A. Joint Enterprise concept for community forest enterprises in Dryad

1. Introduction

The project, Financing Sustainable Community Forest Enterprise in Cameroon, dubbed Dryad, is aimed at enhancing viable community forest enterprises (CFE) with sustainable livelihoods and environmental benefits through performance-based public finance and support mechanisms. In this regard, Dryad provides public funding to CFEs that can demonstrate sustainable impact environmentally, economically and socially. The project targets at least 30 CFEs covering a maximum of 100 000 ha of forestland. The project is implemented by four main actors – The World Agroforestry Centre (ICRAF), TMP Systems, local Implementing Organizations (IOs) and Community Forests.

IOs in Dryad act as enabling intermediaries between the program manager – ICRAF – and the Community Forest Enterprises (CFEs) that receive financial and technical support from Dryad. The IOs assist the forest communities in three ways:

i. Supporting ICRAF by identifying and proposing suitable enterprises for investment, and acting as a communication channel between ICRAF and CFEs;
ii. Providing support to the CFE in the form of training and technical support; and
iii. Forming an aggregation hub, connecting CFEs to create economies of scale in procurement and marketing.

In fact, the IOs help the communities develop a commercially viable business plan and enterprise model for their proposed CFE. This guide is meant to explain the process and model for creating Joint Enterprises in Dryad.

2. Definition and why of a Joint Enterprise in Dryad:

2.1 Definition

A Joint Enterprise in Dryad consists of two or more CFs coming together to carry out an activity and share proportionately in the risks, liabilities, profits and losses incurred while carrying out the activity.

2.2 Why do we need a Joint Enterprise model in Dryad?

Most Community Forests have declared their intention to invest in various enterprise type within Dryad, including timber, wood processing, non-timber forest products (NTFPs), eco-tourism, and agriculture. These different business models require different levels of investments and marketing strategies.

In some cases, the operational size of a single CFE is too small to support the large investment needs. This is particularly true of business models that have high upfront costs for equipment, and complex needs for marketing and transportation.

In these cases, we propose a Joint Enterprise approach, whereby two or more Community Forests form a partnership to create economies of scale by sharing costs and risks.

Joint Enterprises can be used to create scale economies and share the risk between several small enterprises that would be unable to manage them only. For example, the Join Enterprise could be set up to share the following costs:

- large capital investments, including heavy machinery such as sawmills and wood processing equipment
- service provision, including training and marketing activities
- transport, logistics and other operational activities etc

Each Community Forest that is part of the Joint Enterprise must have a viable business plan.

It is our hope that partners in the Joint Enterprises will have complementary strengths and weaknesses to support one another.

The purpose and detail of the Joint Enterprise is expected to vary from one group of CFEs to another, according to the requirements of the business model and the needs of the Community Forests proposing it. However, the general intention is that CFEs will form Joint Enterprises to enhance their efficiency and increase their competitiveness.

2.3 Pre-Conditions for Joint Enterprise:

- Community Forests will need to explicitly discuss and agree to willingly engage in a Joint Enterprise, and will sign an agreement for such a collaboration.
- Community Forests will need to be geographically close enough to enable cost savings in transport and communications related to Joint Enterprise;
- Financial models of businesses to enter into joint enterprise should be potentially viable in a non-joint business scenario in order to qualify for Joint Enterprise (i.e. in case disagreements arise and partners go their separate ways early in business, then may still survive)
- Participating CFEs need to be guided by the IO to build trust amongst themselves and develop the sound governance processes for the Joint Enterprise.
- All measures must be taken to avoid conflicts and clear rules stated to manage disagreements in case they arise.

2.4 Roles of the IOs:

IO will work on the following at the inception phase of the joint enterprise:

- Inform communities of the benefits of forming a Joint Enterprise
- Ask CFEs to decide whether they want to enter into Joint Enterprises

- Assist the CFEs to develop the Joint Enterprise approach by facilitating collaboration and decision making
- Assist CFEs to develop Joint Enterprise plans and agreements
- Assist CFEs to develop governance structures and processes for the Joint Enterprise

3. Governance and management of Joint Enterprise

3.1 Form of the Joint Enterprise

The CFEs that intend to form a Joint Enterprise will need to decide which structure will best suit their common purpose. A new structure will only be formed if it is deemed necessary: in this regard they may choose from several different governance structures as provided by the law.

While creating a new structure to manage the joint enterprise, the facilitating IOs, ICRAF and the participating CFEs must ensure that the status of each participating Community Forest is not endangered by the new entity.

Among other purposes, the Joint Enterprise agreement between the CFEs can provide for the co-ownership and maintenance of equipment, or arrangements to collaborate and share costs on elements of the business operation such as marketing and transportation. The agreements may be formal (legalised) or informal based on trust:

i. In cases where there is to be joint purchase and ownership of assets (lucas mill, truck, warehouse lease), a legally binding contract must be signed, with explicit provision of the rights and obligations of each party
ii. In cases where the collaboration is more informal – such as an agreement to sharing the cost of transportation by a third party – an informal agreement may be acceptable where the sharing of costs is done on an ad hoc basis. However in this case some Memorandum of Understanding should be put together in writing, which sets out the rules of collaboration and methods for managing each instance.

