

INTERNATIONAL TROPICAL TIMBER ORGANIZATION

PROJECT AGREEMENT

PD 454/07 Rev.3 (F)

**“COMMUNITY FOREST MANAGEMENT: A SUSTAINABLE
ALTERNATIVE FOR THE MAUES STATE FOREST, AMAZONAS STATE”**

between

THE INTERNATIONAL TROPICAL TIMBER ORGANIZATION (ITTO)

and

THE GOVERNMENT OF BRAZIL

and

THE AMAZONIAN RESEARCH AND DEVELOPMENT INSTITUTE (IPDA)

and

**THE STATE SECRETARY OF ENVIRONMENT AND SUSTAINABLE
DEVELOPMENT OF AMAZONAS STATE (SDS)**

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**THE STATE SECRETARY OF ENVIRONMENT AND SUSTAINABLE DEVELOPMENT
OF AMAZONAS STATE (SDS)**

ON THE IMPLEMENTATION OF PROJECT PD 454/07 Rev.3 (F)

**"COMMUNITY FOREST MANAGEMENT: A SUSTAINABLE ALTERNATIVE FOR
THE MAUES STATE FOREST, AMAZONAS STATE"**

WHEREAS:

- A. the International Tropical Timber Council (hereafter referred to as "ITTC") has approved the Project PD 454/07 Rev.3 (F) "Community Forest Management: A Sustainable Alternative For The Maues State Forest, Amazonas State", (hereinafter referred to as "the Project"), and the International Tropical Timber Organization (hereinafter referred to as "ITTO") wishes to make available to the Government of Brazil funds not exceeding a total of *US\$ 513,527.00 (United States dollars five hundred thirteen thousand five hundred and twenty-seven only)*, for the purpose of implementing the afore-mentioned Project as provided for in this Agreement and in accordance with Articles 20 and 25 of the International Tropical Timber Agreement, 1994;
- B. the Government of Brazil through the Brazilian Agency for Cooperation (hereinafter referred to as "the Government") has indicated its willingness to facilitate the implementation of the Project within its territory;
- C. it has been agreed that the Amazonian Research and Development Institute (IPDA) (hereinafter referred to as the "Executing Agency") shall implement the Project; and
- D. it has been agreed that the Executing Agency shall contribute to the Project a total of *US\$ 136,805.00 (United States dollars one hundred thirty-six thousand eight hundred and five only)* in kind.

NOW THEREFORE the parties hereby agree as follows:

TITLE I

Definition of the Project

Article 1: The Project Document PD 454/07 Rev.3 (F) (hereinafter referred to as "the Project Document") attached hereto as the Appendix, shall be read as part of this Agreement, and shall govern the scope and details of the Project, subject to any subsequent clarifications and supplementary arrangements which may be agreed between the Parties.

TITLE II

Execution of the Project

Article 2: The Executing Agency shall be responsible for implementing the Project in accordance with the Project Document, a detailed workplan for the duration of the Project and a first Yearly Plan of Operation approved by ITTO and with any supplementary arrangements which may be agreed between the Parties

Article 3: The Executing Agency shall implement the Project in a manner consistent with the ITTO "Rules and Procedures Applying to ITTO Projects", "ITTO Manual for Project Monitoring, Review, Reporting and Evaluation (Third Edition, 2008)", "ITTO Manual on Standard Operating Procedures for the ITTO Project Cycle (2008)", "ITTO Financial Rules and Rules Relating to Projects" and "ITTO Guidelines on the Selection and Employment of Consultants and the Guidelines for the Procurement and Payment of Goods and Services (Second Edition, 2008)".

Article 4: The Executing Agency may, in accordance with the Project Document, the "ITTO Guidelines on the Selection and Employment of Consultants and the Guidelines for the Procurement and Payment of Goods and Services" (2008), and with the prior approval of ITTO, delegate or sub-contract specific tasks and functions in connection with the Project to any other consultant(s), legal entities or institutions which are not under its daily supervision and control. However, such delegation or sub-contracting shall not free the Executing Agency from its responsibility and obligation for the Project as defined by the Project Document and this Agreement.

