum width of 40 metres.

No Timber Authority which proposes a clearing width of more than 40 metres will be approved by the Board.

¹ FMPP, PNG Forest Authority, *Toward Sustained Yield Commercial Forest Harvesting—Roading and Selection Logging*, October 1994

6.3 Landowner issues

Clan agency agreements should be the basis for consent given by landowners to roadline clearance Timber Authorities, where no Land Groups are in existence. The formation of Land Groups for small Timber Authorities would be impractical.

Where consent to the issue of a Timber Authority is to be given by a Clan Agent, the consent form must be signed in the village where the customary resource owners reside, and must be witnessed by the Village Court Magistrate or the local land mediator. This is intended to provide maximum protection against agency consents being given without the knowledge of the majority of landowners.

Local Forest Authority staff may undertake a site visit to confirm that the consent is valid and that all landowners have been included.

6.4 Conditions attaching to Roadline Clearance Timber Authorities

Standard recommended conditions for Timber Authorities for Roadline Clearance are at Attachment 6. The main recommended conditions relate to ensuring that harvesting is followed closely by construction and that proper environmental precautions are employed.

Staged development authorisation

It is most important to note that harvesting should be authorised in stages, to ensure that the road is actually constructed. Construction of the previous section of road must have begun before a further Authority will be granted.

The maximum length of road corridor clearing to be permitted at any one time is 5 kilometres along a corridor of not more than 40 metres width (maximum area of 20 hectares).

Harvesting can be authorised in further 5 kilometre installments, provided there is evidence of road construction commencing in the area already harvested and provided the applicant obtains a certificate from the local Department of Works office confirming the length of road constructed and that it has met the required standard.

Environmental Standards

The Key Standards for Selection Logging are not appropriate to a clear felling operation and will not be applied. It is a standard condition of the Timber Authority that all environmental legislation including

the *Environmental Contaminants Act* and the *Water Resources Act* should be observed, as well as any environmental plan which may have been submitted or requisitioned. In addition, any standards set by Department of Works which apply to the road must be adhered to.

Prohibition against subcontracting

Subcontracting (other than by the employment of individual contract labourers) is prohibited under Timber Authorities. Road construction contractors who wish to subcontract the clearing work should arrange for the harvesting contractor to apply for the Timber Authority. Harvesting by any person other than the person or company named in the Timber Authority is an offence and will lead to cancellation of the Timber Authority.

Performance bond

A performance bond will be required for Timber Authorities for roadline clearance. This is described below in Section 10.

Revenue

Proposed revenue payments to landowners will be included as a condition of the Timber Authority. These will be drawn from the Sales and Purchase Agreement submitted for each clan. Revenue payments will be based on logs scaled not on logs exported.

Forest Management and Reforestation levies will be also applied to Timber Authorities. Section 9 details the precise amounts of these levies. Until such time as these levies are imposed by regulation and or Ministerial notice, payment of them will be specified in the Timber Authority terms and conditions.

Revenue will be payable on all timber scaled and monthly summaries of scaling must be submitted to the PNGFA Revenue Accountant at Forestry headquarters, with log scale record sheets attached. Receipts should be attached to each summary to show payment to landowners has been completed. Cheques for payments due to Provincial Government, the Forest Authority and the Internal Revenue Commission should also be submitted.

Failure to make payment of these amounts within the time limits provided will result in suspension of the Timber Authority.

**7. Timber Authorities for Agricultural Clearance
(TA-03)**

7.1 Evaluating applications

Timber Authorities can be issued under this category to cover all forms of clearing for agricultural and other land use. These include reforestation, plantation development and development of infrastructure other than roads.

Key concerns in evaluating agricultural and other land use clearance Timber Authority applications will be to ensure that—

- the project is genuine;
- clearing is confined to those areas required for immediate agricultural development or other land use;
- landowners have been fairly treated and have given proper informed consent to the project;
- there are no significant environmental risks associated with the project.

Evaluation will be undertaken by the Planning Section of the Resource Development Division with assistance from Regional and Provincial forestry staff.

Agricultural and other land use projects vary greatly from small scale clearing for subsistence gardens to massive plantation developments. Small scale projects are treated differently and less documentation is required to support the application.

7.2 Requirements for evaluation of small scale projects (under 50 hectares)

Where the area to be cleared under a Timber Authority is less than 50 hectares, the Forest Authority will require only a project statement setting out—

- the nature of the proposed land use;
- who is to carry out the land use;
- a description of the precise area of the land use;
- the proposed timetable for implementation.

In most cases, no further information will be required.

Where it appears that the project will have a significant impact on the local environment or population, or there is reason to believe that the subsequent land use may not occur, the Forest Authority may require more information about the project before evaluating the application.

7.3 Criteria for evaluation of large scale projects (over 50 hectares)

Criterion One: The project must be outside an existing Timber Rights Purchase or Forest Management Agreement Area

Timber rights can only be purchased from customary owners where the timber has not already been acquired by the State or the Forest Authority.

A check should be made with the Policy and Planning Division (Mapping Branch) to ensure that the area has not been already acquired.

Criterion Two: The project must be viable and approved by the relevant department

Where the project is an agricultural development project, the following supporting documentation is required to confirm that the project is viable and has all relevant approvals—

- detailed agriculture development plan approved by the Department of Agriculture and Livestock (DAL) as a true and accurate statement of the project;
- supporting letters from DAL and any other relevant industry body to the effect that the project is viable.

Timber Authorities will be issued in stages to ensure that the project development begins before further Authorities are issued. A detailed implementation schedule to facilitate this will be required. The applicant must provide a detailed implementation schedule approved by the Department of Agriculture and Livestock, with the application for the Timber Authority.

For other land use projects, the department responsible for authorising the development must provide supporting documentation confirming that the project is approved and viable, and must similarly specify the precise stages in the development when authority to clear fell is required.

It is the responsibility of the applicant to secure these approvals.

Criterion Three: Evidence the project will go ahead

In addition to assurances that the project is viable, the Forest Authority will also require some evidence of intention by the developer that the project **will** go ahead. The high value of timber and the low cost of clear felling operations mean that it is tempting for

developers to clear land and abandon the subsequent agricultural development.

Because of the close link between clearing and planting, a Timber Authority will be one of the last steps required in the preparation for an agricultural project. A Timber Authority should not be issued until the project is in the advanced stages of preparation. In the case of oil palm, for example, limited supply of seedlings around the world means that they must be ordered well in advance of any clear felling.

The Authority will require some evidence of commitment to the project, such as production of letters, invoices, or orders showing ordering of relevant supplies, contracts for future sale of agricultural produce, evidence of guaranteed markets etc. (In the case of oil palm, the Authority would expect to see—

- seedlings ordered;
- nursery established;
- site survey and tenders called for mill construction.)

It should be remembered that the lack of a Timber Authority will not stop an agricultural project from proceeding. There is nothing to stop a developer from clear felling and burning for planting. The only reason a TA is required is to allow the commercial harvesting of the trees which are to be clear-felled.

Criterion Four: Environmental safeguards are in place

Environmental standard setting and monitoring of agricultural projects is the responsibility of the Department of Environment and Conservation (DEC). Before a Timber Authority is approved for an agricultural or other land use project, DEC should approved an environmental plan for the project or should indicate in writing that it does not require a plan.

It is the responsibility of the applicant to secure approval or a letter of comfort from DEC.

Criterion Five: Adequate land tenure arrangements must be in place

Unless the crops (or other improvements to the land) are going to be owned by the customary owners of the land, the land must be transferred from customary land to agricultural leasehold land before the agricultural development takes place. This is because any planting on customary land legally belongs to the owners of the land, not to the company which put it there.

7: *Timber Authorities for Agricultural Clearing (TA-03)*

Where the land for the project is customary land (unless it is a small-holder development by the customary owners themselves), the Secretary of the Department of Lands and Physical Planning is required to provide written confirmation that the area for development has been transferred into agricultural leasehold.

7.4 Landowner issues

Small scale projects under 50 hectares

For projects involving less than 50 hectares, consent to the development and the issue of the Timber Authority may be given by clan agents on behalf of each clan (if no Land Groups are in existence).

Where consent to the issue of a Timber Authority is to be given by a clan agent, the consent form must be signed in the village where the customary resource owners reside, and must be witnessed by the Village Court Magistrate or the local land mediator. This is intended to provide maximum protection against agency consents being given without the knowledge of the majority of landowners.

Local Forest Authority staff may undertake a site visit to confirm that the consent is valid and that all landowners have been included.

Large scale projects over 50 hectares

Where a proposed agricultural or other land use project involves an area of more than 50 hectares, the Forest Authority will require the formation of Incorporated Land Groups to give consent to the project and to receive any landowner revenue not distributed directly to individual tree-owners.

Joint Venture arrangements

Agricultural projects involving joint ventures between landowners and developers should be carefully examined to ensure that the proposed arrangements are commercially fair to landowners. Past experience of landowners entering into unfair arrangements without independent advice have made it necessary to ensure that the joint venture arrangements are properly scrutinised. Other agencies will be asked to carefully vet any joint venture agreements.

Where a joint venture is to undertake the agricultural development, the company which is to undertake the actual harvesting should apply for the Timber Authority.

7.5 Standard conditions for Agricultural clearance Timber Authorities

The Forest Authority will examine proposed conditions for large scale agricultural or land use clearing closely. Standard recommended conditions for Timber Authorities for agricultural clearing are at Attachment 6.

Staged authorisation of development

Strict controls will be imposed on the rate of clearing to ensure that the development project is implemented alongside the forest clearing, and that the forest clearing will be purposeful. The Timber Authority will be granted on a staged basis, ie., evidence of development of the first stage area will be required before further areas are authorised for clearing.

Conditional issue of Timber Authorities

Where a developer requires some security that harvesting will be permitted before commencing the initial preparation for development, a Conditional Timber Authority may be issued. This will require the completion of certain conditions before the Timber Authority will come into effect.

Possible conditions include—

- completion of infrastructure (eg., nursery);
- site preparation;
- approval of environmental plan;
- issue of agricultural leases.

The developer will be required to produce evidence of completion of these preconditions to the Managing Director who will certify satisfaction of the conditions and authorise harvesting to commence.

Environmental Standards

While certain of the Key Standards for Selection Logging are not appropriate to a clear felling operation, a number are relevant and will be applied. It is also a recommended condition of the Timber Authority that all environmental legislation including the *Environmental Contaminants Act* and the *Water Resources Act* should be obeyed. If an Environmental Plan has been requisitioned or submitted, the terms of approval will be conditions of the Timber Authority.

Prohibition against subcontracting

Subcontracting (other than by the employment of individual contract labourers) is prohibited under Timber Authorities. Agricultural developers who wish to subcontract the clearing work should arrange for the

harvesting contractor to apply for the Timber Authority. Harvesting by any person other than the person or company named in the Timber Authority is an offence and will lead to cancellation of the Timber Authority.

Where a landowner joint venture company is the developer of an agricultural project, the harvesting contractor should apply for the Timber Authority. Any agreement about profit-sharing reached between the joint venture company and the landowners, or between the joint venture company and the harvesting contractor, must be submitted with the Timber Authority application.

Performance bond

A performance bond will be required for Timber Authorities for agricultural or other land use clearance. This is described below in Section 10.

In the case of large projects involving export of logs from the project, and where there is little to guarantee the subsequent performance of the development, the Forest Authority may require the deposit of an **accumulating performance bond**. This bond will require a percentage of each monthly shipment of export from the project to be lodged at the time of export. Further shipments will not be permitted unless the bond has been paid. This kind of performance bond will be required to secure some adequate return to landowners against the possibility of a future agricultural development not taking place.

Revenue

Proposed revenue payments to landowners will be included as a condition of the Timber Authority. These will be drawn from the Sales and Purchase Agreement submitted for each clan. Revenue payments should be based on logs scaled, not on logs exported.

Forest Management and Reforestation levies will be also applied to Timber Authorities. Section 9 details the precise amounts of these levies. Until such time as these levies are imposed by regulation and or Ministerial notice, payment of them will be required by Timber Authority terms and conditions.

Revenue will be payable on all timber scaled and monthly summaries of scaling must be submitted to the PNGFA Revenue Accountant at Forestry headquarters, with log scale record sheets attached. Receipts should be attached to each summary to show payment to landowners has been completed. Cheques for payments due to Provincial Government, Forest Authority and Internal Revenue Commission should also be attached.

7: **Timber Authorities for Agricultural Clearing (TA-03)**

Failure to make payment of these amounts within the time limits provided will result in suspension of the Timber Authority.

8. **Timber Authorities for Other Forest Produce**
(TA-04)

8.1 **Evaluating applications**

The main concerns in evaluating Timber Authorities for the harvesting of other forest products are to ensure that-

- the Act is complied with;
- landowners have been fairly treated and have given proper informed consent to the project;
- appropriate payments to landowners will be made;
- appropriate environmental standards will be observed.

Evaluation will be undertaken by the Planning Section of the Resource Development Division with assistance from Regional and Provincial staff.

8.2 **Criteria for Evaluation**

Criterion One: The application must specify the quantity of other forest produce to be harvested per annum

The 'other forest product' must be one for which harvesting is permitted.

Criterion Two: The area from which harvesting is to occur must be specified

8.3 **Landowner Issues**

Clan agency agreements should be the basis for consent given by landowners to Timber Authorities for harvesting of other forest products where no Incorporated Land Groups are in existence.

Where consent to the issue of a Timber Authority is to be given by a Clan Agent, the consent form must be signed in the village where the customary resource owners reside, and must be witnessed by the Village Court Magistrate or the local land mediator. This is intended to provide maximum protection against agency consents being given without the knowledge of the majority of landowners.

8: Timber Authorities for Other Forest Products (TA-04)

Local Forest Authority staff may undertake a site visit to confirm that the consent is valid and that all clans have been included.

The Sales and Purchase Agreement must specify the proposed rate of payment to landowners. Revenue should be payable on all forest products declared.

8.4 Conditions attaching to Timber Authorities for harvesting other forest products

Standard recommended conditions for Timber Authorities for other forest products appear in the draft Timber Authority at Attachment 6.

Prohibition against subcontracting

Subcontracting (other than by the employment of individual contract labourers) is prohibited. Harvesting by any person other than the person or company named in the Timber Authority is an offence and will lead to cancellation of the Timber Authority.

Environmental and Forest Management requirements

These will be specified on a case by case basis.

Performance Bond

Timber Authorities for harvesting of other forest products will be subject to payment of a performance bond. The formula for calculating the performance bond is set out below (see Section 10).

Revenue

Proposed revenue payments to landowners will be included as a condition of the Timber Authority. These will be drawn from the Sales and Purchase Agreement submitted for each clan.