3.2 Management board of the Joint Enterprise:

The CFEs forming the Joint Enterprise will decide on the formation and membership of a management board. They will also need to determine how the management of the Joint Enterprise relates to its partner CFEs.

In general, we expect that the Joint Enterprise's management board will be comprised of representatives from the partner CFEs. Each participating CFE will decide whether to elect or appoint such representatives. They will also have to decide on processes for changing or removing board members, when the board will meet, the quorum for valid meetings, and other necessary governance rules.

3.3 Joint Enterprise agreements between partner CFEs

The purpose of the agreement will be to codify the rules of engagement of partners in the Joint Enterprise. The Joint Enterprise will be considered as a relationship between peers with no CF/CFE claiming superiority over the other.

The agreement will specify the roles each party will play, provide for the protection of individual property, and where necessary specifically state the contribution each CFE will bring to the partnership. For example, in a case where three community forests decide to collectively buy a Lucas Mill, the agreement should state what each partner will contribute financially, and the contribution will be proportionate to the size of each partner's business. The agreement should state the proportion of ownership of the Joint Enterprise's assets and liabilities by each partner CFE.

Each CFE will be liable for debts incurred through the partnership in a proportionate manner. However, if one of the CFEs fails to abide by the terms of the agreement, and subject the joint enterprise into any form of liability, the entire group of partners and not the defaulting CFE will be held responsible.

The agreement should generally cover the following:

i. Objectives of the Joint Enterprise
ii. Corporate structure of the Joint Enterprise
iii. The management structure: roles, responsibilities and decision-making
iv. Financial obligations of each participating CF and consequences of not meeting financial obligations
v. Where common profits are generated, the division of profits, losses, expenses, and liabilities
vi. Processes for dispute resolution
vii. Termination of the Joint Enterprises

The partner CF/CFEs should all agree that they will not team up with other CFEs for the same purposes. The agreement will specify that the Joint Enterprise pursued by the group of CFEs is independent of any other business the CFEs are engaged in. For example, if a group of CFEs unite forces to develop a joint processing, packaging and marketing scheme to sell Njansang, this joint initiative is independent of the honey business, or gari processing business that the partner CFEs may be involved in and for which they do not have any Joint Enterprise.

4. Specific types of Joint Enterprise in Dryad:

4.1 Shared Equipment (vehicles, Lucas Mills, and other large machinery)

CFEs may pool their resources to buy and share the use of expensive equipment that would not be affordable for a single enterprise.

In this instance the Joint Enterprise must agree on clear rules and procedures related to:

Use of Equipment:

Rules governing the use and management of the equipment by each partner:

- Usage rights, maximum times, and rotation rules
- Scheduling use of the machine amongst the partner CFEs:
  - frequency and use of the equipment
  - provision for the granting of exceptions
- Log book or records of equipment use:
  - Number of hours equipment was used, date and time of any breakdowns
  - Maintenance reports
- Obligations for repairs, cleaning and refuelling after use
- Maintenance rules
  - Which repairs can be carried by the CFE keeping the equipment at any given time and which require professional service
  - Procedure for dealing with break down, including methods to determine who bears the cost of repair

Financial arrangements:

- Cost sharing rules for operating equipment, which will usually take either of two forms, or a combination of both:
  - Periodic (e.g. monthly, quarterly, annual) subscription paid by each partner in the Joint Enterprise
  - Usage fee paid each time a partner uses the equipment, at a standard rate
- Funds for replacement of the equipment
  - Process for building up a surplus of funds to replace the equipment when it wears out
- Financial management:
  - Process for collecting fees and managing Joint Enterprise funds
  - Rules for reporting and record keeping
- Management and personnel
  - Formation of a Management Board, as set out above in Section 3
  - Rules for who will manage and operate the equipment
  - Agreement on who will manage the financial affairs of the Joint Enterprise

  - Hiring a single operator for an equipment or each CFE will hire its operator at the time of use. However a number of operators will be trained to use the equipment or as need arises. For efficient use of the machine, a single operator is advised.

- Storage and transportation:
  - Where the machinery will be stored, and how the parties responsible for storage will be compensated, if at all
  - Rules governing the transportation of equipment
  - Procedures for inspections and recording the state of equipment at time of exchange

4.2 Shared Services

CFEs may wish to pool resources to share the costs of procuring certain services, such as training or transportation. In these cases, a short Memorandum of Understanding may suffice, rather than creating a new entity, sin.

The MOU must set out the following points:

- The agreed purpose of the Joint Enterprise, and its intended activities
- The schedule of which costs are to be shared, and in what proportion

4.3 Joint Processing and Marketing Enterprises

A second type of Joint Enterprise might have the goal of pooling certain parts of the business model, such as processing raw materials or creating a joint marketing strategy for finished products. Joint Enterprises of this type would both reduce risk by sharing costs, and create economies of scale to reduce costs.

Depending on the nature of the Joint Enterprise, it may be appropriate to set up a new entity to manage its affairs; in other cases a less formal arrangement may be appropriate.