Article 5: ITTO shall not be liable for any claims arising as a result of implementation of the Project or due to the use of any Project equipment. The Executing Agency shall indemnify and hold harmless the ITTO and their members, employees and representatives, from and against any liability, damages, costs or expenses, or any claim, action, suit or other proceeding arising out of the execution or implementation of this Agreement.

Article 6: The Executing Agency shall do its utmost to ensure that the Project is implemented on schedule, within the agreed budget, and in such a way as to achieve its objectives.

Article 7: A Project Steering Committee shall be established. The core composition of the Project Steering Committee shall include one representative of the ITTO, at least one representative of the Executing Agency and at least one representative of the project host government(s) which implements the Project. Additionally, a representative of the government(s) providing funds for implementation of the Project, if they wish to participate, and representative(s) of collaborating agency(ies)/partner(s) to the Project could be invited to become members. The Project Steering Committee will meet at least once a year to review progress in Project implementation.

TITLE III

Finance

Article 8: The respective contributions of the Executing Agency and ITTO contributing in cash or in kind to the Project shall be as set out in the budget and operating expenses sections in the Project Document.

Article 9: ITTO undertakes, as provided for in this Agreement, to contribute an amount not exceeding US\$ 513,527.00 (*United States dollars five hundred thirteen thousand five hundred and twenty-seven only*) for the purpose of implementing the Project.

Article 10: ITTO will make payments in United States dollars related to its contribution to a separate bank account to be opened for the Project, with a bank of commonly high reputation, to be determined by the Executing Agency, as follows:

- (a) ITTO will cause the first payment of US\$ 75,000.00 (*United States dollars seventy-five thousand only*) to be deposited upon signature of this Agreement and after compliance with the following conditions:
 - (i) An inception report approved by ITTO containing a detailed workplan for the duration of the Project and a first Yearly Plan of Operation approved by ITTO for the implementation of the Project;
 - (ii) Submission of a notification by the Executing Agency to the Executive Director of ITTO requesting a no-objection letter for the recruitment of key project professional staff whose salaries are to be covered with ITTO funding. These staff members should be pre-selected by the Executing Agency in accordance with the rules and procedures established in the "ITTO Guidelines on the Selection and Employment of Consultants and the Guidelines for the Procurement and Payment of Goods and Services (Second Edition, 2008)", together with detailed terms of reference for each position and relevant curricula vitae; and
 - (iii) Submission of a notification by the Executing Agency to the Executive Director of ITTO indicating that project implementation is about to commence in accordance with the detailed Work Plan and the first Yearly Plan of Operation and requesting the first disbursement of funds to a separate bank account to be opened for that purpose.
- (b) The second installment of US\$ 75,000.00 (*United States dollars seventy-five thousand only*) after receipt by ITTO of the first bi-annual Project progress report from the Executing Agency in accordance with the procedures of ITTO, and a justified request for the payment in terms of the timing, amount and estimated costs foreseen in the Yearly Plan of Operation, in light of implementation thus far, for the period to which funds will relate;
- (c) The third installment of US\$ 90,000.00 (*United States dollars ninety thousand only*) after receipt by ITTO of the second bi-annual Project progress report and an annual financial audit report from the Executing Agency made in accordance with the procedures of ITTO, and a justified request for the payment in terms of the timing, amount and estimated costs foreseen in the Yearly Plan of Operation, in light of implementation thus far, for the period to which funds will relate; and

- (d) The fourth installment of *US\$ 90,000.00 (United States dollars ninety thousand only)* after receipt by ITTO of the third bi-annual Project progress report from the Executing Agency made in accordance with the procedures of ITTO, and a justified request for the payment in terms of the timing, amount and estimated costs foreseen in the Yearly Plan of Operation, in light of implementation thus far, for the period to which funds will relate; and
- (e) The fifth installment of *US\$ 45,000.00 (United States dollars forty-five thousand only)* after receipt by ITTO of the second bi-annual Project progress report and an annual financial audit report from the Executing Agency made in accordance with the procedures of ITTO, and a justified request for the payment in terms of the timing, amount and estimated costs foreseen in the Yearly Plan of Operation, indicating the steps taken to build the sustainability of the project after the end of ITTO support in light of implementation thus far, for the period to which funds will relate; and
- (f) the sixth and final installment of *US\$ 40,488.00 (United States dollars forty thousand four hundred and eighty-eight only)* after receipt by ITTO of the fifth bi-annual Project progress report from the Executing Agency made in accordance with the procedures of ITTO, and a justified request for the payment in terms of the timing, amount and estimated costs foreseen in the Yearly Plan of Operation, indicating the steps taken to build the sustainability of the project after the end of ITTO support.