Revenue will be payable on all forest products declared. All producers of other forest products under a Timber Authority must report monthly to the local Forest Authority office with details of the quantity of other forest products harvested. There is no prescribed form for this report.

Forest Management and Reforestation levies will be also applied to Timber Authorities. Section 9 details the precise amounts of these levies. Until such time as these levies are imposed by regulation and or Ministerial notice, payment of them will be required by Timber Authority terms and conditions. Failure to make payment of revenue within the time limits provided will result in suspension of the Timber Authority.

9. Landowner Consent and Revenue Arrangements

9.1 Landowner Consent Issues

An unfortunate legacy of a quarter-century of forest development in Papua New Guinea is that many, if not most, owners of timber feel that they have not recovered a fair economic return. Protecting the interests of landowners is a primary goal for the new Forest Authority.

Under PNG law, Incorporated Land Groups are the only corporations which can legally speak for landowners. Companies formed under the *Companies Act* (usually referred to as 'Landowner Companies') have no legal power to deal with customary land. These bodies are legally separate and distinct from the customary owners they may represent.

The new *Forestry Act* contains very strong provisions to ensure that landowners properly consent to forestry projects. In the case of projects involving the long term development of forest resources under a Timber Permit, the Act requires that Incorporated Land Groups be formed to give consent to entering into the Forest Management Agreement, which is the basis for the project.

To require the formation of Land Groups for small projects under Timber Authorities would be impractical. Therefore, the Forest Authority will permit clan agents to give consent for Timber Authorities in some cases.

In the case of Timber Authorities for domestic processing or harvesting of other forest produce, or for roadline clearing and for small (less than 50 hectare) agricultural and other land use projects, there is no requirement to form Incorporated Land Groups.

However, in the case of larger agricultural projects of more than 50 hectares, the Forest Authority does require that Land Groups be formed to protect the interests of landowners.

Landowner Consent Forms must be submitted with each Timber Authority application, using form TA-LOC provided in Attachment 1 of these Guidelines. The Consent Form must be signed in the village, and witnessed by a Village Court Magistrate or a land mediator. This is intended to provide protection against a Consent Form being signed by one person without the knowledge of the other landowners.

Where there is any concern about whether or not the consent of landowners is genuine, the Forest Authority

9: Landowner Consent and Revenue Arrangements

may conduct further investigations into the issue. A Provincial Minister who issues a Timber Authority against the wishes of landowners may be legally liable for the loss of the timber, and the Forest Authority has a responsibility to protect against this possibility.

9.2 Revenue arrangements

The *Forestry Act* makes provision for royalties to be fixed in Timber Permits, but not in Timber Authorities. However, levies, such as Forest Management Levy, apply to both Timber Authorities as well as Timber Permits (see Sections 120 and 121).

Rights to timber or forest produce covered by a Timber Authority are purchased directly from the owners under a Sales and Purchase Agreement. A standard form of Sales and Purchase Agreement is set out in Attachment Two. Timber Authority holders will also have a liability to make payments to government as well as to resource owners.

Revenue arrangements for Timber Authorities will be made up of payments from the following categories—

- (1) **Royalty-equivalent payments** fixed in the Sales and Purchase Agreement negotiated directly with landowners. This amount will not be less than the prevailing royalty rate (the proposed rate is set out below), and should be based on logs scaled, regardless of whether or not the logs from the project are exported.

Royalty-equivalent purchase payments will be paid directly to landowners by the holder of the Timber Authority. A receipt evidencing payment will be required to be submitted with each monthly return.

Provincial Government entitlement

Fifteen percent of the gross amount of the royalty equivalent amount must be paid to Provincial Government. This should be deducted from the royalty-equivalent payment and submitted with the monthly return in the form of a cheque payable to the relevant Provincial Government

With-holding tax

In addition to deducting provincial government share of royalty-equivalent payments, Timber Authority holders are also required to deduct 5% of the remaining 85% share, to be paid to the Commissioner for Internal Revenue as with-holding tax. A cheque for this amount made payable to the Commissioner for Internal Revenue must be submitted with each monthly return.

(2) **Levies** fixed by regulation or Ministerial notice, or set in the conditions of a Timber Authority. A Forest Management Levy will be applied to all Timber Permits, and some or all of its components, listed below, will be applied to Timber Authorities—

- PNGFA operations levy
- Log export surveillance levy
- Reforestation levy

PNGFA operations and Reforestation levies will all be payable at the end of each month, by cheque to the PNG Forest Authority. The cheques must be submitted with each monthly return.

Table 2: Amounts of royalty-equivalent and levy payments for different Timber Authority types as proposed under new revenue system

	Royalty equivalent	PNGFA Operations Levy	Log Export Surveillance Levy	Reforestation Levy
5,000 m3 domestic	K10 gross* on all logs scaled	K5.50 on all logs scaled	not applied	K2-50 on all logs scaled
roadline clearance	K10 gross* on all logs scaled	K5.50 on all logs scaled	K1.50 on all logs exported	not applied
agricultural clearance	K10 gross* on all logs scaled	K5.50 on all logs scaled	K1.50 on all logs exported	not applied
other forest products	To be fixed on a case by case basis as applicable on volume of forest products declared			

* deduct 15% for Provincial Government share and 5% of remaining landowner share of 85% as with-holding tax

(3) **Landowner Premium Levies** negotiated with landowners, payable directly to them either as individuals, clans or as recognised representative landowner bodies. Receipts evidencing payment must be submitted with each monthly return.

Where the levy is not payable to individuals or clans, it can be paid to Recognised Representative Landowner Bodies. If no such body is in existence the levy will be paid into a trust account maintained by the Forest Authority until such time as the Representative Body is formed and recognised by the Managing Director of the Forest Authority (see below).

(4) **Export duty.** Payable directly to Comptroller for Customs in accordance with normal procedures at time of export.

10: Performance Bonds

9.3 Landowner Premium

The royalty equivalent payment set out above is a base payment only. Landowners may negotiate additional payments in the form of a Landowner Premium Levy. The Landowner Premium Levy should also be specified in the Sales and Purchase Agreement.

This levy may be negotiated as a "top-up" to royalty-equivalent payments and paid to individual tree owners or it may be paid to clan agents or Incorporated Land Groups. Alternatively, it may be made payable to a Landowner Company representing a number of Incorporated Land Groups, provided this landowner company has been recognised as a properly representative body by the Managing Director of the Forest Authority.

Payments may be made to a Landowner Company only where the Managing Director has recognised that body as a Representative Landowner Body. Payments to Landowner Companies which include only a few landowners as shareholders will no longer be permitted. The Forest Authority issues Guidelines as to what are required criteria for a body to be recognised.

Generally speaking, unless Incorporated Land Groups have been formed, the Forest Authority will only approve revenue arrangements which incorporate direct payments to clans or individuals, rather than payments to Landowner Companies.

10. Performance Bonds

Section 87 of the *Forestry Act 1991* requires a performance bond to be fixed for each Timber Authorities. Section 98 provides the detailed provisions relating to Performance bonds:

98. PERFORMANCE BONDS.

- (1) A performance bond required under -
- (a) Section 73(2)(h) or 81(2) in relation to a timber permit; or
 - (b) Section 87(2)(e) in relation to a timber authority; or
 - (c) Section 91(2)(d) in relation to a licence,
- shall be -
- (d) in the prescribed form; and
 - (e) lodged with a bank approved by the Managing Director; and
 - (f) subject to Subsection (2), authorise the Authority to draw directly on the bond in the event of non-performance by the holder of the timber permit, timber authority or licence, as the case may be, of any condition or requirement of the timber permit, timber authority or licence

respectively, or of any provision of this Act.

- (2) The Authority may draw directly on a bond only -
 - (a) after following the prescribed procedures; and
 - (b) to the extent of the prescribed scale of deductions for nominated breaches of conditions or requirements.

- (3) Where the Authority has drawn on a bond in accordance with this section, the holder of the timber permit, timber authority or licence, as the case may be, shall, within 30 days of being so notified by the Authority, deposit with the bank a sum equivalent to the amount drawn.

Performance bonds will be calculated on the basis of an estimate of two months royalty-equivalent, which must be lodged in advance. For a domestic processing Timber Authority the performance bond is based on one-sixth the annual allowable cut. Where an additional Landowner Premium Levy is payable, that payment should also be included in the calculation.

Payment of the performance bond will be a precondition to the commencement of the Timber Authority. Harvesting which commences prior to payment of the bond constitutes a breach of the conditions of the Timber Authority.

The bond must be kept in an account maintained with a Bank in Papua New Guinea, and the holder and the Bank must provide the Managing Director with a declaration that the bond has been lodged. The declaration must be made in the form contained in Attachment 1, headed T-PFB. This form applies to all performance bonds. **Until this form is lodged with the Managing Director the Timber Authority is of no effect.**

The bond is generally intended to secure payment of royalties and levies, and can be drawn against for any non-payment, or late payment. In specific cases, the Forest Authority may require the lodgement of an additional accumulating bond, comprised of a percentage of the FOB value of each export shipment, as security for the performance of subsequent obligations.

The performance bond will be released by the Managing Director providing a written authorisation, under seal of the Forest Authority, to release the bond. The bond will not be released until the completion report has been submitted to the Resource Development Division, and there has been an opportunity for an inspection of the Project Area.

11: *Monitoring and Reporting*

11. Monitoring and Reporting of Timber Authorities

Timber Authorities will be monitored in a similar manner to other logging projects, except that project supervisors will not live on site.

11.1 Scaling and reporting of logs harvested

All holders of Timber Authorities, other than those covering Other Forest Products, must scale all logs produced. The requirements for those operations which export logs are stricter than for those harvesting for domestic use.

Export operations

All logs harvested under a Timber Authority which permits export must be scaled in accordance with the PNGFA "*Directions for the Identification, Scaling and Reporting on Logs Harvested from Natural Forest Logging Operations*".

Scaling must be undertaken by a Licensed Log Scaler. All logs scaled must be reported on an official numbered Log Scaling Record Sheet. Numbered log tags (obtained from the PNGFA) must be used.

Operations from which logs are not exported

Logs which are harvested but are not to be exported must be scaled in accordance with the methods set out in the "*Directions for the Identification, Scaling and Reporting on Logs Harvested from Natural Forest Logging Operations*", however the use of a Licenced Log Scaler and PNGFA official log tags is not required.

Monthly reports of logs scaled must be submitted to the local Forest Authority office, but the use of official Log Scale Sheets is not required. The form used for reporting must be produced by the Timber Authority holder, and contain the same information as the official Log Scale Record Sheets. An example of this form is at Attachment 7.

Submission on monthly reports with receipts and cheques

Reports must be submitted monthly and must have attached-

- (a) receipts for payment of royalty-equivalent payments to landowners;
- (b) cheques for payment of levies and taxation due to PNGFA, Commissioner for Internal Revenue, and Provincial Government.

Log producers failing to produce the required records will have their Timber Authority suspended until such time as they comply with these reporting requirements.

11.2 Report of harvesting of other forest produce

Producers of other forest products under a Timber Authority must report monthly to the local PNGFA office with details of the quantity of other forest produce harvested. Where payments are due, the monthly report must be accompanied by the required cheques (or receipts for payments).

Those failing to produce the required records will have their Timber Authority suspended until such time as they comply with these reporting and payment requirements.

11.3 Completion reporting

At the completion of a Timber Authority a report on the activities conducted under the Authority should be submitted to the local Forestry Office by the Timber Authority holder. The report should cover how the previous Timber Authority was carried out, the volumes harvested, and details of utilisation. Where a further Timber Authority is applied for, it will not be granted until this report on the previous Authority is judged to be satisfactory.

A performance bond lodged in respect of a Timber Authority will not be released until a completion report has been submitted.

12. Suspension of Timber Authorities

The Act gives general powers to suspend Timber Permits, Timber Authorities and licences:

85. SUSPENSION OF RIGHTS.

(1) The Managing Director may in addition to any penalty under this Act, suspend, in whole or in part, the rights in a Timber Permit, Timber Authority or licence where its holder -

- (a) made a material misrepresentation omission or mis-statement of fact in his application for it; or
- (b) fails to perform an obligation to be performed by him under it; or
- (c) fails to comply with this Act with regard to it.

(2) Before the rights are suspended, the Managing Director shall serve a notice on the holder -

- (a) specifying the alleged misrepresentation, omission or mis-statement or failure of performance or compliance; and

12: Suspension and Cancellation

(b) allowing the holder at least 14 days after the date of serving the notice to remedy the failure of performance or compliance.

(3) A suspension of rights under Subsection (1) takes effect on the expiry of the time allowed in the notice under Subsection (2) and continues until the rights are re-instated by the Managing Director or expire or are cancelled under this Act.

(4) On the request of the holder, the Managing Director shall allow him an opportunity to be heard and shall rescind the notice where he considers that the holder is not subject to Subsection (1).

(5) On the application of the holder, the Managing Director shall re-instate rights suspended under this section where the holder is performing his obligations and complying with this Act.

13. Cancellation of Timber Authorities

The Forestry Act makes provision for the cancellation of Timber Authorities by the Provincial Minister:

90. CONVICTION OF THE HOLDER OF A TIMBER AUTHORITY, ETC.,

(1) Where the holder of a timber authority (or where the holder is a corporate person, any of the principals of the holder) -

(a) is or are convicted of an offence -
(i) against this Act; of
(ii) concerning forestry matters,
against any other law; or

(b) has or have failed to comply with any of the conditions of the timber authority,
the Provincial Minister may cancel the timber authority.

ATTACHMENT 1—APPLICATION FORMS

TIMBER AUTHORITY APPLICATION FORMS:

TA-01 **Application for Timber Authority--
Annual Cut under 5,000 cubic metres,
Domestic Processing (Form 13)**

Use this form to apply for permission to harvest less than 5,000 m³ per year by selection logging from customary land.

TA-02 **Application for Timber Authority for
Roadline Clearance (Form 14)**

Use this form to apply for permission to harvest logs for commercial use from roadline clearing operations other than under a Timber Permit.

TA-03 **Application for Timber Authority for
Agricultural or other Land Use
Clearance (Form 15)**

Use this form for permission to harvest logs for commercial use from forest clearing operations for agriculture or other land use development.

TA-04 **Application for Timber Authority for
harvesting Other Forest Products (Form
16)**

Use this form for permission to harvest forest products other than timber.

TA-LOC **Timber Authority Verification of
Ownership and Consent of Landowners.
(Form 17)**

This form is used to show that landowners consent to the project and to verify they are the proper landowners of the area in question.