At the minimum, the CFEs will need to reach a formal partnership agreement that sets out clear rules about the following:

Joint Enterprise: Processing

- Ownership and management of equipment and tools, in a similar fashion to the those set out in 4.1 above

- Procedures to govern the supply of raw materials to the processing plant and rules about how they will be paid for
- Minimum standards for the quality of raw materials and finished products to be supplied
- Procedures for joint procurement, including rules for negotiations on price and supplier due diligence
- Rules governing the hiring of personnel, including provisions for fair and inclusive hiring

Joint Enterprise: Marketing

- Deadlines to respect trading engagements
- Rules on the requirement to meet deadlines
- Agreed standards for minimum quantity and quality of products supplied by each partner CFE
- Procedures for joint sales, including rules for negotiations on price and buyer due diligence

B. Example of a joint management agreement

JOINT MANGEMENT AGREEMENT

This Joint management Agreement (the "***Agreement***") is made and entered into this ***1st of June 2018***, by and between:

1. **Association pour le Développement de Ngoumé** (hereafter referred to as ADNG]; and
2. **GIC Chily Révolution Verte du Cameroun** (hereafter referred to as CRVC); and
3. **GIC Agroforestier de la Communauté Mgbasseng de Ngoumé** (hereafter referred to as AFCOMIN).

ADNG, CRVC and AFCOMIN shall be referred to herein individually as a "***Party***" and collectively as the "***Parties***" / "**CFEs"**.

RECITALS

WHEREAS, the Parties wish to undertake the joint management, operation and maintenance of a Lucas Mill (Property)

WHEREAS, the Parties have ongoing agreements with the International Centre for Research in Agroforestry (ICRAF) geared towards **production and sale of timber** (Project Agreement); and

WHEREAS ICRAF undertakes to purchase the Lucas Mill for the joint use of the Parties herein; and

WHEREAS, pursuant to the terms of the agreement, a Lucas Mill will be instrumental to the Parties in undertaking their business plans; and

WHEREAS, the Parties desire to set forth: (a) the terms and conditions pursuant to which the Parties shall (i) operate and maintain the Lucas Mill, and (ii) own equal and undivided interests in the Joint Property; and (b) each Party's rights and responsibilities with respect to the Lucas Mill and the other Party.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements contained herein, the Parties hereby agree as follows:

ARTICLE 1: RELATIONSHIP OF THE PARTIES

1.1 Joint Management. The Parties shall jointly manage the Property with undivided interests. Each Party shall have the right to use the Property as permitted pursuant to this Agreement.

1.2 No Partnership. Nothing in this Agreement shall be construed to create a relationship between the Parties, nor to render any Party liable for the debts or obligations incurred by any 3rd Party. No Party is authorized to make representations on behalf of the others, or to bind the others in any manner whatsoever.

ICRAF shall purchase the Lucas Mill but shall retain no ownership share in the said Lucas Mill. However, together with the Implementing Organisations in the Project Agreements, it shall have a supervisory role which it shall exercise as and when need be. ICRAF retains lien over the Lucas Mill until the time when it hands over the lien over the Lucas Mill to the CFEs

1.3 Liability to Third Parties. The debts, obligations and liabilities of each Party pursuant to this Agreement or otherwise in connection with the Project, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of such Party (which may be allocated to the Parties based on their respective ownership shares based on tenancy in common and pursuant to the terms of this Agreement).

ARTICLE 2: MANAGEMENT COMMITTEE

2.1 Establishment. Management of the Properties is fully reserved to a committee (the "***Management Committee***") comprised of individuals (each, a "***Representative***"), each of whom shall be appointed by a Party.

2.2 The Terms of Reference (ToR) for the Management Committee are listed in the attached Annex 1.

ARTICLE 3: DISPUTE RESOLUTION

3.1 Informal Dispute Resolution.

(a) If the Management Committee is unable to reach agreement on a material issue pertaining to the Property within ten (10) days of such issue being presented to the Management Committee (such matter, a "***Dispute***"), either Representative may, by written notice to the other Representative (a "***Dispute Notice***"), refer such Dispute to executive officers of the Parties. A Dispute Notice shall describe in reasonable detail the Dispute and the positions of the Parties with respect thereto.

(b) Promptly upon issuance of a Dispute Notice with respect to a Dispute, each Party shall: (i) designate an executive officer with authority to bind such Party; and (ii) cause such officer to confer with the designated officer of the other Party and attempt in good faith to resolve such Dispute.

3.2 Settlement by IO and ICRAF. If a Dispute is not resolved by executive officers of the Parties in accordance with Section 3.1 within fifteen (15) days of issuance of a Dispute Notice:

- 3.2.1 either Party may propose that the Dispute be submitted to the facilitating IO that will negotiate with good faith to resolve the dispute.
- 3.2.2 should the IO fail to achieve a resolution within 30 days, the IO will refer to the ICRAF Project Manager who may bring in other partners such as MINFOF and the ICRAF Project Manager for negotiation and final settlement.

3.3 Continued Performance. The Parties shall continue to perform under this Agreement during the pendency of any Dispute.

ARTICLE 4: OPERATION AND MAINTENANCE

4.1 Operation and Maintenance. Subject to the terms and conditions of this Agreement the Parties shall jointly operate and maintain the Property. Without limiting the generality of the foregoing, the Management Committee shall also prepare a management guide (including any required capital expansions and replacements) that shall be annexed to this agreement as Annex 2.