Article 11: The total amount of *US\$ 98,039.00 (United States dollars ninety-eight thousand and thirty-nine only)* will be retained by ITTO from the total ITTO contribution to meet ITTO and other costs as follows:

- (a) an amount of *US\$ 30,000.00 (United States dollars thirty thousand only)* to meet ITTO's monitoring and review costs;
- (b) an amount of *US\$ 15,000.00 (United States dollars fifteen thousand only)* to meet ITTO's mid-term evaluation costs;
- (c) an amount of *US\$ 15,000.00 (United States dollars fifteen thousand only)* to meet ITTO's ex-post evaluation costs; and
- (d) an amount of *US\$ 38,039.00 (United States dollars thirty-eight thousand and thirty-nine only)* to meet ITTO's programme support costs.

Article 12: The Executing Agency shall provide its contribution of *US\$ 136,805.00 (United States dollars one hundred thirty-six thousand eight hundred and five only)* to the Project promptly in accordance with the agreed budget contained in the Project Document and any agreed amendments thereto. The Executing Agency shall report immediately to ITTO any circumstances which threaten significantly its ability to make its contributions in full or on time.

Article 13: The contribution of the Executing Agency shall include the provision of office facilities and appropriate office accommodation for all Project activities including any monitoring, review and evaluation meetings.

Article 14: Notwithstanding any provision of any Article in this Title, the ITTO shall not be liable to disburse any funds to the Executing Agency which exceed the sum credited to its Special Account and/or the Bali Partnership Fund as contributions earmarked for this Project.

TITLE IV

Use of Funds

Article 15: The funds provided by ITTO under this Agreement shall be used solely to meet those direct Project costs assigned to ITTO, which are itemized in the agreed budget of the Project Document. Funds allocated to one budget heading or subheading item shall not be transferred to another without the express prior approval of ITTO. All materials, equipment, supplies and services purchased or rented using ITTO resources shall be used exclusively for the implementation of the Project.

Article 16: Funds, which have not yet been made available by ITTO to the Executing Agency shall not be committed by the latter, without specific previous authorization from ITTO.

Article 17: All goods and services for which funds are provided by ITTO shall be procured in accordance with the "ITTO Guidelines on the Selection and Employment of Consultants and the Guidelines for the Procurement and Payment of Goods and Services (Second Edition, 2008)", and the Executing Agency shall consult ITTO in advance on the selection and appointment of any sub-contractors or individual consultants used for any aspect of work associated with the implementation of the Project, as well as the appointment of professional Project staff and selection of participants in Project activities such as seminars and workshops.

Article 18: ITTO shall recover from the Executing Agency any amounts spent from funds provided by ITTO for purposes, items or activities, or in ways, not authorized under this Agreement. Such amounts may be deducted from any installment not already released to the Executing Agency under Article 10 of this Agreement.

TITLE V

Accounts, Records and Reports

Article 19: The Executing Agency shall keep strict budgetary control over the funds allocated to it by the ITTO for the purpose of implementing the Project, and shall keep such funds, until the time of their actual disbursement, in a separate bank account with a bank of commonly recognized high reputation.

§ 1º: The Executing Agency shall take every precaution against any unauthorized use of the funds provided to it by ITTO, and shall at all times keep up-to-date and full accounts of the expenditures incurred by the Project. ITTO may at any time request a financial statement from the Executing Agency, accompanied by certified balances of the Project's bank accounts, and such a request shall be promptly complied with.