T-PFB **Confirmation of Lodgement of Security
Bond. (Form 19)**

This form must be completed by both the Holder of the Timber Authority, and the Bank holding the Performance bond, before the Timber Authority becomes effective.

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INDEPENDENT STATE OF PAPUA NEW GUINEA

FORESTRY ACT 1991

Act, Sec. 88
Reg.

FORM 13

**Application for Timber Authority—Annual Cut under
5,000 cubic metres, Domestic Processing***Use this form to apply for permission to harvest less than
5,000 m³ per year by selection logging from customary land*

Name and address of applicant*:

Name:	
Address:	
Phone:	Fax:
* The applicant must be the person who will actually carry out the logging.	

Registration number of applicant as registered forest industry participant:

Registration number:

Declaration of applicant status under IPA Act:

A company or joint venture owned 50% or more by non-citizens is a foreign enterprise.
Is the applicant a foreign enterprise? YES / NO
If yes, IPA certificate number:

Location of the proposed project:

Province:
Location:
Any other Timber Authorities held by the applicant within 10 km of the boundary of the proposed Project Area:

NOTE: THIS FORM IS TO BE LODGED WITH THE MANAGING DIRECTOR, NATIONAL FOREST SERVICE, PO BOX 5055 BOROKO PAPUA NEW GUINEA. Applications received by other Forest Authority offices will be returned to the applicant.

TA-01

Details of the proposed project:

Area (hectares):
Commencement date:
Proposed annual cut:

Declaration by Applicant:

I declare that the following documents are included with this application and that the information contained in them is true and correct:

- (1) K100 application fee (cheque made out to Papua New Guinea Forest Authority);
- (2) a copy of the applicant's IPA approval in respect of the activities and location to be carried out under the Timber Authority (if relevant);
- (3) a map and description of the project area in respect of which the application is made ("the project area") showing any areas of slope in excess of 30° and giving details of land tenure;
- (4) a completed Form TA-LOC from each resource owning Incorporated Land Group or clan agent within the project area, which has been signed in the village in the presence of a Village Court Magistrate or land mediator;
- (5) copies of Sales and Purchase Agreement and all other agreements between the applicant and the customary owners, which relate to the purchase, harvest, processing or marketing of timber and other forest products from the project area;
- (6) a plan for utilisation of the timber to be harvested;
- (7) copies of any agreements, or details of proposed arrangements with another registered forest industry participant in respect of the marketing or processing of timber from the project area;
- (8) if the Timber Authority is a renewal or extension of an existing Authority, a report showing how the previous Authority was performed, the volumes harvested, and details of utilisation.

Declared at

Dated 19 .

.....
Signed on behalf of the
Applicant

.....
Name of person signing

.....
Office held with applicant

IT IS AN OFFENCE UNDER THE FORESTRY ACT 1991 TO MAKE AN UNTRUE DECLARATION IN AN APPLICATION AND THE OMISSION, MISREPRESENTATION OR MIS-STATEMENT OF FACTS IN AN APPLICATION MAY BE GROUNDS FOR SUSPENSION OF THE TIMBER AUTHORITY.

INDEPENDENT STATE OF PAPUA NEW GUINEA

FORESTRY ACT 1991

Act, Sec.88
Reg.

FORM 14

**Application for Timber Authority for Roadline
Clearance**

Use this form to apply for permission to harvest logs for commercial use from roadline clearing operations other than under a timber permit

Name and address of applicant:

Name:	
Address:	
Phone:	Fax:
* The applicant must be the person who will actually carry out the logging.	

Registration number of applicant as registered forest industry participant:

Registration number:

Declaration of applicant status under IPA Act:

A company or joint venture owned 50% or more by non-citizens is a foreign enterprise.
Is the applicant a foreign enterprise? YES / NO
If yes, IPA certificate number:

Location of the proposed project:

Province:
Location:

NOTE: THIS FORM IS TO BE LODGED WITH THE MANAGING DIRECTOR, NATIONAL FOREST SERVICE, PO BOX 5055 BOROKO PAPUA NEW GUINEA. Applications received by other Forest Authority offices will be returned to the applicant.

TA-02

Details of the proposed project:

Area (hectares) (road length x 40m maximum width):	
Proposed term:	(max 1 yr)
Commencement date:	

Declaration by Applicant:

I declare that the following documents are included with this application and that the information contained in them is true and correct:

- (1) K100 application fee (cheque made out to Papua New Guinea Forest Authority);
- (2) if the applicant is a foreign company within the meaning of the *Investment Promotion Act* (50% or more foreign ownership), a copy of the applicant's IPA approval in respect of the activities and location to be carried out under the Timber Authority;
- (3) a map and description of the project area in respect of which the application is made ("the project area") giving details of land tenure, and showing the route of the proposed road in numbered 5 kilometre sections;
- (4) a completed Form TA-LOC from each resource owning Incorporated Land Group or clan agent within the project area, which has been signed in the village in the presence of a Village Court Magistrate or land mediator;
- (5) copies of Sales and Purchase Agreement and all other agreements between the applicant and the customary owners, which relate to the purchase, harvest, processing or marketing of timber and other forest products from the project area;
- (6) a plan for utilisation of the timber to be harvested;
- (7) copies of any agreements, or details of proposed arrangements with another registered forest industry participant in respect of the marketing or processing of timber from the project area;
- (8) if the Timber Authority is a renewal or extension of an existing Authority, a report showing how the previous Authority was performed, the volumes harvested and details of utilisation;
- (9) details of the design of the road including alignment and proposed standard of construction in accordance with Department of Works road design manual;

- (10) details of the proposed road construction including-
 - copy of construction contract (if the applicant is not going to undertake construction);
 - details of equipment and manpower suitable for road construction and evidence of past experience with road construction (if the applicant is to undertake construction);
 - details of cost of road construction and sources of funding;
 - implementation schedule showing planned rate and location of harvesting and road construction;
- (11) a certificate from the Department of Transport to the effect that the proposed road route is in accordance with the relevant national or provincial infrastructure plans and funding is available to maintain the road after construction;
- (12) a certificate from the Department of Works to the effect that the standard of construction proposed is appropriate for the nature of the road and the proposed alignment of the road is acceptable.

Declared at

Dated 19

Signed on behalf of the Applicant

.....

Name of person signing Office held with applicant

IT IS AN OFFENCE UNDER THE *FORESTRY ACT 1991* TO MAKE AN UNTRUE DECLARATION IN AN APPLICATION AND THE OMISSION, MISREPRESENTATION OR MIS-STATEMENT OF FACTS IN AN APPLICATION MAY BE GROUNDS FOR SUSPENSION OF THE TIMBER AUTHORITY.

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INDEPENDENT STATE OF PAPUA NEW GUINEA

FORESTRY ACT 1991

Act, Sec.88
Reg.

FORM 15

**Application for Timber Authority for Agricultural or
other Land Use Clearance**

Use this form for permission to harvest logs for commercial use from forest clearing operations for agricultural or other land use development (except road building)

Name and address of applicant:

Name:	
Address:	
Phone:	Fax:
* The applicant must be the person who will actually carry out the logging.	

Registration number of applicant as registered forest industry participant:

Registration number:

Declaration of applicant status under IPA Act:

<p>A company or joint venture owned 50% or more by non-citizens is a foreign enterprise.</p> <p>Is the applicant a foreign enterprise? YES / NO</p> <p>If yes, IPA certificate number:</p>
--

Location of the proposed project:

Province:
Location:

NOTE: THIS FORM IS TO BE LODGED WITH THE MANAGING DIRECTOR, NATIONAL FOREST SERVICE, PO BOX 5055 BOROKO PAPUA NEW GUINEA. Applications received by other Forest Authority offices will be returned to the applicant.

TA-03

Details of the proposed project:

Area (hectares):
Rate of clearing:
Proposed term (max 1 yr):
Commencement date:

Declaration by Applicant:

I declare that the following documents are included with this application and that the information contained in them is true and correct:

- (1) K100 application fee (cheque made out to Papua New Guinea Forest Authority);
- (2) if the applicant is a foreign company within the meaning of the *Investment Promotion Act* (50% or more foreign ownership), a copy of the applicant's IPA approval in respect of the activities and location to be carried out under the Timber Authority;
- (3) a map and description of the project area in respect of which the application is made ("the project area") showing any areas of slope in excess of 30° and giving details of land tenure;
- (4) Land owner consent:
For small-scale projects under 50 hectares
a completed Form TA-LOC from each resource owning clan agent (or Incorporated Land Group if they have been formed) within the project area, which has been signed in the village in the presence of a Village Court Magistrate or land mediator;
For large projects over 50 hectares
a completed Form TA-LOC from each resource owning incorporated land group within the project area, which has been signed in the village in the presence of a Village Court Magistrate or land mediator;
- (5) copies of Sales and Purchase Agreement and all other agreements between the applicant and the customary owners, which relate to the purchase, harvest, processing or marketing of timber and other forest products from the project area;
- (6) a plan for utilisation of the timber to be harvested;
- (7) copies of any agreements, or details of proposed arrangements with another registered forest industry participant in respect of the marketing or processing of timber from the project area;

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INDEPENDENT STATE OF PAPUA NEW GUINEA

FORESTRY ACT 1991

Act, Sec.88
Reg.

FORM 16

**Application for Timber Authority for harvesting of
Other Forest Produce***Use this form for permission to harvest forest products
other than timber*

Name and address of applicant:

Name:	
Address:	
Phone:	Fax:
* The applicant must be the person who will actually carry out the harvesting.	

Registration number of applicant as registered forest industry participant:

Registration number:

Declaration of applicant status under IPA Act:

A company or joint venture owned 50% or more by non-citizens is a foreign enterprise.
Is the applicant a foreign enterprise? YES / NO
If yes, IPA certificate number:

Location of the proposed project:

Province:
Location:

NOTE: THIS FORM IS TO BE LODGED WITH THE MANAGING DIRECTOR, NATIONAL FOREST SERVICE, PO BOX 5055 BOROKO PAPUA NEW GUINEA. Applications received by other Forest Authority offices will be returned to the applicant.

TA-04

Details of the proposed project:

Forest Product to be harvested:
Quantity to be harvested:
Proposed term (max 1 yr):
Commencement date:

Declaration by Applicant:

I declare that the following documents are included with this application and that the information contained in them is true and correct:

- (1) K100 application fee (cheque made out to Papua New Guinea Forest Authority);
- (2) a copy of the applicant's IPA approval in respect of the activities and location to be carried out under the Timber Authority (if relevant);
- (3) a map and description of the project area in respect of which the application is made ("the project area") giving details of land tenure;
- (4) a completed Form TA-LOC from each resource owning incorporated land group or clan agent within the project area, which has been signed in the village in the presence of a Village Court Magistrate or land mediator;
- (5) copies of all agreements between the applicant and the customary owners, which relate to the purchase, harvest, processing or marketing of other forest products from the project area;
- (6) details of the proposed revenue benefits to landowners from the project;
- (7) a description of the type and amount of forest produce to be harvested;
- (8) a plan for utilisation of the forest produce to be harvested;
- (9) copies of any agreements, or details of proposed arrangements with another registered forest industry participant in respect of the marketing or processing of other forest from the project area;

Declared at

Dated 19 .

.....
Signed on behalf of the
Applicant

.....
Name of person signing

.....
Office held with Applicant

IT IS AN OFFENCE UNDER THE FORESTRY ACT 1991 TO MAKE AN UNTRUE DECLARATION IN AN APPLICATION AND THE OMISSION, MISREPRESENTATION OR MIS-STATEMENT OF FACTS IN AN APPLICATION MAY BE GROUNDS FOR SUSPENSION OF THE TIMBER AUTHORITY.

INDEPENDENT STATE OF PAPUA NEW GUINEA

FORESTRY ACT 1991

Act, Sec.88
Reg.

FORM 17

**Timber Authority—Verification of Ownership and
Consent of Landowners**

(A SEPARATE COPY OF THIS FORM MUST BE COMPLETED FOR EACH CLAN AGENT, INCORPORATED LAND GROUP OR INDIVIDUAL HAVING OWNERSHIP RIGHTS OVER TIMBER AND/OR OTHER FOREST PRODUCTS TO BE TAKEN UNDER THE TIMBER AUTHORITY. COMPLETED FORMS SHOULD BE ATTACHED TO THE APPLICATION FOR TIMBER AUTHORITY)

1. Name and address of Resource Owners

<p>Name:</p> <p>Address:</p>

*note that only a Clan Agent or an Incorporated Land Group can exercise rights over customary land. Corporations may only exercise rights over freehold or leasehold land, not over customary land

The Sales and Purchase Agreement and this Consent Form must be signed in the village where the customary owners live, and witnessed by a Village Court Magistrate or a land mediator

2. Basis of ownership

customary freehold title leasehold title

<p><input type="checkbox"/> other (please describe)</p>

3. Consent to the project—

I hereby certify that—

- (a) I have been given a copy of the attached application for a Timber Authority and the project documents which go with the application;
- (b) the resource owners named above have ownership rights over timber or other forest produce within the

<p>Area (describe the area owned by the resource owners)</p>
--

- (c) the resource owners consent to the harvesting of

TA-LOC

- timber or
 other forest produce
in the area; (tick the box which applies)

(d) I have been appointed according to custom to act as the agent of the resource owners for the purposes of the project. (strike out if the land is not customary land)

DATED:	(write the date of signing here)
--------	----------------------------------

SIGNATURE:
(The person giving consent on behalf of the resource owners signs here. If the land is customary land, the form must be signed in the place where the resource owners live. A Village Court Magistrate or land mediator must witness the signature—see section 4. below.)

Name of person signing:
Place where the form was signed:

If the land is customary land, is the person giving consent above

- Clan Agent
 authorised by an Incorporated Land Group
(tick the box which applies)

4. Certificate by witness

I certify that I believe the person whose signature appears above is authorised to give this consent on behalf of the resource owners named, and that I believe that the resource owners are the true owners of the land described.

Signature of witness:
Name of witness:
Address of witness
Position held by witness: (Witness must be a Village Court Magistrate or Land Mediator)

INDEPENDENT STATE OF PAPUA NEW GUINEA

FORESTRY ACT 1991

Act, Sec.98
Reg.

FORM 19

Confirmation of Lodgement of Security Bond
(and authorisation for release)

Both the Holder and the Bank must complete this form and lodge it with the Managing Director before the Timber Permit, Timber Authority or Licence becomes effective

Name and address of Holder of Timber Permit, Timber Authority or Licence:

Name:	
Address:	
Phone:	Fax:

Details of Timber Permit, Timber Authority or Licence:

Type of TP, TA or Licence:
Number:
Commencement date:
Term:
Name of Project Area: (if relevant)
Location: (if relevant)
Amount of Performance Bond required: K.....