4.2 Standard of Care. Each Party shall perform operation, and maintenance tasks undertaken by it pursuant to this Agreement in accordance with the management guide described in Article 4.1 above.

4.3 Cooperation. Each Party agrees that it will not take, and it will cause its Affiliates not to take, any action that would frustrate the operation or maintenance of the Property; *provided, however*, that nothing herein shall preclude a Party from exercising any rights expressly granted it under this Agreement. Each Party agrees to undertake all acts and execute all further agreements, documents and instruments as may reasonably be required to give effect to the purpose of this Agreement.

4.4 Quarterly Reports. The Management Committee shall prepare and deliver to ICRAF via the IO at the end of each quarter, a reasonably detailed status reports regarding the implementation of the Project and utilisation reports of the Lucas Mill .

For avoidance of doubt ICRAF shall not be involved in the operations and maintenance of the Property but it shall have the right to request for the Monthly Reports as stated in Article 4.4.

ARTICLE 5: COSTS

5.1 Operating and Maintenance Costs. Each Party shall be responsible for, and shall pay, its share of all Operating and Maintenance Costs as detailed in the management guide; *provided however*, neither Party shall be entitled to reimbursement for any portion of any Operating and Maintenance Costs which is incurred other than in accordance with an approved Project Budget or Annual Budget unless (i) such Party has reasonably determined that the incurrence of such cost or expense is necessary or appropriate pursuant to the management guide, or (ii) the incurrence of such cost or expense is approved by the other Parties.

ARTICLE 6: REPRESENTATIONS AND WARRANTIES

6.1 Representations and Warranties of the Parties. Each Party represents and warrants to the other Party as of the Effective Date that:

it is duly incorporated, organized or formed (as applicable), validly existing and in good standing under the Laws of the jurisdiction of its incorporation, organization or formation;

a) if required by applicable Law, it is duly qualified and in good standing in the jurisdiction of its principal place of business, if different from its jurisdiction of incorporation, organization or formation;
b) it has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder; and all necessary actions by the board of directors, shareholders, managers, members, partners, trustees, beneficiaries or other applicable Persons necessary for the due authorization, execution, delivery and performance of this Agreement by it have been duly taken;
c) it has duly executed and delivered this Agreement and any other documents contemplated herein to be executed as of the Effective Date, and they constitute the legal, valid and binding obligation of it enforceable against it in accordance with their terms (except as may be limited by bankruptcy, insolvency or similar Laws pertaining to creditors' rights or by general principles of equity, regardless of whether considered at law or in equity); and
d) its authorization, execution, delivery and performance of this Agreement does not and will not conflict with, or result in a breach, default or violation of: (i) its organizational documents; (ii) any agreement to which it is a party or is otherwise bound (except to the extent any such conflict, breach, default or violation would not have a material adverse effect on its ability to perform its obligations hereunder); or (iii) any Law, order, judgment, decree, writ, injunction or arbitral award to which it is subject.

ARTICLE 7: LIMITATION OF LIABILITY; RISK OF LOSS

7.1 Several Liability. The liability of each Party hereunder or with respect to the Project shall be several and not joint or collective.

7.2 No Consequential Damages. No Party, nor any of its Affiliates nor any of their respective directors, officers, employees or agents shall be liable to the other Party, its Affiliates or any of their respective directors, officers, employees or agents for any punitive, exemplary, consequential or special damages in connection with the Property, regardless of the negligence, gross negligence, wilful misconduct, strict liability or other fault or responsibility of any such Person; *provided, however*, that this Article shall not prevent recovery of a claim for indemnification that includes punitive, exemplary, consequential or special damages that are an element of a Third Party Claim against an Indemnified Person for which indemnification is otherwise available hereunder.

7.3 Risk of Loss. Except for occurrences for which a Party is liable pursuant to the terms and conditions of this Agreement, each Party shall maintain the risk of loss of its managment Share of the Property.

ARTICLE 8: INDEMNIFICATION

Each Party ('Indemnifying Party") shall indemnify, defend and hold harmless the other party ("Indemnified Party") and its parent, Partner, operator, subsidiaries and affiliated entities and its and their respective directors, officers, employees and agents from and against any and all liabilities, costs (including attorneys' fees and other costs of defense), fines, penalties, losses, damages, amounts paid in settlement, expenses, claims, actions, hearings, investigations, suits and causes of action of any and every kinds and character, judgments, orders, decrees and rulings to the extent arising out of this Agreement or the fault, negligence, willful misconduct or other wrongful act or omission of or by the indemnifying party, or any of its agents, employees, representatives, contractors, vendors or suppliers of any tier that are providing or performing products or services in connection with the activities contemplated by this Agreement.

ARTICLE 9: TERM AND TERMINATION

9.1 Term. This Agreement shall become effective as of the Effective Date and shall remain in effect until the earliest to occur of:

a) the decommissioning of the Lucas Mill;
b) the date of termination of this Agreement by mutual agreement of the Parties; or
c) the end date of the Project Agreement.