§ 2º: The Executing Agency shall submit to ITTO in the Project progress reports and at the conclusion of the Project, and as otherwise requested by ITTO in accordance with Section 5.02 above, statements of account and use of the funds of the Project under the headings listed in the budget in the Project Document:

- (i) The Executing Agency shall submit an annual financial audit to ITTO within three months after the end of the financial year, for all projects with a duration of two years or more and a budget above US\$200,000; and

- (ii) A final audit statement shall be submitted within four months of the completion of the Project.

The Project accounts shall be audited by duly recognized independent auditors appointed by the Executing Agency in consultation with ITTO, or by federal governmental auditing institutions. Unless provided for in the ITTO part of the Project budget, ITTO funds shall not be used to pay for auditing work. For the purpose of the Project, the financial year of the Project shall be from 1 January to 31 December of each year.

Article 20: If the actual costs of the Project which are to be borne by ITTO are less than is provided for in the Project budget under this Agreement, the balance remaining unspent on completion of the Project, including bank interest earned, shall be returned to the ITTO.

Article 21: The Executing Agency shall establish and maintain records and procedures adequate to record and monitor the physical, technical and financial progress of the Project, including its costs, interests on capital and other benefits, and to identify the goods and services financed by ITTO.

Article 22: Representatives of ITTO shall be entitled to visit any facilities and sites included in the Project and to examine the accounts and records, and the goods and services provided under the Project.

Article 23: The Executing Agency shall, upon request, make available to ITTO any information relevant to the implementation, financing or follow-up of the Project. The Executing Agency shall provide Project progress and technical reports, as well as a completion report in the form, detail and time-frame required by ITTO, for the monitoring, review and evaluation of the Project. The Executing Agency shall promptly provide ITTO with information on any delay, event or obstacle that might significantly endanger the success of the Project.

Sole paragraph: The Executing Agency shall submit to ITTO in each year during the implementation of the Project:

- (i) on an annual basis, Yearly Plans of Operation;
- (ii) monthly progress report through the ITTO Online Monitoring System;
- (iii) bi-annual progress reports not later than (28 February and 31 August);
- (iv) detailed un-audited project financial and cash flow statements for ITTO funding and counterpart funding, as part of the progress report;
- (v) all documented outputs, products and other means of verifications as per the Logical Framework Matrix as soon as finalized or as per the project timeline; and
- (vi) completion report not later than three months after Project completion.

The progress, completion and technical reports, as well as the Yearly Plans of Operation, shall be prepared following the model reports established in the "ITTO Manual for Project Monitoring, Review, Reporting and Evaluation".

Article 24: Monitoring and review meetings will be convened at the request of ITTO with the participation of representatives of the Executing Agency, ITTO and the Government. ITTO shall bear the costs of its participation and other representatives shall bear their own costs. Representatives of donors providing funds to the Project may also attend the steering/technical committee meetings at their own expense.

TITLE VI

Publications and Technical Reports

Article 25: All publications and technical reports resulting from work financed by the Project shall give appropriate recognition to ITTO's role and carry statements disclosing that they are part of the documentation produced in an ITTO approved Project. Unless otherwise agreed by ITTO, cover pages of any of these publications shall bear the names of the Parties and display their logos, and upload the publications and technical reports on the Executing Agency's website, if any.

Article 26: The Executing Agency will provide ITTO with a minimum of 25 hard copies and an electronic copy of each publication from the Project free of charge, unless otherwise agreed.

Article 27: The Executing Agency shall prepare, in liaison with the ITTO Secretariat brief article(s), for possible inclusion in the ITTO Tropical Forest Update, reporting on the Project progress and outcomes, Project publications and lessons learned.

TITLE VII

Disposal of Capital Goods

Article 28: Prior to completion of the Project, the Executing Agency shall propose, and the ITTO will decide, what arrangements are to be made for the continued use or disposal of any equipment or other supplies purchased with ITTO Project funds. Written notice to accept the arrangements, modify them or implement alternative arrangements will be given by ITTO to the Executing Agency.

Article 29: Notwithstanding the provisions of Article 28, responsibility for the execution of the Project shall rest with the Executing Agency and ITTO shall not be liable for any claims arising from the implementation of the Project or for the use of any equipment provided under the Project.

TITLE VIII

Responsibilities of the Government

Article 30: The Government shall ensure that the Executing Agency's ability to carry out its obligations under this Agreement, especially those prescribed by Titles II, III, IV and V, is not adversely compromised.