Details of Bond Account:

Name of Bank:	
Branch Address:	
Phone:	Fax:
Account number:	
Account balance: K.....	

T-PFB

PART ONE—DECLARATION BY HOLDER

Name and address of person making this declaration:

Name:	
Address:	
Phone:	Fax:
Position held with Holder:	

1. I am authorised to make this declaration on behalf of the above named Holder of the Timber Permit/ Timber Authority/ Licence.
2. The Holder maintains the account set out above (called 'the Bond Account') and the account has a credit balance as described above.
3. The Holder has nominated the funds held in the Bond Account to comprise the Performance Bond required to be lodged by it under the terms of the Timber Permit/ Timber Authority/ Licence and Section 98 of the Forestry Act.
4. The Holder has given an irrevocable authority to the Bank to release the Forest Authority such sums as the Authority seeks to draw, from funds held in the Bond Account, and such authority will remain in force until such time as the Bank receives a release notice under seal of the Forest Authority .
5. I have personal knowledge of the facts herein stated which are true and correct to the best of my knowledge and belief.

Signature of declarant

Signature of witness

Place of declaration:
Date of declaration:
Name of witness:
Address of Witness

PART TWO—UNDERTAKING OF BANK

We (insert Bank and Branch Name)
hereby unconditionally undertake to—

1. Pay promptly to the Forest Authority such sums as the Authority seeks to draw from funds held in the Bond Account without reference to the Holder and notwithstanding any direction given by the Holder to the Bank not to pay such sum or sums.
2. Not release to the Holder any of the funds deposited in the Bond Account until after receipt of a written authorisation, under seal of the Forest Authority, to release such funds to the Holder.

THE COMMON SEAL of the Bank was hereunto affixed in due execution of this undertaking in the presence of the witness.

Seal of the Bank

Name of witness authorised to affix seal:

Office held by witness:

Signature of witness:

NOTE: THIS FORM IS TO BE LODGED WITH THE MANAGING DIRECTOR, NATIONAL FOREST SERVICE, PO BOX 5055 BOROKO PAPUA NEW GUINEA.

T-PFB

THIS PART OF THE FORM SHOULD BE USED TO
AUTHORISE RELEASE OF THE BOND

PART THREE—AUTHORITY TO RELEASE FUNDS IN BOND ACCOUNT

TO: Manager
Bank
Branch
(insert address of Bank)

I, _____, Managing Director of the PNG
Forest Authority, hereby—

1. confirm the expiration or cancellation of the Timber Permit/ Timber Authority/ Licence held by the Holder;
2. confirm that the Forest Authority has received a completion report submitted by the Holder, I am satisfied that the Holder has discharged his/her or its obligations under the terms of the Timber Permit/ Timber Authority/ Licence; and
3. authorise and direct you to release the funds held in the Bond Account to the Holder.

Signature of Managing Director

THE COMMON SEAL of the Forest Authority was hereunto affixed in due execution of this release in the presence of the witness.

Seal of the
Forest Authority

Name of witness authorised to affix seal:

Office held by witness:

Signature of witness:

**ATTACHMENT 2—SALES AND PURCHASE
AGREEMENT**

Sales and Purchase Agreement

THIS AGREEMENT is made on the day of
..... 19...

BETWEEN:

Name:
Address:

Registered Forest Industry Participant and Timber Authority
applicant (called 'the Purchaser' in this agreement)

AND

Clan name:
Village:

Customary owners of timber in the Area
(called 'the Resource Owners) in this agreement

WHEREAS:

- A. The Resource Owners comprises the persons listed in Schedule 1 who are the sole owners of customary land in the area and have the rights to sell timber or other forest products growing on the land in the area marked in red on the map in Schedule 2. *(use one agreement for each clan);*
- B. The Resource Owners have not otherwise sold or disposed of rights over the timber or other forest produce growing on the land;
- C. The Purchaser wishes to make an Agreement with the Resource Owners for the purchase of timber or other forest produce;
- D. The Resource Owners have appointed as their agent in accordance with custom—

name of Clan Agent or person appointed by Incorporated Land Group:
--

to execute this agreement on their behalf.

SALES AND PURCHASE AGREEMENT

NOW IS AGREED AS FOLLOWS:

1. Condition precedent

1.1 This Agreement is subject to and conditional upon the grant of a Timber Authority by the PNG Forest Authority and shall not confer any right to harvest timber or other forest produce except in accordance with that Timber Authority.

2. Grant of rights to timber or other forest produce

2.1 The Resource Owners hereby grant to the Purchaser the exclusive right to purchase timber or other forest produce from the land area described in Schedule 2 (referred to in this agreement as 'the **Clan land**, with the exception of those species listed in Schedule 4).

2.2 The Resource Owners declare that—

- (a) they are customary owners of the Clan land;
- (b) they are entitled under custom to deal with timber or other forest produce on that land; and
- (c) no other person has any right or interest in the timber or other forest produce on the land.

2.3 Timber or other forest produce remains the property of the customary owners of the land in which it is growing until it has been felled, when the timber or other forest produce becomes the property of the Purchaser, subject to the payment of the monetary benefits set out in Schedule 3.

2.4 The Resource Owners must not interfere with the carrying out of this Agreement.

2.5 The Resource Owners must not allow any other person to acquire an interest in the timber or other forest produce which the Purchaser may be entitled to take under this Act.

3. Term of this Agreement

3.1 The term of this Agreement is (maximum one year) commencing on the day on which a Timber Authority covering all or part of the Clan land is issued by the PNG Forest Authority.

4. Monetary benefits

4.1 At the end of each month during which timber or other forest produce has been taken under this Agreement, the Purchaser must pay to the Resource Owners monetary benefits in accordance with Schedule 3, calculated on the volume of timber scaled or other forest produce declared during that month.

SALES AND PURCHASE AGREEMENT

5. Additional rights of the Purchaser

- 5.1 The Resource Owners grant to the Purchaser and all persons lawfully authorised by the Purchaser the rights to—
- (a) enter on and pass through land (but not private premises);
 - (b) make fire breaks and formed and unformed roads, tracks, bridges, culverts and similar works;
 - (c) prepare and construct loading and storage sites for forest produce;
 - (d) extract, remove, convert and use road-making materials for the purpose of any of the activities set out in paragraphs (a) to (c) above carried out within the land area described in Schedule 2 subject to payment of revenue benefits described in Schedule 3.;
 - (e) use, keep and transport vehicles, machinery, plant and equipment;
 - (f) use roads and waterways;
 - (g) conduct land and resource assessment surveys (including aerial surveys) and inventories.

6. Rights of the Resource Owners

- 6.1 The Clan and its members are entitled to carry out all customary rights to:
- (a) hunt;
 - (b) fish;
 - (c) gather plant foods
 - (d) gather traditional materials for making clothing, artefacts, tools, utensils and houses;
 - (e) collect firewood
 - (f) plant, maintain and harvest subsistence gardens
 - (g) enter on and pass through land.
- 6.2 Nothing in this Agreement entitles any employee of the Purchaser to hunt, fish or make gardens on Clan land without the permission of the owners of the relevant land.
- 6.3 The Resource Owners have the right to—
- (a) mark commercial trees and other forest produce which are required by them for traditional purposes; and
 - (b) identify cultural areas, burial grounds and gardens,
- which are to be excluded from this Agreement.
- 6.4 Cultural areas, burial grounds and gardens may be identified by marking them in blue or green on the map

SALES AND PURCHASE AGREEMENT

in Schedule 2, or may be identified to the Purchaser by the Resource Owner during an inspection of the land.

7. Land and buildings

7.1 The Purchaser may only construct permanent fixtures and buildings on land made available by agreement with the Resource Owners. The Resource Owners will not unreasonably withhold their agreement to the construction of buildings or permanent fixtures reasonably required for the purpose of this Agreement.

7.2 Any buildings or fixtures constructed on the Clan land for the purposes of this Agreement are severable and may be removed by the Purchaser within 90 days of the expiration or cancellation of the Timber Authority doing as little damage to the land as possible.

SIGNED BY THE CLAN AGENT OR AUTHORISED INCORPORATED LAND GROUP REPRESENTATIVE on behalf of the Resource Owners and in accordance with their wishes

Signature or mark

PLACE OF SIGNING (the Agreement must be signed in the place where the Clan members live)

Village:
Province:

WITNESSED BY Village Court Magistrate or Land Mediator

Signature of witness

SIGNED BY THE PURCHASER

Signature of Purchaser

SALES AND PURCHASE AGREEMENT

SCHEDULE 2—MAP DIAGRAM OF CLAN LAND AREA

Insert map—need not be to scale—showing clan area with red boundary

Cultural areas to excluded under clause 6 may also be shown in green or blue

SALES AND PURCHASE AGREEMENT

SCHEDULE 3—MONETARY BENEFITS

Royalty equivalent payments

K m3 (minimum K10)

(note Provincial Government share of 15% and with-
holding tax of 5% of remaining 85% to be deducted)

Landowner premium levy

K m3

Landowner Premium Levy is payable to—

*Resource owners who receive royalty payments

OR

*Recognised Representative Landowner Body

Name of Recognised Body:

Date of Managing Director's letter of recognition:

**strike out which ever one is not applicable*

SCHEDULE 4—EXCLUDED SPECIES

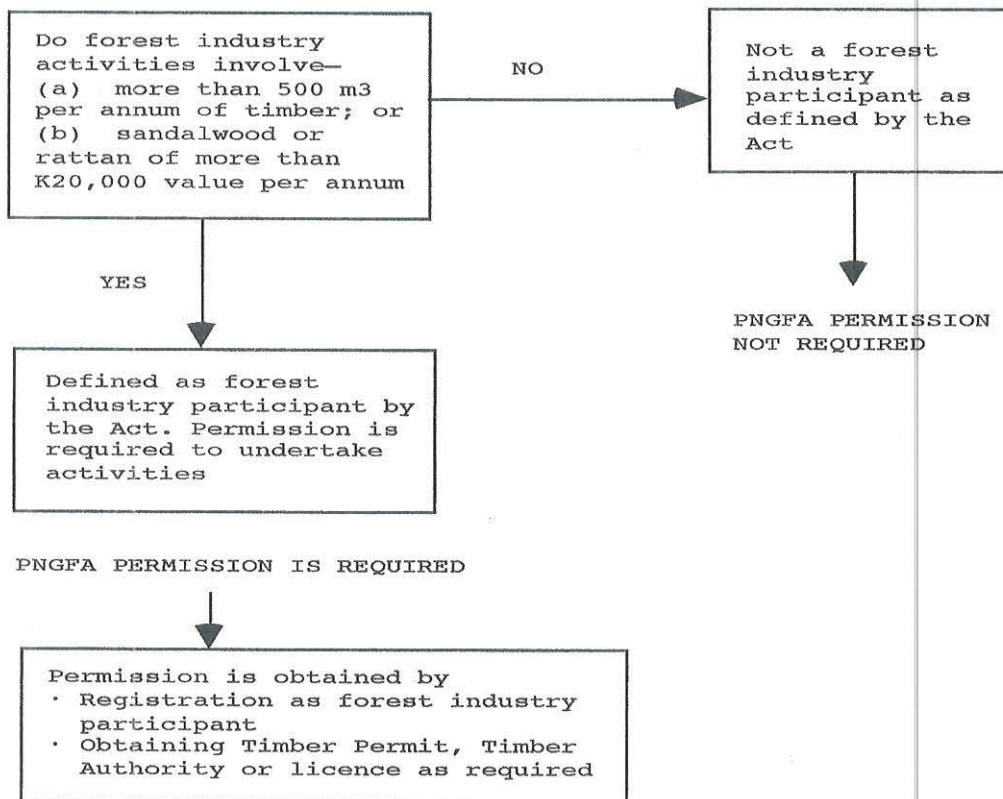
*May also list any excluded areas if they cannot be shown on
the map in schedule 2*



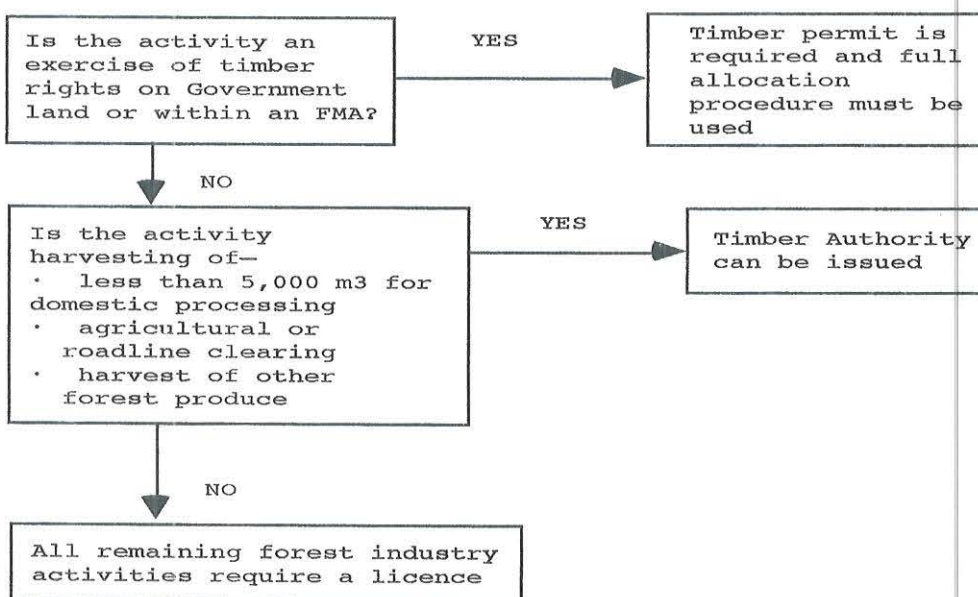
ATTACHMENT 3—FORESTRY ACT REQUIREMENTS

Requirements of the Forestry Act to obtain permission for harvesting

**IS PERMISSION OF THE PNG FOREST AUTHORITY REQUIRED TO
UNDERTAKE HARVESTING?**



WHAT KIND OF PERMISSION IS REQUIRED?





ATTACHMENT 4—CHECKLIST and EVALUATION SHEET

Timber Authority Application Checklist and Evaluation Sheet

The purpose of this checklist is to ensure that everything which should have been sent in with a TA application has been sent in, and that the proposed Timber Authority meets the Guidelines. The checklist should be filled in and then put on file after the application has been processed.

PROVINCE:

NAME OF TA AREA:

NAME OF APPLICANT:

APPLICATION DATE:

DATE APPLICATION RECEIVED:

REGISTRATION NUMBER:

PART ONE—CHECKING THE APPLICATION FOR COMPLETENESS

DATE ON WHICH THIS CHECK WAS MADE/...../.....