ARTICLE 10: DEFAULT; REMEDIES

10.1 Events of Default. Each of the following, if committed by a Party (the "***Defaulting Party***") shall constitute a default hereunder:

a) such Party fails to pay when due any undisputed amount owed pursuant to this Agreement, which failure continues for thirty (30) days after notice of such non-payment;
b) such Party fails to perform any other material obligation required pursuant to this Agreement, which failure continues for thirty (30) days after notice of such failure; or
c) the financial capability of such Party to perform its obligations under this Agreement is materially and adversely affected.

10.2 Exclusive Remedies. Upon a default pursuant to Section 10.1 the Non-Defaulting Party shall, as its exclusive remedy, have the right, but not the obligation, for so long as such failure remains uncured, to pay all or any portion of such undisputed amount owed (such amount paid or, in the event the Defaulting Party fails to reimburse the Non-Defaulting Party for an expense incurred, such amount required to be reimbursed, the "***Additional Contribution***") and to recover from the Defaulting Party the amount of the Additional Contribution with interest accrued at 5%.

10.3 Available Remedies. Subject to the terms under Article 3 above and the limitations set forth in Section 10.2, each Party shall be entitled to any remedies it may have in equity or at law, including remedies provided pursuant to the Laws in Cameroon, with respect to a Dispute or upon a default hereunder.

ARTICLE 11: CONFIDENTIALITY

11.1 During the course of this Agreement, either party may acquire confidential information or trade secrets of the other ('Confidential Information'). Confidential Information of a party means all information of whatever description, whether in permanently recorded form or not and whether or not belonging to a third party, which is by its nature is confidential or which the party identifies as confidential to itself. It does not include information to the extent that information is: (i) independently created or rightfully known by, or in the possession or control of, the Other Party and not subject to an obligation of confidentiality on the Other Party; (ii) in the public domain (otherwise than as a result of a breach of this Agreement); or (iii) required to be disclosed by law.

11.2 Each party agrees to keep all such Confidential Information in a secure place, and further agrees not to publish, communicate, divulge, use or disclose, directly or indirectly, for its own benefit or for the benefit of another, either during or after performance of this Agreement. This obligation of confidence shall not apply with respect to information that is (a) available

ARTICLE 12: GENERAL PROVISIONS

12.3 Not for Benefit of Third Parties. This Agreement is intended to be solely for the benefit of the Parties, their successors and permitted assignees and the Indemnified Persons and is not intended to and shall not confer any rights or benefits on any other Person not a signatory hereto.

12.4 Governing Law. The validity and interpretation of this Agreement shall be governed by and construed in accordance with the law of Cameroon.

12.5 Waiver or Delay. No waiver or delay by a Party in the exercise of any right or remedy with respect to performance of this Agreement, including any delay by a Non-Defaulting Party in exercising its rights pursuant to Article 12, shall operate or be construed as a waiver of any other or future right or remedy, whether of a like or different character.

12.6 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, notwithstanding that all of the Parties are not signatories to the original or to the same counterpart.

12.7 Entire Agreement. This Agreement constitutes the entire agreement among the Parties pertaining to the subject matter hereof and supersedes all prior agreements, representations and understandings, written or oral, pertaining thereto. Any modifications, amendments or changes to this Agreement shall be binding upon the Parties only if unanimously agreed upon in writing by the Parties.

12.8 Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of that prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of that provision in any other jurisdiction. In the event any such provision of this Agreement is so held prohibited or unenforceable, the Parties shall, within ten (10) days of such holding, commence to renegotiate in good faith new provisions to restore this Agreement as nearly as possible to its original intent and effect.

12.9 Notices. Every notice, request or other statement to be made or delivered to a Party pursuant to this Agreement shall be directed to the address below:

If to CFE:
Mandja Bah Michel,
President, Association
Communautaire pour le
Développement de Ngoumé
(ADNG)
B.P. 12708, Yaounde
Tel : +237 694 59 02 22/677 39 17 00
Email :mandjabahmichel@yahoo.fr

If to CFE:
M.HOUMBLAN Raymond;
Delegate: GIC AFCOMN
With copies to:
M. BEKAMBA Felix
General secretary of : "GIC AFCOMN"
Tel : 699 39 30 87
Email :

If to CFE:
MOUTCHI Roger,
Delegate
With copies to
Mr Adela Pierre Maxime
Secretary general "GIC CRVC"
Tel: 696 676 070

12.10 For purposes of this Agreement, the date on which any notice, request, statement, payment or other communication (including communication by facsimile) shall be deemed to have been given shall be the date on which it is received by the recipient.

12.11 Survival. Upon the expiration or termination of this Agreement, this Agreement shall have no further force and effect, except that any rights and remedies that have arisen or accrued to either Party prior to such expiration or termination, or any obligations or liabilities that have arisen or accrued before such expiration or termination and that expressly survive such expiration or termination pursuant to this Agreement, shall in each case survive expiration or termination. The rights, remedies and obligations set out in Article 7 (Limitation of Liability; Risk of Loss), Article 8 (Indemnification), Article 10 (Default; Remedies) and Article 12 (General Provisions), shall survive in full force and effect the expiration or termination of this Agreement to the extent necessary to enable the Parties to exercise any of such accrued rights.

12.12 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first written above.