Sole paragraph: The Government shall take all necessary action in order to ensure:

- (a) prompt clearance of experts and other persons performing services financed by ITTO under the Project; and
- (b) prompt release from customs of any imported equipment, or other kinds of supplies required by the Project with import duties and associated fees applicable to such material either waived or entered in the Project accounts as part of the Government's contribution to the Project.

Article 31: The Government agrees that ITTO shall not be responsible for any customs charges and taxes that may be imposed for the import of equipment, materials and supplies for the

Project. Project funds shall not be authorized for payment of such charges and taxes.

TITLE IX

Suspension

Article 32: Notwithstanding the provisions of Article 10 of this Agreement, where any violations of this Agreement becomes apparent, or where it appears that the conditions surrounding the Project have changed to such an extent that, in the opinion of the Executive Director, the successful completion of the Project is unlikely, ITTO may, by written notice, suspend all further disbursements of funds pending a review.

Sole paragraph: If ITTO funding of the Project is suspended the Executing Agency shall not incur any further expenditures on activities, goods or services financed by such funds unless and until such funding is resumed, except with the previous written approval of ITTO. The Executing Agency shall keep all assets and values previously funded by ITTO for the Project in safe custody, and shall give notice immediately to any sub-contractor whose services are being paid for from ITTO's funds to suspend its activities as soon as possible, so as to minimize the cost to the Project.

TITLE X

Termination

Article 33: In accordance with Rule 31 of the "ITTO Financial Rules and Rules Relating to Projects", the ITTC may, by written notice, terminate its approval and funding of the Project, in particular in cases where it is satisfied that:

- (a) the financial resources provided for the Project are being misapplied to an extent which compromises the fulfillment of the objectives of the Project; or
- (b) the technical means and/or personnel being used for the implementation of the Project are being misapplied to an extent which compromises the fulfillment of the objectives of the Project; or
- (c) its continued approval and funding no longer serve the objectives of the Project.

Sole paragraph: In case of a decision to terminate ITTC approval and funding, the provisions of Article 31 above shall be applied; and the unused part of the resources contributed by ITTO to the Project shall be returned to the ITTO together with a final audited statement within three months after the date of termination.

TITLE XI

Settlement of Disputes

Article 34: Any dispute arising out of the interpretation or implementation of this Agreement or any breach thereof shall be settled amicably by consultation or negotiation between the Executing Agency and ITTO within the framework of UNCITRAL (United Nations Commission for International Trade Law) arbitration rules.

TITLE XII

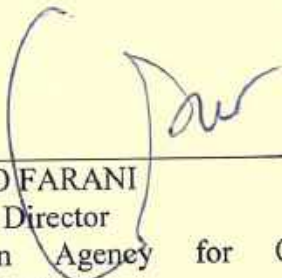
Modification of the Agreement

Article 35: This Agreement may be modified by written mutual consent between the Parties, each of which shall give full and sympathetic consideration to any proposal for its amendment.

TITLE XIII

Entry into Force


Article 36: **IN WITNESS WHEREOF** the undersigned, duly appointed representatives of the International Tropical Timber Organization, the Government of Brazil and the Amazonian Research and Development Institute (IPDA), have signed on behalf of the respective Parties this Project Agreement in three originals on the dates indicated below. This Agreement shall enter into force upon signature by all the contracting Parties.



MARCO FARANI
General Director
Brazilian Agency for Cooperation
(ABC/MRE)
On behalf of the Government of Brazil

Dated: 25. nov. 2011


Place: Brasília



ADENILZA MESQUITA VIEIRA
Deputy Executive Secretary
On behalf of the State Secretary of
Environment and Sustainable
Development of Amazonas State (SDS)

Dated: 09. dec. 2011


Place: Manaus



EMMANUEL ZE MEKA
Executive Director
On behalf of the International Tropical
Timber Organization (ITTO)

Dated: 13 January 2012

Place: Yokohama, Japan



ADELSON ARRUDA
President
On behalf of the Amazonian Research
and Development Institute (IPDA)

Dated: 09. dec. 2011

Place: Manaus