OFFICER CHECKING:

IF THERE IS A **X** AGAINST ANY BOX WHICH APPLIES TO THE APPLICATION IT SHOULD BE SENT BACK TO THE APPLICANT WITH A LETTER EXPLAINING WHAT IS MISSING

✓ for 'YES' X for 'NO'

✓ or X

1. Is the application form filled in and signed
2. Is an application fee of K100 enclosed
3. Forest industry participant registration number
4. Is the applicant a foreign company?
If so, has an IPA certificate been included
5. What kind of Timber Authority is applied for:
TA-01 Domestic processing under 5,000 m3
TA-02 Roadline clearing
TA-03 Agricultural or other land use clearing
TA-04 Other Forest Product harvesting
6. Is the application accompanied by all the correct documents?

CHECKLIST

6. Is the application accompanied by all the correct documents?

USE THE LISTS BELOW TO DETERMINE IF THE RIGHT INFORMATION HAS BEEN SENT IN WITH THE TIMBER AUTHORITY. MARK EACH BOX WITH or . IF THERE IS A BY ANY BOX WHICH APPLIES, SEND THE APPLICATION BACK TO THE APPLICANT

TA-01 Applications for 5,000 cubic metre domestic processing Timber Authorities:	
Are the following included?	<input checked="" type="checkbox"/> or <input checked="" type="checkbox"/>
<input checked="" type="checkbox"/> for 'YES' <input checked="" type="checkbox"/> for 'NO'	
(1) a map and description of the project area in respect of which the application is made ("the project area") showing any areas of slope in excess of 30° and giving details of land tenure;	<input type="checkbox"/>
(2) a completed Form TA-LOC from each resource owning Incorporated Land Group or Clan Agent within the project area, which has been signed in the village in the presence of a Village Court Magistrate or land mediator;	<input type="checkbox"/>
(3) copies of Sales and Purchase Agreement and all other agreements between the applicant and the customary owners, which relate to the purchase, harvest, processing or marketing of timber and other forest products from the project area;	<input type="checkbox"/>
(4) a plan for utilisation of the timber to be harvested;	<input type="checkbox"/>
(5) copies of any agreements, or details of proposed arrangements with another registered forest industry participant in respect of the marketing or processing of timber from the project area;	<input type="checkbox"/>
(6) if the Timber Authority is a renewal or extension of an existing Authority, a report showing how the previous Authority was performed, the volume of timber harvested and details of utilisation.	<input type="checkbox"/>
IF THERE IS A <input checked="" type="checkbox"/> BY ANY BOX WHICH APPLIES, SEND THE APPLICATION BACK TO THE APPLICANT WITH A REQUEST FOR MORE INFORMATION	

TA-02 Applications for Roadline clearance Timber Authorities:	
Are the following included?	<input checked="" type="checkbox"/> or <input checked="" type="checkbox"/>
<input checked="" type="checkbox"/> for 'YES' <input checked="" type="checkbox"/> for 'NO'	
(1) a map and description of the project area in respect of which the application is made ("the project area") showing the route of the proposed road in numbered 5 kilometre sections, and showing details of land tenure;	<input type="checkbox"/>

CHECKLIST

<u>Roadline clearance Timber Authorities</u> continued		✓ or X
(2)	a completed Form TA-LOC from each resource owning Incorporated Land Group or Clan Agent within the project area, which has been signed in the village in the presence of a Village Court Magistrate or land mediator;	<input type="checkbox"/>
(3)	copies of Sales and Purchase Agreement and all other agreements between the applicant and the customary owners, which relate to the purchase, harvest, processing or marketing of timber and other forest products from the project area;	<input type="checkbox"/>
(4)	a plan for utilisation of the timber to be harvested;	<input type="checkbox"/>
(5)	copies of any agreements, or details of proposed arrangements with another registered forest industry participant in respect of the marketing or processing of timber from the project area;	<input type="checkbox"/>
(6)	if the Timber Authority is a renewal or extension of an existing Authority, a report showing how the previous Authority was performed, the volume of timber harvested and details of utilisation.	<input type="checkbox"/>
(7)	details of the design of the road including alignment and proposed standard of construction in accordance with Department of Works road design manual;	<input type="checkbox"/>
(9)	details of the proposed road construction including- <ul style="list-style-type: none"> · copy of construction contract (if the applicant is not going to undertake construction); · details of equipment and manpower suitable for road construction and evidence of past experience with road construction (if the applicant is to undertake construction); · details of cost of road construction and sources of funding. · implementation schedule showing planned rate and location of harvesting and road construction. 	<input type="checkbox"/>
(10)	a certificate from the Department of Transport confirming that the proposed road route is in accordance with the relevant national or provincial infrastructure plans and funding is available to maintain the road after construction;	<input type="checkbox"/>
(11)	a certificate from the Department of Works confirming that the standard of construction proposed is appropriate for the nature of the road and that the proposed alignment of the road is acceptable	<input type="checkbox"/>
<p>IF THERE IS A X BY ANY BOX WHICH APPLIES SEND THE APPLICATION BACK TO THE APPLICANT WITH A REQUEST FOR MORE INFORMATION</p>		

CHECKLIST

TA-03 <u>Applications for Agricultural clearance Timber Authorities:</u>	
Are the following included?	✓ or X
✓ for 'YES' X for 'NO'	
(1) a map and description of the project area in respect of which the application is made ("the project area") showing any areas of slope in excess of 30° and giving details of land tenure;	<input type="checkbox"/>
(2) a completed Landowner Consent Form TA-LOC	<input type="checkbox"/>
<u>Small scale projects under 50 hectares:</u>	
from each clan agent within the project area, which has been signed in the village in the presence of a Village Court Magistrate or land mediator; OR	
<u>Large scale projects over 50 hectares</u>	
from each resource owning incorporated land group or clan agent within the project area, which has been signed in the village in the presence of a Village Court Magistrate or land mediator;	
(3) copies of Sales and Purchase Agreement and all other agreements between the applicant and the customary owners, which relate to the purchase, harvest, processing or marketing of timber and other forest products from the project area;	<input type="checkbox"/>
(4) a plan for utilisation of the timber to be harvested;	<input type="checkbox"/>
(5) copies of any agreements, or details of proposed arrangements with another registered forest industry participant in respect of the marketing or processing of timber from the project area;	<input type="checkbox"/>
(6) if the Timber Authority is a renewal or extension of an existing Authority, a report showing how the previous Authority was performed, the volume of timber harvested and details of utilisation.	<input type="checkbox"/>
<u>Small Scale Operations under 50 hectares:</u>	
(8) Project description showing- <ul style="list-style-type: none"> · the nature of the proposed land use; · who is to carry out the land use; · a description of the precise area of land use; · the proposed timetable for implementation. 	<input type="checkbox"/>
<u>Large Scale Operations over 50 hectares:</u>	
(8) a detailed agricultural development plan certified by the Department of Agriculture and Livestock as a true and accurate statement of the proposed project;	<input type="checkbox"/>

Agricultural clearance Timber Authorities continued		✓ or X
(9)	supporting letters from the Department of Agriculture and Livestock and any other relevant industry body to the effect that the proposed project is viable;	<input type="checkbox"/>
(10)	evidence of intention to carry out the Agriculture development plan such as orders placed with suppliers etc.	<input type="checkbox"/>
(11)	an implementation schedule showing the precise areas and rate of harvesting and successive land use development approved by the Department of Agriculture and Livestock;	<input type="checkbox"/>
(12)	copy of an approved Environmental Plan, or a letter of comfort from DEC indicating no plan is required;	<input type="checkbox"/>
(13)	a letter from the Secretary, Department of Lands evidencing appropriate land tenure (eg., agricultural leases)	<input type="checkbox"/>
<p><i>IF THERE IS A X BY ANY BOX WHICH APPLIES SEND THE APPLICATION BACK TO THE APPLICANT WITH A REQUEST FOR MORE INFORMATION</i></p>		

TA-04 Applications for Timber Authorities to harvest Other Forest Products:		
Are the following included?		✓ or X
✓ for 'YES' X for 'NO'		
(1)	a map and description of the project area in respect of which the application is made ("the project area") giving details of land tenure;	<input type="checkbox"/>
(2)	a completed Form TA-LOC from each resource owning incorporated land group or clan agent within the project area, which has been signed in the village in the presence of a Village Court Magistrate or land mediator;	<input type="checkbox"/>
(3)	copies of Sales and Purchase Agreement and all other agreements between the applicant and the customary owners, which relate to the purchase, harvest, processing or marketing of other forest products from the project area;	<input type="checkbox"/>
(4)	a plan for utilisation of the forest products to be harvested;	<input type="checkbox"/>
(5)	copies of any agreements, or details of proposed arrangements with another registered forest industry participant in respect of the marketing or processing of forest products from the project area;	<input type="checkbox"/>

CHECKLIST

Timber Authorities to harvest Other Forest Products ✓ or X
continued

- (6) if the Timber Authority is a renewal or extension of an existing Authority, a report showing how the previous Authority was performed, the volume of other forest products harvested and details of utilisation.

IF THERE IS A X BY ANY BOX WHICH APPLIES SEND THE APPLICATION BACK TO THE APPLICANT

RESULTS OF CHECK:

- Application returned to applicant with request for further documents

LIST DOCUMENTS REQUIRED HERE

OR

- Application accepted—proceed to evaluation

PART TWO—EVALUATING THE APPLICATION

DATE ON WHICH THIS CHECK WAS MADE/...../.....

OFFICER CHECKING:

CHECK EACH APPLICATION AGAINST THE APPROPRIATE SET OF CRITERIA TO EVALUATE WHETHER THE AUTHORITY SHOULD BE GRANTED IN THE TERMS SOUGHT

All Applications

Are the following criteria satisfied?		✓ or X
✓ for 'YES' X for 'NO'		
1.1	If applicant is a foreign company— IPA certificate shows approval for the activity to be carried out under the Timber Authority <u>in the proposed location</u>	<input type="checkbox"/>
IF THERE IS A X AGAINST THE ABOVE, SEND THE APPLICATION BACK TO THE APPLICANT—IT IS AN OFFENCE TO APPLY FOR A TIMBER AUTHORITY WITHOUT HAVING IPA APPROVAL FOR THE ACTIVITY <u>AND THE LOCATION</u> , FIRST		

TA-01 Domestic Processing Timber Authorities:

Are the following criteria satisfied?		✓ or X
✓ for 'YES' X for 'NO'		
2.1	Proposed cut no more than 5,000 annual harvest	<input type="checkbox"/>
2.2	Does applicant already have TA within 10 km of ANY boundary	<input type="checkbox"/>
2.3	(If yes, total permitted volume is 5,000 m3 annually for all) TOTAL VOLUME ALLOWED FOR THIS TA:	
2.4	Proposed area not within existing or proposed FMA area (check with Mapping branch)	<input type="checkbox"/>
2.5	Proportion of 30° slope not excessive (logging not allowed over 30° slope)	<input type="checkbox"/>
2.6	Utilisation Plan is for domestic processing	<input type="checkbox"/>
2.7	Landowner consents from clan agents are in order (Regional Office should do check to ensure all landowner groups included)	<input type="checkbox"/>
2.8	Revenue benefits to landowners are at least at current royalty rate	<input type="checkbox"/>
IF THERE IS A X AGAINST ANY OF THE ABOVE, CONSIDER WHETHER TO ASK THE APPLICANT TO RESUBMIT THE APPLICATION WITHIN THE GUIDELINES, OR RECOMMEND TO PFMC <u>NOT TO GRANT THE TIMBER AUTHORITY</u> .		

EVALUATION SHEET

TA-02 Roadline clearance Timber Authorities

Are the following criteria satisfied?		✓ or X
✓ for 'YES' X for 'NO'		
3.1	Road is outside existing FMA or TRP area	<input type="checkbox"/>
3.2	Project documents include details of road cost and evidence that proposed road is funded	<input type="checkbox"/>
3.3	If applicant is not to do construction— copy of construction contract is included	<input type="checkbox"/>
3.4	If applicant is going to do construction details of manpower and equipment available for construction provided	<input type="checkbox"/>
3.5	Implementation schedule shows construction within three to six months of harvest	<input type="checkbox"/>
3.6	Department of Transport or provincial department has approved route of road and confirmed funding for maintenance (sight letter from Secretary)	<input type="checkbox"/>
3.7	Department of Works has approved alignment and standard of road (sight letter from Secretary)	<input type="checkbox"/>
3.8	Road corridor width not more than 40m, maximum distance 5 kilometres per section (TA granted for whole road but harvesting authorised in stages)	<input type="checkbox"/>
3.9	Landowner consents from clan agents are in order (Regional Office should do check to ensure all landowner groups included)	<input type="checkbox"/>
3.10	Revenue benefits to landowners are at least at current royalty rate and are based on logs scaled, not logs exported	<input type="checkbox"/>
<p><i>IF THERE IS A X AGAINST ANY OF THE ABOVE, CONSIDER WHETHER TO ASK THE APPLICANT TO RESUBMIT THE APPLICATION WITHIN THE GUIDELINES, OR RECOMMEND TO PFMC <u>NOT TO GRANT THE TIMBER AUTHORITY.</u></i></p>		

TA-03 Agricultural clearance Timber Authorities

Are the following criteria satisfied?		✓ or X
✓ for 'YES' X for 'NO'		
4.1	Area for development is not within existing FMA area (check with Mapping Branch)	<input type="checkbox"/>
<p><u>Small scale projects under 50 hectares only:</u> (for large projects over 50 hectares go to the next page)</p>		
4.2	Project appears genuine and viable	<input type="checkbox"/>
4.3	Proposed timetable for implementation shows development within 3-6 months of clearing	<input type="checkbox"/>

<u>Agricultural clearance TAs continued</u>		✓ or X
4.4	Landowner consents from clan agents (or ILGs if they exist) are in order (Regional Office should do check to ensure all landowner groups included)	<input type="checkbox"/>
<u>Large Scale Projects over 50 hectares only:</u>		
4.2	Detailed Agricultural Plan has been approved by Department of Agriculture and Livestock as accurate project statement (sight letter from Secretary)	<input type="checkbox"/>
4.3	DAL have approved detailed implementation schedule (sight approval letter)	<input type="checkbox"/>
4.4	DAL and other relevant industry bodies have confirmed project is viable (sight letters from agencies)	<input type="checkbox"/>
4.5	Evidence is available of commitment to project, eg., ordering of supplies, construction of nursery, site survey and tendering of mill construction etc. (sight invoices, orders, other documentation)	<input type="checkbox"/>
4.6	DEC approved Environmental Plan is in place or DEC letter states no Environmental Plan is required. (sight approval or comfort letter from DEC)	<input type="checkbox"/>
4.7	Incorporated Land Groups have been formed	<input type="checkbox"/>
4.8	Landowner consents from ILGs are in order (Regional Office should do check to ensure all landowner groups included)	<input type="checkbox"/>
4.9	Secretary Department of Lands has confirmed land tenure is complete. (sight letter from Secretary)	<input type="checkbox"/>
4.10	Revenue benefits to landowners are at least at current royalty rate and based on logs scaled, not on logs exported	<input type="checkbox"/>
<p>IF THERE IS A X AGAINST ANY OF THE ABOVE, CONSIDER WHETHER TO ASK THE APPLICANT TO RESUBMIT THE APPLICATION WITHIN THE GUIDELINES, OR RECOMMEND TO PFMC <u>NOT TO GRANT THE TIMBER AUTHORITY.</u></p>		

TA-04 Harvesting of other forest produce:

Are the following criteria satisfied?		✓ or X
✓ for 'YES' X for 'NO'		
5.1	Type and quantity of forest produce is specified	<input type="checkbox"/>

EVALUATION SHEET

<u>Harvesting of other forest produce</u> continued ✓ or X		
5.2	Landowner consents from clan agents are in order (Regional Office should do check to ensure all landowner groups included)	<input type="checkbox"/>
5.3	Revenue benefits to landowners are at least at current royalty rate	<input type="checkbox"/>

IF THERE IS A X AGAINST ANY OF THE ABOVE, CONSIDER WHETHER TO ASK THE APPLICANT TO RESUBMIT THE APPLICATION WITHIN THE GUIDELINES, OR RECOMMEND TO PFMC NOT TO GRANT THE TIMBER AUTHORITY.