C. Example of a joint equipment management guide

Annex 1: A Joint Lucas mill management guide

Introduction

Some Community Forests participating in the Dryad have declared their intention to invest in various enterprise type, including timber, wood processing, non-timber forest products (NTFPs), eco-tourism, and agriculture. These different business models require diverse levels of investments and marketing strategies. In some cases, the operational size of a single CFE is too small to support the large investment needs. This is particularly true of business models that have high upfront costs for equipment, and complex needs for marketing and transportation. In this regard ADNG, CRVC and AFCOMN CFs have agreed to Jointly manage a mobile saw (Lucas Mill) for the exploitation of timber from each of their community forests. Each of the participating CFs to the joint ownership agreement agrees to abide to the management guide as specified in article 4.1 of the joint management agreement.

The objective of this management document is to guide the day to day management of the mobile saw. In addition to the management guide, specific management tools (forms) will be deigned to assist in the administration of the equipment e.g withdrawal forms, state of the equipment for etc.

I. Management of the property

Pursuant to Article 2 of the Joint management agreement, the management of the Lucas Mill shall be directed and controlled by a Management committee.

1. Powers and Responsibilities.

The Management Committee is responsible for overseeing implementation of the joint management guide and have authority to resolve any disputes resulting therein. All resolutions within the Management Committee's power are binding on all Parties as from the effective date of such resolution and each Party is obligated to carry each resolution in accordance with its terms. Without limiting the generality of the foregoing, the Management Committee shall have the power to:

i. approve any development, operating or capital budget for the Property, including any change thereto or expenditure in excess thereof; and
ii. request a Party to provide any report regarding the Property as the Management Committee deems necessary and appropriate.
iii. Ensure compliance with the rules governing the proper use of the property ;
iv. Make proposals to the communities on any initiative to be undertaken regarding the property
v. Take care of management and maintenance of the equipment
vi. Inform each participating community of all activities and resolutions related to the management of the property
vii. Discuses all issues raised by members of all the participating CFEs

2. Representation

Each Party shall appoint 3 individuals to the management committee as follows:

i. The delegate/president of each of the participating (CIGs/ associations respectively)

ii. The Forest Management Officer (FMO)
iii. A machine operator, generally neutral persons of each CFE selected on the basis of their knowledge on the machinery.
    a. Within five (5) Business Days of the Effective Date, each Party shall notify the other Parties in writing of the identity and contact information for one Representative and one alternate appointed by it. Each Party may, by written notice to the other Parties, for any reason or no reason, remove and replace any Representative or alternate appointed by it.
    b. Each Representative shall serve on the Management Committee until his or her successor shall be duly appointed or until his or her death, resignation or removal by the Party that appointed him or her.
    c. Each Party shall cause its Representative to act reasonably in matters under consideration by the Management Committee.

3. Structure of the management committee
    i. The management committee will need to elect a president, secretary, treasurer, internal auditor and operations manager (person in charge of the equipment when in store and selected on the basis of his knowledge of the equipment) to run the affairs of the management committee.
    ii. The role and responsibility of each of the above-mentioned positions are hereby by defined as follows:

a. President

The president of the management committee is elected by members of the committee. The president works under the control of the other committee members, and represents the management committee Vis ȧ Vis third parties. The president:

- Convenes and presides over meetings of the management committee
- Oversees and reports on the activities of the management committee each month to the participating communities, CAFER, ICRAF and any needy institution;
- Ensures the judicious use of the property
- Ensures proper use of management tools designed to guide the administration and management of the property such as withdrawal forms, state of the equipment forms etc
- Oversees the reconciliation and verification of financial and transactional records of the property
- The President shall serve a term of two years renewable once.

b. Secretary

- Takes minutes in meetings
- Follows any activity related to the management of the property
- Keeps the monthly activity report and every other documentation related to the management of the property
- Keeps a notebook / register in which will be recorded all information concerning management of the property

c. Treasurer

- Collects all funds needed for the management of the property and ensure payment to the bank account;
- Keep the cashbooks
- Reconciles the actual cash balance and the journal balance
- Prepares the financial report at the end of each month and month

d. The operations manager

- The operations manager inspects the property and shall ensure that it is in good shape, has been repaired and is ready for use at all times.

4. Meetings.
   i. Unless otherwise agreed by the Parties, the Management Committee shall hold regular meetings Monthly. A Representative may call petition the chair to call a special meeting of the Management Committee on not less than five (5) Business Days notice; provided, however, that meetings to address one or more matters deemed by such Representative to be of an emergency nature may be held on twenty-four (24) hours notice.
   ii. Notice of, and an agenda for, all meetings of the Management Committee (including special meetings) shall be circulated to the Representatives at least five (5) Business Days prior to the date of each meeting.
   iii. Decisions at the management committee meetings shall be taken through a voting system, with one person representing one vote. The President will cast his vote only when there is a deadlock

II. Financial obligation:

i. Each partner will contribute equal amounts to the purchase and transportation of the equipment to the union's headquarters
ii. Each party is required to pay for maintenance and use fees
iii. The maintenance and usage fee shall be charged per metre cube over each use period: for the Lucas mill at a rate of 7414/m3 for hard wood and 4775/m3 for white wood. The maintaince and usage fee is distributed as follows (see details in annex 3):
   a. Accessories fees. In order to take care of wear and tear of specific accessories, a usage and maintenance fee shall be fixed per m3 of wood exploited. One m3 of white wood shall be charged at 2639 XAF and hard wood shall be charged at 5278XAF (See annex 3 for details).
   b. Savings towards machine replacement: Each partner contributes to the total replacement value (21,000,000 XAF) by contributing 1866 XAF/m3 (see annex 3 for details about this figure)
   c. Contribution to the annual insurance fee of 600, 000 XAF by contributing 270XAF/m3 of wood exploited (see annex 3 for details)

iv. The maintenance and usage fees shall be adjusted within and between years to account for inflation and variation in cost items constituting such fees.

III. Storage and sharing period of the equipment

i. Storage when not in use: the partners agree that when not in use by any of the CFEs, the equipment shall have a permanent storage site where it shall be stored in a safe and secured place in Ngoume.
ii. When in use by a CFE the property shall be stored by the CFEs over the use period in a reasonably safe and secured place.
iii. Transportation from the headquarters of the CIG to the different areas in the forest will be the responsibility of each party
iv. Sharing calendar: The parties shall establish and maintain an accurate sharing calendar that specify who and when the equipment will be used over periods of low and high activity.
v. Respect of sharing calendar: Each party shall make effort to respect the sharing calendar and to use it over the designated period, else they forfeit their chance over that period, except management committee takes a contrary decision

IV. **Invoices and payments of usage fees**

i. Verification of volumes exploited over the use period: the ROF shall declare the quantity of wood exploited over the use period
ii. The quantities declared shall be verified by the operations manager and ROF of the other two CF not concerned
iii. Invoices shall be paid to the joint property account at the end of each transaction.

V. Equipment Usage

i. Qualification of operators: The partners agree to permit equipment to be used only by properly trained operators.
   a. Each CFE shall appoint 2 trained and experienced operators and these operators shall be properly retrained to operate the shared equipment under this agreement.
   b. In order to avoid misuse and unnecessary repairs during usage, the principal operator will be primarily responsible for operations, reporting and handing over.
   c. At the end of the training, the most performant of the trainees will be selected as the principal operator and the others will act as auxiliaries.
   d. In case of non-availability of the principal operator the next on the list assumes the role.
ii. Usage requirements and fines:
   a. Equipment shared under this agreement shall be used only to conduct business of the partner CFE.
   b. No partner is allowed to sublease or allow anyone other than the qualified operators described in V.a.i above to use the equipment shared under this agreement
   c. Penalties for non-conformity. A penalty1 of 138,294XAF shall be charged to each CFE per day if caught lending the equipment to a third partner. In addition their usage right will be suspended for a period of at least 2 months.

iii. Fuels:

In order to assure that the best quality oil, fuel and grease is used in servicing the equipment,

[1] This penalty represent two times the daily usage and maintained cost.

a. All CFEs shall be allowed to use only fuel, oil and grease from a source recommended by the management committee
b. No CFE is allowed to mix fuel or grease with any substance to minimise cost. Any CFE caught doing so will be immediately suspended from using the machinery and will pay any damages caused by the fuel mix.
c. The operations manager shall verify the tank is full when giving it out to a partner and the partner borrowing the equipment shall ensure the tank is full when it returns the equipment

iv. Equipment identification:

The equipment shall at all times carry a sticker: "Equipment provided by UKAID. Joint usage by CRVC, ADNG and AFCOMNN."

VI. Equipment delivery and Pick up

i. Delivery and pick-up: Delivery is between CFE's headquarters and not in the community forest.
ii. Notification: Each partner shall contact the management committee at least two days in advance to confirm pick up following the shared calendar described in III.e.
iii. Condition of equipment: The union shall ensure that the equipment is serviced with recognised standards prior to pick up by partners to this agreement.
iv. Return of equipment: partners to this agreement shall return equipment to the union no later than one business day following conclusion of the shared period.
v. Inspections: the operations manager shall ensure that the equipment is in good shape, has been repaired and is ready for use.
    a. The equipment shall be inspected by both the principal machine operators of the delivery and pick-up CFEs in the presence of the President (in whose absence, the secretary shall oversee).
    b. The inspection shall include an examination of the following: the engine, level of fuel, blades, grease, which the partners must agree are sound at the time the partner picks up the equipment and when it is returned
    c. The results of the inspection shall be documented on an machine inspection form and on a wear and tear inspection form as identified and provided in the equipment calendar form.
    d. Digital photographs shall also be taken at the time of pick up and return to ensure that any existing damage is documented appropriately. The photograph should have a date and time stamp
vi. Operations and safety manual: the union shall provide copies of all equipment and operation safety manual to each partner and will be reminded to stick to it during usage

VII. Maintenance and repairs of equipment

i. The partners agree to have a central maintenance and repair pool.
ii. The partners agree to set up a common fund that will serve for maintenance, repairs and replacement of worn out parts such as cutting edges, blades, replacement of fluids, adding fluids to correct levels.
iii. Any repairs or replacement must be performed by the machine operator or a qualified personnel in case the task cannot be performed by the latter.