PART THREE—TAKING ACTION FOLLOWING THE EVALUATION

RESULTS OF EVALUATION:

Was the application outside the Guidelines in any way?

YES NO

IF YES, STATE WHERE APPLICATION IS OUTSIDE THE GUIDELINES—

ACTION TAKEN:

Application returned to applicant with request to resubmit application within guidelines:

LIST THE CHANGES NECESSARY TO BRING THE APPLICATION WITHIN THE GUIDELINES

continued...

OR

Application not accepted—recommended to PFMC to refuse application

- 1. Evaluation Report prepared setting out why application does not fit within the Guidelines
- 2. Letter to PFMC enclosing application and Evaluation Report and recommending TA not be issued

OR

Application accepted—recommended to PFMC for issue of TA

- 1. Evaluation Report prepared
- 2. Copy of Evaluation Report sent to Regional Office
- 3. Draft Timber Authority prepared
- 4. Calculate Performance Bond
(Royalty rate plus landowner premium x annual expected harvest divided by 6)

AMOUNT: K.....
- Specify additional accumulating performance Bond if desired
- 5. Evaluation Report sent to PFMC with TA application and draft Timber Authority

EVALUATION REMARKS:

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ATTACHMENT 5—STANDARD LETTERS

5.1 Letter accompanying Incomplete Timber Authority Application Returned to Applicant

Date:

Application number: ATA

TO THE APPLICANT

re: Application for Timber Authority

Your application for a Timber Authority for* delete as appropriate

* { harvesting under 5,000 cubic metres per year*
roadline clearance*
agricultural clearance*
harvesting other forest produce*
has been received by this office.

The application has not been accepted because * delete as appropriate

* { Application form is not completed*
Application fee of K100 not enclosed*
Applicant is not a registered forest industry participant*
no valid IPA certificate included
required information is missing*

(If required information is missing, specify here what it is.)

A current copy of the Application form relevant to your application is attached.

(Attach TA-01, TA-02, TA-03, or TA-04 as appropriate. It may also be appropriate to enclose a copy of TA-LOC and/or a Standard Sales and Purchase Agreement)

Yours sincerely

Jean L Kekedo
Managing Director

cc: Regional Office Region
National Forest Authority Board Secretariat
PFMC Chairperson..... Province

STANDARD LETTERS

**5.2 Letter to PFMC enclosing application,
evaluation report and draft Timber Authority**

Date:

File number:
Application number: ATA

TO THE CHAIRPERSON
PROVINCIAL FOREST MANAGEMENT COMMITTEE
..... PROVINCE

re: Application for Timber Authority at

I advise that I have received the enclosed application for a Timber Authority for

- * { harvesting under 5,000 cubic metres per year*
- roadline clearance*
- agricultural clearance*
- harvesting other forest produce*

The Resource Development Division of the Forest Authority have undertaken an evaluation of the application and a copy of the evaluation report is enclosed.

Based on the application and evaluation, a draft Timber Authority has been prepared and is enclosed.

Please note that the draft Timber Authority enclosed is in accordance with the standard Guidelines approved by the National Forest Board. We suggest that the Authority be recommended for issue by the Provincial Minister in the form which is enclosed.

Please note that the Provincial Minister will be required to provide a copy of the Timber Permit with the notification to the Board if he/she does propose to issue the Timber Authority.

* delete as appropriate

Yours sincerely

Jean L Kekedo
Managing Director

cc: Regional Office Region
National Forest Authority Board Secretariat
PFMC Chairperson-..... Province



TA-01—Domestic Processing under 5,000 cubic metres per year

SCHEDULE 1—Map and description of Project Area

(INSERT A DESCRIPTION OF THE PROJECT AREA AND INCLUDE A MAP WITH THE AREA OUTLINED IN RED)

SCHEDULE 2—Term and commencement date

The term of the Authority is for a period of one year commencing on the 19 .

(The term may be less than one year)

SCHEDULE 3—Allowable cut

The annual allowable cut is [*INSERT AMOUNT NOT MORE THAN 5,000*], subject to the provisions of Clause 3 which may require the annual allowable cut to apply to more than one Timber Authority.]

SCHEDULE 4—Performance Bond

The amount of the performance bond will be K

(INSERT AMOUNT OF ROYALTY RATE + LANDOWNER PREMIUM LEVY RATE X ANNUAL ALLOWABLE CUT DIVIDED BY 6)

Deductions may be made from the Performance Bond without reference to the holder, for any late payment or non-payment of revenue due to the resource owners.

The Performance Bond will be released on the authorisation of the Managing Director under Seal of the Forest Authority after the holder has submitted a completion report and has satisfied the terms and conditions of this Authority.

SCHEDULE 5—Standard conditions

(The following standard conditions have been approved by the Forest Authority)

DOMESTIC PROCESSING CONDITIONS—TA-01

1. Interpretation

1.1 In this Authority—

"Project Area" means the area described in Schedule 1;

"resource owners" means the customary owners of the timber and other forest products in the Project Area, and includes any person named as owners in the Sales and Purchase Agreement;

"the Act" means the *Forestry Act 1991*;

"the holder" means the registered forest industry participant named in this Timber Authority.

1.2 Words and phrases have the same meanings as in the *Forestry Act 1991*.

2. Conditions Precedent

2.1 The following conditions must be satisfied before this Timber Authority becomes effective—

(a) the lodgement of a Performance Bond in accordance with Schedule 4;

(b) the continued validity of the Authority holder's registration as a forest industry participant;

(c) if the applicant is a foreign enterprise within the meaning of the *Investment Promotion Authority Act*, the continued validity of the IPA approvals for the activity authorised by the Timber Authority.

2.2 If the registration or approval referred to in Clause 2.1 ceases to be valid, this Timber Authority immediately becomes void and of no effect.

3. Harvesting

3.1 Subject to the terms and conditions of this Authority, the provisions of the *Forestry Act* and *Forestry Regulations*, and the provisions of any agreement entered into by the holder with the resource owners, the holder may exercise timber rights within the Project Area during the term of this Authority.

3.2 Where the holder is, or becomes, the holder of another Timber Authority or Timber Authorities having its or their boundary within ten kilometres of the boundary of the Project Area, the total annual allowable cut for all the Timber Authorities combined must not exceed 5,000 cubic metres per annum.

3.3 Where the holder of this Timber Authority was, on the commencement of this Timber Authority, the holder of

another Timber Authority having its boundary within ten kilometres of the boundary of this Timber Authority, but did not declare the existence of the first Timber Authority at the time of making application for this Timber Authority, this Timber Authority is void and of no effect.

4. Associated rights

4.1 In carrying out the terms and conditions of this Authority the holder may, within those parts of Project Area in which harvesting is authorised, exercise rights to—

- (a) enter on and pass through land (but not private premises);
- (b) make fire breaks, roads, tracks, bridges, culverts and similar works;
- (c) prepare and construct loading and storage sites for forest produce;
- (d) extract, remove, convert and use road-making materials for the purpose of any of the activities set out in paragraphs (a) to (c) above carried out within the Project Area subject to payment of any royalty-equivalent payment agreed with the resource owners or fixed in the Sales and Purchase Agreement;
- (e) use, keep and transport vehicles, machinery, plant and equipment;
- (f) use roads and waterways;
- (g) conduct land and resource assessment surveys (including aerial surveys) and inventories.

4.2 Export of timber harvested under this Timber Authority is not permitted.

5. Environmental and Forest Management Standards

5.1 The holder must at all times observe the provisions of the *Environmental Contaminants Act*, *Environmental Planning Act*, *Water Resources Act* and other environmental laws of Papua New Guinea.

5.2 The holder must at all times observe the *Key Standards for Selection Logging* appended to this Authority or those environmental and forest management standards fixed from time to time by the Managing Director which replace them.

DOMESTIC PROCESSING CONDITIONS—TA-01

6. Rights of Resource Owners

- 6.1 In carrying out its rights under this Authority, the holder must not interfere with the customary user rights of the resource owners including the right to—
- (a) hunt;
 - (b) fish;
 - (c) gather plant foods;
 - (d) gather traditional materials for making clothing, artefacts, tools, utensils and houses;
 - (e) collect firewood;
 - (f) plant, maintain and harvest subsistence gardens;
 - (g) enter on and pass through land.
- 6.2 Nothing in this Authority shall be taken as authorising the holder to make food gardens, hunt or fish within the Project Area or the areas adjacent to it.
- 6.3 The holder must not fell, cut, remove, dispose of or damage any—
- (a) trees which have been declared to be reserve trees under Section 4 of the Act;
 - (b) species of tree or other plants specified as excluded forest products in the Sales and Purchase Agreement;
 - (c) particular plants marked and identified by the resource owners in accordance with the Sales and Purchase Agreement;
 - (d) timber or other forest products growing in cultural areas, burial grounds, gardens or reserved areas identified by the resource owners in accordance with the Sales and Purchase Agreement.
- 6.4 Compensation for any breach of this Clause will be determined by agreement between the holder and the resource owners or will be fixed by the Valuer-General if no agreement can be reached.
- 6.5 Where the holder is in breach of the Clause, the Holder must pay the compensation which has been agreed or fixed under Clause 6.4, within the period of time specified by the Managing Director.

7. Payment for timber

- 7.1 The holder must pay revenue to the resource owners at the rates fixed in Schedule 6, in respect of all timber felled and scaled within the Project Area.
- 7.2 In addition to payments made to the resource owners, the holder must pay to the Forest Authority levies set out in Schedule 6, or which are from time to time fixed

by the Minister in respect of the Timber Authority, or in respect of Timber Authorities generally.

8. Roads and bridges

- 8.1 The holder must construct all bridges and roads required for its operation within the Project Area.
- 8.2 The holder must maintain all bridges and roads to a standard sufficient to carry normally laden logging trucks and at all times during the term of this Authority must ensure that all roads which are in use for the logging operation are in a trafficable condition.
- 8.3 Any roads constructed by the holder will be available for use by the public without charge.

9. Land and buildings

- 9.1 The holder must not erect any buildings or fixtures within the Project Area other than roads and bridges, landings and other infrastructure mentioned in Clause 4, without the consent of the resource owners.
- 9.2 Any buildings or fixtures constructed in the Project Area for the purposes of this Authority are severable and may be removed by the holder within 90 days of the expiration or cancellation of the Timber Authority doing as little damage to the land as possible.

10. Measurement and recording of forest produce

- 10.1 All forest produce harvested in the project area must be scaled and numbered in accordance with directions given from time to time by the Managing Director.
- 10.2 Subject to any other direction which may be given under Clause 10.1, timber harvested in the Project Area must be scaled, recorded and declared in accordance with the PNGFA Directions for Scaling, but the use of a Licenced Log Scaler is not required, and the use of official numbered Log Scale Record Sheets and numbered Log tags is not required.

11. Subcontracting prohibited

- 11.1 Harvesting under this Timber Authority may be carried out only by the person named as the holder and must not be subcontracted, other than by the employment of individual contract workers on piece-rates.

2. Landowner Premium levy

K m3

Landowner Premium Levy is payable to—

*Resource owners who receive royalty payments

OR

*Recognised Representative Landowner Body
recognised by the Managing Director

Name of Recognised Body:

**strike out which ever is not applicable*

Payments must be made to resource owners and receipts for payment must be submitted to the Forest Authority Revenue Accountant at Headquarters by the 10th of the month following in respect of all logs scaled during the month.

3. PNGFA Operating Levy

K m3 payable to the PNG Forest Authority

Payments must be made to the Forest Authority Revenue Accountant at Headquarters by the 10th of the month following in respect of all logs scaled during the month.

4. Reforestation Levy

K m3 payable to PNG Forest Authority

Payments must be made to the Forest Authority Revenue Accountant at Headquarters by the 10th of the month following in respect of all logs scaled during the month.



TA-02—Roadline Clearance

SCHEDULE 1—Map and description of Project Area

The Project Area is an area of hectares of road corridor of maximum width 40 metres along the route shown in red on the map.

(THE MAP SHOULD SHOW THE ROUTE OF THE ENTIRE ROAD IN 5 KM SECTIONS NUMBERED IN ORDER OF CLEARING)

SCHEDULE 2—Term and commencement date

The term of the Authority is for a period of one year commencing on the 19 .

(The term may be less than one year)

SCHEDULE 3—Allowable cut

The annual allowable cut is that timber authorised to be harvested from the Project Area in accordance with the procedures set out in clause 3.

SCHEDULE 4—Performance Bond

The amount of the performance bond will be K .

(INSERT AMOUNT OF ROYALTY RATE + LANDOWNER PREMIUM LEVY RATE X ESTIMATED ANNUAL ALLOWABLE CUT DIVIDED BY 6)

Deductions may be made from the Performance Bond without reference to the holder, for any late payment or non-payment of revenue due to the resource owners.

The Performance Bond will be released on the authorisation of the Managing Director under Seal of the Forest Authority after the holder has submitted a completion report and has satisfied the terms and conditions of this Authority.