iv. Specific persons or contractors shall be employed by the union to carry out major repairs of the equipment
v. The machine operator shall inform the management committee prior to commencing any repairs other than those defined as minor following sections 12(b)(ii)
vi. Except for minor repairs as described in 12(b)(iii) of the agreement , the committee shall determine, in judgement whether parts of the failed equipment shall be replaced or repaired
vii. The machine operator shall notify the management committee immediately if the equipment is involved in any accident during the usage period by a partner. The partner shall promptly submit to the management committee a written report of any accident that occurs in connection with this agreement in a form acceptable to the management committee and shall cooperate with any requests by the management committee related to the accident. The partner report to the management committee must include, at minimum, the following information: (i) name and address of any person injured or deceased; (2) name and address of person, users, employee involved in the accident (3) a detailed description of the accident
viii. Stolen equipment: the user shall assume responsibility if the equipment is stolen in the user's control and shall pay the management committee 80% of the total resale market value of the equipment as determined by an independent appraisal. If stolen equipment is recovered subsequent to the delivery of replacement equipment to the management committee, the piloting committee may choose to give the recovered equipment to the partner or refund a portion of the partners' payment at the union's discretion.

This guide shall be reviewed and revised at least once in the first 12 months in order to adapt and update based on experience at a time to be determined by the management committee.

Annex 3

Basis for calculating usage fee/m3 of wood

Lucas mill costs price and maintenance cost related items

Item	Specification	Production capacity per day	Unit price (XAF) Without tax	With Tax XAF (19.5%)	Life span (years)
Lucas mill: Option1	10/30 slices up to 30 cm	6-12 m^3	17,000,000	20,315,000	5
Lucas mill: Option 2	8/30 slices up to 25 cm	6-12 m^3	15,000,000	18,522,500	5
Transportation cost	Car hire			240,000	
Total cost option 2				20,555,000	5

N/B 6m^3 when wood is dispersed; 12 m^3 when wood is grouped in one spot.

Fuel consumption

14 l fuel needed to produce 2.5 m^3 of wood.

1m^3 wood needs 5.6 l of fuel

1l fuel =665 FCFA

General use and maintenance cost

Item	No of m3 needed to replace part	Unit price	Number needed	Total price (XAF)	Average Cost/m3	Average cost per m3 Red wood	Average cost per m3 white white wood
Engine oil	35	10,000	1	10,000	286	381	190
Oil filter	35	10,000	1	10,000	286	381	190
Cutting blades	35	15,000	2	30,000	857	1143	571
Air filter	70	15,000	1	15,000	214	286	143
Gas filter	70	11,000	1	10,000	143	190	95
Break parts	70	5,000	1	5,000	71	95	48
Timing belt	90	30,000	3	90,000	1,000	1,333	667
Wheels	100	15,000	6	90,000	900	1,200	600
Gear box oil	120	5,000	1	5,000	42	56	28
Plugs	100	8,000	2*	16,000	160	213	107
Maintenance					*3959*	*5278*	*2639*
Fuel	*2.5*	*665*	*14*	*9310*	*3724*	*4965*	*2483*

i. **Accessories fees.** In order to take care of wear and tear of specific accessories, a usage and maintenance fee shall be fixed per m3 of wood exploited. One m3 of white wood shall be charged at 2649 XAF hard wood shall be charged 5278XAF (based on table above)

ii. **A depreciation/replacement fee of 1866/m3** will be charged upon collecting the machine. The fee is calculated based on the current and future purchasing price of the equipment. The fees will be kept in a savings account and will account for replacing the equipment after depreciation. Assumptions for calculating replacement value/m3 of wood.

a. A Lucas mill on average produces 6m3 of wood a day when trees are scattered in the forest and 12 m3 of wood when wood is assembled in a park. For an average of 9m3 a day.

b. We assume the three CFEs will work 5 days a week, for an average production of 25 days a month and for 10 months a year. This result to an average production of: 9m3 * 25 days * 10 months = 2250m3 a year.

c. We assume the entire equipment will be replaced after 5years. This means total production over the five years = 2250m3*5 =11250m3.

d. Replacement value per m3 can thus be given by: value of Lucas mill/ volume produced over the life span of the equipment = 21,000,000/11250= 1866/m3.

iii. **Insurance:** each CFE will contribute per m3 to insure the equipment at a price of 600,000 XAF year. This amounts to: 600000/2250 = 270/m3

Total usage fee (XAF):

- Red wood: 5,278 + 1,866 + 270 = 7,433/m^3
- White wood: 2,639 + 1,866 + 270 = 4,775/m^3

FORM A

MACHINE INSPECTION FORM

(To be completed at the time of handing over the machine)

CFE Handing Over:……………………………………………………………………………………………………..

Receiving CFE:………………………………………………………………………………………………………..

Management Committee Member:……………………………………………………………………………….

Inspection Record

Parameter / Component	**Status- OK or Defective (D)**	**Comment**
Fuel		
Grease		
Oil		
Blades		

Date

Signatures

Handing Over CFE　　　　Receiving CFE　　　　Management Committee

FORM B

DEFECT REPORTING FORM

Date:……………………………………………………………………………..

Location:………………………………………………………………………….

Reporting CFE:……………………………………………………………….

Description of Defect

Signature of Operating Officer