(Consider whether a further accumulating performance bond should be imposed as a percentage of the FOB value of the timber if this TA is for a large project. This bond would have to be lodged progressively, after each export shipment, and a separate Confirmation of Lodgement Form would have to be lodged with the Forest Authority. That form would be the basis for approval of the next export shipment.)

ROADLINE CLEARANCE CONDITIONS—TA-02

The two paragraphs above would not apply to the accumulating bond, because an accumulating bond would secure non-performance of the subsequent development, and could therefore not be released until possibly several years after the Timber Authority has been completed.

SCHEDULE 5—Standard conditions

(The standard conditions below have been approved by the Forest Authority)

[Optional clauses shown in square brackets.]

1. Interpretation

1.1 In this Authority—

"Authorised Harvesting Area" means the area in respect of which harvesting is, from time to time, authorised under Clause 3;

"Project Area" means the area described in Schedule 1;

"resource owners" means the customary owners of the timber and other forest products in the Project Area, and includes any person named as owners in the Sales and Purchase Agreement;

"the Act" means the *Forestry Act 1991*;

"the holder" means the registered forest industry participant named in this Timber Authority.

1.2 Words and phrases have the same meanings as in the *Forestry Act 1991*.

2. Conditions Precedent

2.1 The following conditions must be satisfied before this Timber Authority becomes effective—

(a) the lodgement of a Performance Bond in accordance with Schedule 4;

(b) the continued validity of the holder's registration as a forest industry participant;

(c) if the applicant is a foreign enterprise within the meaning of the *Investment Promotion Authority Act*, the continued validity of the IPA approvals for the activity authorised by the Timber Authority.

2.2 If the registration or approval referred to in Clause 2.1 ceases to be valid, this Timber Authority immediately becomes void and of no effect.

ROADLINE CLEARANCE CONDITIONS—TA-02

[Some timber Authorities may be conditional—that is, they will be issued several months prior to when the harvesting is actually to take place, and there may be a number of pre-conditions to be satisfied before the Timber Authority comes into operation. Unless these conditions are satisfied, the Timber Authority will be of no effect. Satisfaction of the conditions must be certified in writing by the Managing Director before the Timber Authority becomes operative.]

2.3 Subject to satisfaction of the requirements of clause 2.1, the terms and conditions of this Authority will not commence to operate until the Managing Director has certified in writing that the following conditions have been fulfilled—

insert conditions such as—

- (a) *The Secretary, Department of Transport has approved the route for the road.*
- (b) *There is adequate evidence of intention to carry out the project in the form of:*
 - *construction contract already let;*
 - *identified source of funding for construction;*
- (c) *The Secretary, Department of Works has certified in writing that the design (including alignment) for the road meets Department of Works standards.]*

2.4 The Managing Director's certification under Clause 2.3 constitutes a term of this Authority.]

3. Harvesting

3.1 Subject to the terms and conditions of this Authority, the provisions of the *Forestry Act* and *Forestry Regulations*, and the provisions of any agreement entered into by the holder with the resource owners, the holder may exercise timber rights within the Authorised Harvesting Area during the term of this Authority.

3.2 For the purposes of Clause 3.1, the Authorised Harvesting Area is—

- (a) on the commencement of the Timber Authority—the area of the first section of road corridor (not exceeding five kilometres in length) numbered "1" in the map in Schedule 1;
- (b) after the first Authorised Harvesting Area has been cleared—any further section of road corridor, not exceeding five kilometres in length, which has been authorised for harvesting in accordance with Clause 3.3.

3.3 Where the holder has provided to the Managing Director a statement in writing from the Department of Works

ROADLINE CLEARANCE CONDITIONS—TA-02

that road construction has commenced in the previous section of cleared road corridor, and that the standard of road construction is adequate to the requirements of the Department, the Managing Director may authorise harvesting to take place in the section of road corridor, not exceeding five kilometres in length, which is next scheduled for clearing.

- 3.4 The holder must obtain a separate certification and authorisation for each five kilometre section of road corridor.
- 3.5 The total Authorised Harvesting Area at any one time must not exceed 20 hectares (5 kilometres x 40 metres).]

4. Associated rights

- 4.1 In carrying out the terms and conditions of this Authority the holder may exercise rights within those parts of Project Area in which harvesting is authorised to—
- (a) enter on and pass through land (but not private premises);
 - (b) make fire breaks, roads, tracks, bridges, culverts and similar works;
 - (c) prepare and construct loading and storage sites for forest produce;
 - (d) extract, remove, convert and use road-making materials for the purpose of any of the activities set out in paragraphs (a) to (c) above carried out within the Project area subject to payment of any royalty agreed with the resource owners or fixed in the Sales and Purchase Agreement;
 - (e) use, keep and transport vehicles, machinery, plant and equipment;
 - (f) use roads and waterways;
 - (g) conduct land and resource assessment surveys (including aerial surveys) and inventories.
- 4.2 Subject to this Authority and the laws of PNG, the holder may export timber harvested under this Authority.

5. Environmental and Forest Management Standards

- 5.1 The holder must at all times observe the provisions of the *Environmental Contaminants Act*, *Environmental Planning Act*, *Water Resources Act* and other environmental laws of Papua New Guinea.

6. Rights of Resource owners

- 6.1 In carrying out its rights under this Authority, the holder must not interfere with the customary user rights of the resource owners including the right to—
- (a) hunt;
 - (b) fish;
 - (c) gather plant foods;
 - (d) gather traditional materials for making clothing, artefacts, tools, utensils and houses;
 - (e) collect firewood;
 - (f) plant, maintain and harvest subsistence gardens;
 - (g) enter on and pass through land.
- 6.2 Nothing in this Authority shall be taken as authorising the holder to make food gardens, hunt or fish within the Project Area or the areas adjacent to it.
- 6.3 The holder must not fell, cut, remove, dispose of or damage any—
- (a) trees which have been declared to be reserve trees under Section 4 of the Act;
 - (b) species of tree or other plants specified as excluded forest products in the Sales and Purchase Agreement;
 - (c) particular plants marked and identified by the resource owners in accordance with the Sales and Purchase Agreement;
 - (d) timber or other forest products growing in cultural areas, burial grounds, gardens or reserved areas identified by the resource owners in accordance with the Sales and Purchase Agreement.
- 6.4 Compensation for any breach of this Clause will be determined by agreement between the holder and the resource owners or will be fixed by the Valuer-General if no agreement can be reached.
- 6.5 Where the holder is in breach of this Clause, the holder must pay the compensation which has been agreed or fixed under Clause 6.4, within the period of time specified by the Managing Director.

7. Payment for timber

- 7.1 The holder must pay revenue to the resource owners at the rates fixed in Schedule 6, in respect of all timber felled and scaled within the Project Area.
- 7.2 In addition to payments made to the resource owners, the holder must pay to the Forest Authority levies set out in Schedule 6, or which are from time to time fixed

ROADLINE CLEARANCE CONDITIONS—TA-02

by the Minister in respect of the Timber Authority, or in respect of Timber Authorities generally.

8. Roads and bridges

- 8.1 The holder must construct all bridges and roads required for its operation within the Project Area.
- 8.2 The holder must maintain all bridges and roads to a standard sufficient to carry normally laden logging trucks and at all times during the term of this Authority must ensure that all roads which are in use for the logging operation are in a trafficable condition.
- 8.3 Any roads constructed by the holder will be available for use by the public without charge.

9. Land and buildings

- 9.1 The holder must not erect any buildings or fixtures within the Project Area other than roads and bridges, landings and other infrastructure mentioned in Clause 4, without the consent of the resource owners.
- 9.2 Any buildings or fixtures constructed in the Project Area for the purposes of this Authority are severable and may be removed by the holder within 90 days of the expiration or cancellation of the Timber Authority doing as little damage to the land as possible.

10. Measurement and recording of forest produce

- 10.1 All forest produce harvested in the project area must be scaled and numbered in accordance with directions given from time to time by the Managing Director.
- 10.2 Subject to any other direction which may be given under Clause 10.1, if the timber harvested in the Project Area is for domestic use, the forest produce must be scaled, recorded and declared in accordance with the PNGFA Directions for Scaling, but the use of a Licenced Log Scaler is not required, and the use of official numbered Log Scale Record Sheets and numbered log tags is not required.
- 10.3 Subject to any other direction which may be given under Clause 10.1, if the timber harvested in the Project Area is to be exported, it must be scaled, recorded and declared in accordance with the PNGFA Directions for Scaling.
- 10.4 Where timber harvested in the Project Area is to be exported, the holder must also comply with procedures

for export of logs from time to time specified by the Managing Director.

11. Subcontracting prohibited

- 11.1 Harvesting under this Timber Authority may be carried out only by the person named as the holder and must not be subcontracted, other than by the employment of individual contract workers on piece-rates.

12. Marketing

- 12.1 The Holder must endeavour to obtain the best price for the timber harvested under this Timber Authority and must in all cases obtain arm's length prices. For the purposes of this clause, a price is an arm's length price if it is equal to or greater than the price which would have been obtained on an arm's length sale on the same terms and conditions of sale other than price.

13. Compliance with Laws

- 13.1 The holder must observe the conditions of any permit, licence approval or other authority relating to the project, and the provisions of all relevant laws of Papua New Guinea.

3. PNGFA Operating Levy

K m3 payable to the PNG Forest Authority

Payments must be made to the Forest Authority Revenue Accountant at Headquarters by the 10th of the month following in respect of all logs scaled during the month.

4. Log Export Surveillance Levy (*export projects only*)

K m3 payable to PNG Forest Authority

Payments in respect of all logs in respect of which an export licence is sought must be made to the Forest Authority Revenue Accountant at Headquarters at the time that application is made for the export licence.



STANDARD TERMS AND CONDITIONS

**TA-03—Agricultural and other Land Use
Clearance**

SCHEDULE 1—Map and description of Project Area

The Project Area is an area of hectares

(INSERT A DESCRIPTION OF THE PROJECT AREA AND INCLUDE A MAP WITH THE AREA OUTLINED IN RED. THE MAP SHOULD SHOW THE PRECISE AREA OF AGRICULTURAL DEVELOPMENT.)

SCHEDULE 2—Term and commencement date

The term of the Authority is for a period of one year commencing on the 19 .

(The term may be less than one year)

SCHEDULE 3—Allowable cut

The annual allowable cut is that timber authorised to be harvested from the Project Area in accordance with the procedures set out in clause 3.

SCHEDULE 4—Performance Bond

The amount of the performance bond will be K .

(INSERT AMOUNT OF ROYALTY RATE + LANDOWNER PREMIUM LEVY RATE X ESTIMATED ANNUAL ALLOWABLE CUT DIVIDED BY 6)

Deductions may be made from the Performance Bond without reference to the holder, for any late payment or non-payment of revenue due to the resource owners.

The Performance Bond will be released on the authorisation of the Managing Director under Seal of the Forest Authority after the holder has submitted a completion report and has satisfied the terms and conditions of this Authority.

(Consider whether a further accumulating performance bond should be imposed as a percentage of the FOB value of the timber if this TA is for a large project. This bond would have to be lodged progressively, after each export shipment, and a separate Confirmation of Lodgement Form would have to

AGRICULTURAL CLEARANCE CONDITIONS—TA-03

be lodged with the Forest Authority. That form would be the basis for approval of the next export shipment.

The two paragraphs above would not apply to the accumulating bond, because an accumulating bond would secure non-performance of the subsequent development, and could therefore not be released until possibly several years after the Timber Authority has been completed.

SCHEDULE 5—Standard conditions

(The standard conditions below have been approved by the Forest Authority)

[Optional clauses shown in square brackets.]

1. Interpretation

1.1 In this Authority—

"Authorised Harvesting Area" means the area in respect of which harvesting is, from time to time, authorised under Clause 3;

"Project Area" means the area described in Schedule 1;

"resource owners" means the customary owners of the timber and other forest products in the Project Area, and includes any person named as owners in the Sales and Purchase Agreement;

"the Act" means the *Forestry Act 1991*;

"the holder" means the registered forest industry participant named in this Timber Authority.

1.2 Words and phrases have the same meanings as in the *Forestry Act 1991*.

2. Conditions Precedent

2.1 The following conditions must be satisfied before this Timber Authority becomes effective—

(a) the lodgement of a Performance Bond in accordance with Schedule 4;

(b) the continued validity of the holder's registration as a forest industry participant;

(c) if the applicant is a foreign enterprise within the meaning of the *Investment Promotion Authority Act*, the continued validity of the IPA approvals for the activity authorised by the Timber Authority.

- 2.2 If the registration or approval referred to in Clause 2.1 ceases to be valid, this Timber Authority immediately becomes void and of no effect.

[Some timber Authorities may be conditional—that is, they will be issued several months prior to when the harvesting is actually to take place, and there may be a number of pre-conditions to be satisfied before the Timber Authority comes into operation. Unless these conditions are satisfied, the Timber Authority will be of no effect. Satisfaction of the conditions must be certified in writing by the Managing Director before the Timber Authority becomes operative.]

- 2.3 Subject to satisfaction of the requirements of clause 2.1, the terms and conditions of this Authority will not commence to operate until the Managing Director has certified in writing that the following conditions have been fulfilled—

insert conditions such as—

- (a) The Secretary, Department of Agriculture and Livestock has approved in writing an agriculture development plan for the project.*
- (b) There is adequate evidence of intention to carry out the development project in the form of:
 - ordering of seedlings;
 - establishment of nursery;
 - tendering for construction or design of processing plant.*
- (c) The Secretary, Department of Lands and Physical Planning has certified in writing that the Project Area is under agricultural lease or some other land tenure appropriate to the nature of the project.]*

- 2.4 The Managing Director's certification under Clause 2.3 constitutes a term of this Authority.]

3. Harvesting

- 3.1 Subject to the terms and conditions of this Authority, the provisions of the *Forestry Act* and *Forestry Regulations*, and the provisions of any agreement entered into by the holder with the resource owners, the holder may exercise timber rights within the Authorised Harvesting Area during the term of this Authority.

Two alternative clauses are provided for the definition of 'Authorised Harvesting Area'.

AGRICULTURAL CLEARANCE CONDITIONS—TA-03

For small agricultural projects staging is probably not warranted. Use this clause for projects where harvesting is not staged.

[3.2 For the purposes of Clause 3.1, the Authorised Harvesting Area is the Project Area.]

For large agricultural projects, staged authorisation will be appropriate. An approved implementation schedule should have been submitted with the Application for the Timber Authority setting out the rate and areas for clearing. This should form the basis for the stages for authorisation.

An implementation schedule (Schedule 7) should be drawn up for each Timber Authority, setting out the areas to be harvested in chronological order, and listing the required preconditions for authorisation of each stage of harvesting. This would form the basis for the staged authorisation processes. This schedule should be drawn up in consultation with the agency supervising the development project—Department of Agriculture and Livestock, in the case of an agricultural project.

[3.2 For the purposes of Clause 3.1, the Authorised Harvesting Area is—

- (a) on the commencement of the Timber Authority—the area of the first area scheduled for clearing in the Schedule 7 (Implementation Schedule);
- (b) after the first Authorised Harvesting Area has been cleared—any further area which has been authorised for harvesting in accordance with Clause 3.3.

3.3 Where the holder has provided to the Managing Director a certification in writing from the department responsible for the development project that the holder has satisfied the required preconditions set out in Schedule 7 (Implementation Schedule), the Managing Director may authorise harvesting to take place in that area which is next scheduled for clearing.]

3.4 The holder must obtain a separate certification for each area set out in the Schedule 7.

4. Associated rights

- 4.1 In carrying out the terms and conditions of this Authority the holder may exercise rights within those parts of Project Area in which harvesting is authorised to—
- (a) enter on and pass through land (but not private premises);
 - (b) make fire breaks, roads, tracks, bridges, culverts and similar works;

- (c) prepare and construct loading and storage sites for forest produce;
 - (d) extract, remove, convert and use road-making materials for the purpose of any of the activities set out in paragraphs (a) to (c) above carried out within the Project area subject to payment of any royalty agreed with the resource owners or fixed in the Sales and Purchase Agreement;
 - (e) use, keep and transport vehicles, machinery, plant and equipment;
 - (f) use roads and waterways;
 - (g) conduct land and resource assessment surveys (including aerial surveys) and inventories.
- 4.2 Subject to this Authority and the laws of PNG, the holder may export timber harvested under this Authority.

5. Environmental and Forest Management Standards

- 5.1 The holder must at all times observe the provisions of the *Environmental Contaminants Act, Environmental Planning Act, Water Resources Act* and other environmental laws of Papua New Guinea.

6. Rights of Resource owners

- 6.1 In carrying out its rights under this Authority, the holder must not interfere with the customary user rights of the resource owners including the right to—
- (a) hunt;
 - (b) fish;
 - (c) gather plant foods;
 - (d) gather traditional materials for making clothing, artefacts, tools, utensils and houses;
 - (e) collect firewood;
 - (f) plant, maintain and harvest subsistence gardens;
 - (g) enter on and pass through land.
- 6.2 Nothing in this Authority shall be taken as authorising the holder to make food gardens, hunt or fish within the Project Area or the areas adjacent to it.
- 6.3 The holder must not fell, cut, remove, dispose of or damage any—
- (a) trees which have been declared to be reserve trees under Section 4 of the Act;
 - (b) species of tree or other plants specified as excluded forest products in the Sales and Purchase Agreement;

AGRICULTURAL CLEARANCE CONDITIONS—TA-03

- (c) particular plants marked and identified by the resource owners in accordance with the Sales and Purchase Agreement;
 - (d) timber or other forest products growing in cultural areas, burial grounds, gardens or reserved areas identified by the resource owners in accordance with the Sales and Purchase Agreement.
- 6.4 Compensation for any breach of this Clause will be determined by agreement between the holder and the resource owners or will be fixed by the Valuer-General if no agreement can be reached.
- 6.5 Where the holder is in breach of this Clause, the holder must pay the compensation which has been agreed or fixed under Clause 6.4, within the period of time specified by the Managing Director.
- 7. Payment for timber**
- 7.1 The holder must pay revenue to the resource owners at the rates fixed in Schedule 6, in respect of all timber felled and scaled within the Project Area.
- 7.2 In addition to payments made to the resource owners, the holder must pay to the Forest Authority levies set out in Schedule 6, or which are from time to time fixed by the Minister in respect of the Timber Authority, or in respect of Timber Authorities generally.
- 8. Roads and bridges**
- 8.1 The holder must construct all bridges and roads required for its operation within the Project Area.
- 8.2 The holder must maintain all bridges and roads to a standard sufficient to carry normally laden logging trucks and at all times during the term of this Authority must ensure that all roads which are in use for the logging operation are in a trafficable condition.
- 8.3 Any roads constructed by the holder will be available for use by the public without charge.
- 9. Land and buildings**
- 9.1 The holder must not erect any buildings or fixtures within the Project Area other than roads and bridges, landings and other infrastructure mentioned in Clause 4, without the consent of the resource owners.

- 9.2 Any buildings or fixtures constructed in the Project Area for the purposes of this Authority are severable and may be removed by the holder within 90 days of the expiration or cancellation of the Timber Authority doing as little damage to the land as possible.

10. Measurement and recording of forest produce

- 10.1 All forest produce harvested in the project area must be scaled and numbered in accordance with directions given from time to time by the Managing Director.
- 10.2 Subject to any other direction which may be given under Clause 10.1, if the timber harvested in the Project Area is for domestic use, the forest produce must be scaled, recorded and declared in accordance with the PNGFA Directions for Scaling, but the use of a Licenced Log Scaler is not required, and the use of official numbered Log Scale Record Sheets and numbered log tags is not required.
- 10.3 Subject to any other direction which may be given under Clause 10.1, if the timber harvested in the Project Area is to be exported, it must be scaled, recorded and declared in accordance with the PNGFA Directions for Scaling.
- 10.4 Where timber harvested in the Project Area is to be exported, the holder must also comply with procedures for export of logs from time to time specified by the Managing Director.

11. Subcontracting prohibited

- 11.1 Harvesting under this Timber Authority may be carried out only by the person named as the holder and may not be subcontracted, other than by the employment of individual contract workers on piece-rates.

12. Marketing

- 12.1 The Holder must endeavour to obtain the best price for the timber harvested under this Timber Authority and must in all cases obtain arm's length prices. For the purposes of this clause, a price is an arm's length price if it is equal to or greater than the price which would have been obtained on an arm's length sale on the same terms and conditions of sale other than price.

13. Compliance with Laws

- 13.1 The holder must observe the conditions of any permit, licence approval or other authority relating to the

3. PNGFA Operating Levy

K m3 payable to the PNG Forest Authority

Payments must be made to the Forest Authority Revenue Accountant at Headquarters by the 10th of the month following in respect of all logs scaled during the month.

4. Log Export Surveillance Levy (export projects only)

K m3 payable to PNG Forest Authority

Payments in respect of all logs in respect of which an export licence is sought must be made to the Forest Authority Revenue Accountant at Headquarters at the time that application is made for the export licence.

SCHEDULE 7—IMPLEMENTATION SCHEDULE

(The following is an example of what an implementation schedule might look like. This implementation schedule should be drawn up by the Timber Authority applicant and approved by Department of Agriculture and Livestock.)

AREAS FOR CLEARING	HECTARES	ANTICIPATED TIMING	REQUIRED PRECONDITION
1. Site office and nursery	20	November 1995	
2. Planting area	5,000	June 1996	Site office built, nursery established
3. etc.			
4.			
5.			
6.			
7.			



TA-04—Harvesting of Other Forest Produce

SCHEDULE 1—Map and description of Project Area

The Project Area is

(INSERT A DESCRIPTION OF THE PROJECT AREA AND INCLUDE A MAP WITH THE AREA OUTLINED IN RED)

SCHEDULE 2—Term and commencement date

The term of the Authority is for a period of one year commencing on the 19 .

(The term may be less than one year)

SCHEDULE 3—Allowable cut

The annual allowable cut is

(specify volume and type of other forest product)

SCHEDULE 4—Performance Bond

The amount of the performance bond will be K .

(INSERT AMOUNT OF ROYALTY RATE + LANDOWNER PREMIUM LEVY RATE X ANNUAL ALLOWABLE CUT DIVIDED BY 6)

Deductions may be made from the Performance Bond without reference to the holder, for any late payment or non-payment of revenue due to the resource owners.

The Performance Bond will be released on the authorisation of the Managing Director under Seal of the Forest Authority after the holder has submitted a completion report and has satisfied the terms and conditions of this Authority.

SCHEDULE 5—Standard conditions

(The standard conditions below have been approved by the Forest Authority)

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1. Interpretation

1.1 In this Authority—

"Authorised Harvesting Area" means the area in respect of which harvesting is, from time to time, authorised under Clause 3;

"Project Area" means the area described in Schedule 1;

"resource owners" means the customary owners of the timber and other forest products in the Project Area, and includes any person named as owners in the Sales and Purchase Agreement;

"the Act" means the *Forestry Act 1991*;

"the holder" means the registered forest industry participant named in this Timber Authority.

1.2 Words and phrases have the same meanings as in the *Forestry Act 1991*.

2. Conditions Precedent

2.1 The following conditions must be satisfied before this Timber Authority becomes effective—

(a) the lodgement of a Performance Bond in accordance with Schedule 4;

(b) the continued validity of the holder's registration as a forest industry participant;

(c) if the applicant is a foreign enterprise within the meaning of the *Investment Promotion Authority Act*, the continued validity of the IPA approvals for the activity authorised by the Timber Authority.

2.2 If the registration or approval referred to in Clause 2.1 ceases to be valid, this Timber Authority immediately becomes void and of no effect.

3. Harvesting

3.1 Subject to the terms and conditions of this Authority, the provisions of the *Forestry Act* and *Forestry Regulations*, and the provisions of any agreement entered into by the holder with the resource owners, the holder may exercise rights to harvest other forest produce within the Project Area during the term of this Authority.

4. Associated rights

- 4.1 In carrying out the terms and conditions of this Authority the holder may exercise rights within those parts of Project Area in which harvesting is authorised to—
- (a) enter on and pass through land (but not private premises);
 - (b) make fire breaks, roads, tracks, bridges, culverts and similar works;
 - (c) prepare and construct loading and storage sites for forest produce;
 - (d) extract, remove, convert and use road-making materials for the purpose of any of the activities set out in paragraphs (a) to (c) above carried out within the Project area subject to payment of any royalty agreed with the resource owners or fixed in the Sales and Purchase Agreement;
 - (e) use, keep and transport vehicles, machinery, plant and equipment;
 - (f) use roads and waterways;
 - (g) conduct land and resource assessment surveys (including aerial surveys) and inventories.
- 4.2 Subject to this Authority and the laws of PNG, the holder may export forest produce harvested under this Authority.

5. Environmental and Forest Management Standards

- 5.1 The holder must at all times observe the provisions of the *Environmental Contaminants Act, Environmental Planning Act, Water Resources Act* and other environmental laws of Papua New Guinea.

6. Rights of Resource owners

- 6.1 In carrying out its rights under this Authority, the holder must not interfere with the customary user rights of the resource owners including the right to—
- (a) hunt;
 - (b) fish;
 - (c) gather plant foods;
 - (d) gather traditional materials for making clothing, artefacts, tools, utensils and houses;
 - (e) collect firewood;
 - (f) plant, maintain and harvest subsistence gardens;
 - (g) enter on and pass through land.

OTHER FOREST PRODUCT CONDITIONS—TA-04

- 6.2 Nothing in this Authority shall be taken as authorising the holder to make food gardens, hunt or fish within the Project Area or the areas adjacent to it.
- 6.3 The holder must not fell, cut, remove, dispose of or damage any—
- (a) trees which have been declared to be reserve trees under Section 4 of the Act;
 - (b) species of tree or other plants specified as excluded forest products in the Sales and Purchase Agreement;
 - (c) particular plants marked and identified by the resource owners in accordance with the Sales and Purchase Agreement;
 - (d) timber or other forest products growing in cultural areas, burial grounds, gardens or reserved areas identified by the resource owners in accordance with the Sales and Purchase Agreement.
- 6.4 Compensation for any breach of this Clause will be determined by agreement between the holder and the resource owners or will be fixed by the Valuer-General if no agreement can be reached.
- 6.5 Where the holder is in breach of this Clause, the holder must pay the compensation which has been agreed or fixed under Clause 6.4, within the period of time specified by the Managing Director.

7. Payment for forest produce

- 7.1 The holder must pay revenue to the resource owners at the rates fixed in Schedule 6, in respect of all forest produce harvested within the Project Area.
- 7.2 In addition to payments made to the resource owners, the holder must pay to the Forest Authority levies set out in Schedule 6, or which are from time to time fixed by the Minister in respect of the Timber Authority, or in respect of Timber Authorities generally.

8. Roads and bridges

- 8.1 The holder must construct all bridges and roads required for its operation within the Project Area.
- 8.2 The holder must maintain all bridges and roads to a standard sufficient to carry normally laden logging trucks and at all times during the term of this Authority must ensure that all roads which are in use for the logging operation are in a trafficable condition.

8.3 Any roads constructed by the holder will be available for use by the public without charge.

9. Land and buildings

9.1 The holder must not erect any buildings or fixtures within the Project Area other than roads and bridges, landings and other infrastructure mentioned in Clause 4, without the consent of the resource owners.

9.2 Any buildings or fixtures constructed in the Project Area for the purposes of this Authority are severable and may be removed by the holder within 90 days of the expiration or cancellation of the Timber Authority doing as little damage to the land as possible.

10. Measurement and recording of forest produce

10.1 All forest produce harvested in the project area must be measured and declared in accordance with directions given from time to time by the Managing Director.

10.2 Where forest produce harvested in the Project Area is to be exported, the holder must also comply with any procedures for export of forest produce from time to time specified by the Managing Director.

11. Subcontracting prohibited

11.1 Harvesting under this Timber Authority may be carried out only by the person named as the holder and must not be subcontracted, other than by the employment of individual contract workers on piece-rates.

12. Marketing

12.1 The Holder must endeavour to obtain the best price for the forest produce harvested under this Timber Authority and must in all cases obtain arm's length prices. For the purposes of this clause, a price is an arm's length price if it is equal to or greater than the price which would have been obtained on an arm's length sale on the same terms and conditions of sale other than price.

13. Compliance with Laws

13.1 The holder must observe the conditions of any permit, licence approval or other authority relating to the project, and the provisions of all relevant laws of Papua New Guinea.

SCHEDULE 6—REVENUE PAYMENTS

1. Royalty equivalent payments

(INSERT RATE OF ROYALTY FOR VARIOUS FOREST PRODUCT TYPES)

Payments must be made to resource owners and receipts for payment must be submitted to the Forest Authority Revenue Accountant at Headquarters by the 10th of the month following in respect of all produce declared during the month.

Provincial Government share of 15% and with-holding tax of 5% of remaining 85% to be deducted by the holder and remitted to the Forest Authority in the form of cheques for the intended recipients. All receipts and payments should be submitted with the Monthly declaration.

(The rates and basis for the revenue system for other forest products has not yet been determined)

