

**Plaister, Maddy (DPaC)**

**From:** Raelene Bates [Raelene.Bates@gunns.com.au] on behalf of Greg L'Estrange [Greg.L'Estrange@gunns.com.au]  
**Sent:** Friday, 2 September 2011 5:06 PM  
**To:** lara.giddings@parliament.tas.gov.au  
**Subject:** Letter from Gunns Limited  
**Attachments:** LETTER - PREMIER (GIDDINGS Lara) 2011 09 02.pdf

Please find attached a letter from Greg L'Estrange.

Regards  
 Rae

**Greg L'Estrange**  
 Managing Director

78 Leveay Street  
 LAUNCESTON, Tas 7250  
 ☎ 08 6335 5200 switch  
 ☎ 08 6335 5231 direct  
 ☎ 08 6335 5406  
 ✉ greg.estrangle@gunns.com.au  
 ☎ www.gunns.com.au

Making Sustainability Our Business

**Note:**

This message is for the named person's use only. It may contain confidential, proprietary or legally privileged information. No confidentiality or privilege is waived or lost by any mistransmission. If you receive this message in error, please immediately delete it and all copies of it from your system, destroy any hard copies of it and notify the sender. You must not, directly or indirectly, use, disclose, distribute, print, or copy any part of this message if you are not the intended recipient. The Company and any of its subsidiaries each reserve the right to monitor all e-mail communications through its networks.

Any views expressed in this message are those of the individual sender, except where the message states otherwise and the sender is authorised to state them to be the views of any such entity.

**Thank You.**

Any opinions expressed in this e-mail are those of the individual and not necessarily the Parliament of Tasmania. This e-mail and any files transmitted with it are confidential and solely for the use of the intended recipient. If you are not the intended recipient or person responsible for delivering to the intended recipient, be advised that you have received this e-mail in error and that any use is strictly prohibited. If you have received this e-mail in error, advise the sender immediately by using the reply facility in your e-mail software.

Warning: Computer viruses may be transmitted or downloaded onto any computer system via e-mail communication. It is the recipient's responsibility to take appropriate action to prevent computer viruses being transmitted in this way. Accordingly the Parliament of Tasmania disclaim all responsibility which arises directly or indirectly from such transmission of computer viruses.



2 September 2011

The Hon. Lara Giddings  
Premier  
Email - lara.giddings@parliament.tas.gov.au

Dear Premier

**WITHOUT PREJUDICE**

I refer to your letter and offer of 26 August 2011 and the subsequent meeting between representatives of Gunns and the State Government on 30 August 2011.

As was outlined in the meeting, the company is unable to accept the offer detailed in your correspondence of 26 August 2011. This letter is to formally confirm that position.

I assure you of the company's commitment to the processes established to implement the Statement of Forest Principles and would welcome the opportunity to engage further with you to finalise a settlement.

I understand time is of the essence to all parties to resolve this matter and assure you of the company's complete and immediate attention.

Yours sincerely

A handwritten signature in black ink, appearing to read "GL", followed by a long, horizontal, slightly wavy line.

**Greg L'Estrange**  
**Managing Director**

To: mark.sayer@dpac.tas.gov.au  
cc:  
From: Tony Ferrall/FSq/TreasFin  
Date: 09/09/2011 10:19:57 AM  
Subject:

Mark

Could you send me a copy of the letter from Gunns rejecting the original offer. (electronic will be fine)  
I will need this for the Probity Auditor.

Thanks

Tony

Tony Ferrall  
Deputy Secretary  
Department of Treasury and Finance

Telephone (03) 6233 2132  
Facsimile (03) 6233 5699  
Mobile 0419 329 862

To: mark.sayer@dpac.tas.gov.au  
cc:  
From: Tony Ferrall/FSq/TreasFin  
Date: 09/09/2011 04:21:02 PM  
Subject: Letter from Premier

Mark

Attached is a draft of the email from you to Bob Gordon. It is prepared on the assumption that Minister Burke responds as expected in relation to the Premiers letter. You will also need to attach the scanned copy of the Premiers letter.

Cheers

Tony

Dear Bob

Please find attached an electronic copy of a letter and enclosed Deeds sent to your Chairman today from the Premier.

Treasury will be the contact point for any queries.

Tony Ferrall is acting Secretary of the Department. His phone number is 62332132.

Regards

Mark Sayer



Deed of Release - Crown & Forestry.pdf



Deed of Release - Crown & Gunns.pdf



Deed of Release - Forestry & Gunns.pdf

Tony Ferrall  
Deputy Secretary  
Department of Treasury and Finance

Telephone (03) 6233 2132  
Facsimile (03) 6233 5699  
Mobile 0419 329 862



## Deed

**Dated**

**The Crown in Right of Tasmania  
(Crown)**

**and**

**Forestry Tasmania  
(Forestry Tasmania)**

**The Crown Solicitor of Tasmania**

Executive Building  
15 Murray Street Hobart Tasmania 7000  
GPO Box 825 Hobart Tasmania 7001  
Telephone: (03) 6233 3922  
Facsimile: (03) 6233 2874  
File Ref: DPAC | 38146  
Doc Ref: Deed of Release - Crown & Forestry -  
Final - 8.9.11

# Contents

<b>1</b>	<b>Definitions and interpretation .....</b>	<b>4</b>
1.1	Definitions .....	4
1.2	Interpretation .....	5
1.3	No contra proferentum .....	6
1.4	Headings .....	6
<b>2</b>	<b>Condition .....</b>	<b>6</b>
2.1	Condition .....	6
2.2	Termination .....	7
<b>3</b>	<b>Payment .....</b>	<b>7</b>
<b>4</b>	<b>Excluded Claims .....</b>	<b>8</b>
<b>5</b>	<b>Assignment.....</b>	<b>8</b>
<b>6</b>	<b>GST.....</b>	<b>8</b>
<b>7</b>	<b>Notices .....</b>	<b>9</b>
7.1	Method of giving Notices .....	9
7.2	Time of receipt of Notices .....	9
7.3	Address for Notices .....	9
<b>8</b>	<b>Law and jurisdiction .....</b>	<b>9</b>
8.1	Governing Law .....	9
8.2	Submission to jurisdiction.....	10
<b>9</b>	<b>General.....</b>	<b>10</b>
9.1	Waiver.....	10
9.2	Amendment.....	10
9.3	Severability.....	10
9.4	Further assurance .....	10
9.5	Counterparts .....	10
<b>Annexure “A” .....</b>	<b>12</b>	
<b>Tasmanian Forests Intergovernmental Agreement.....</b>	<b>12</b>	

## Deed

## Details

Parties	Crown, Forestry Tasmania	
Crown	Name	<b>The Crown in Right of Tasmania</b> represented by the Department of Treasury and Finance
	Short form name	The Crown
	Address	21 Murray Street HOBART Tasmania 7000
	Facsimile	(03) 6223 2755
	Attention	Secretary
Forestry Tasmania	Name	<b>Forestry Tasmania</b> (being the body corporate established pursuant to section 6 of the <i>Forestry Act 1920</i> (Tas))
	ABN	91 628 769 359
	Short form name	Forestry Tasmania
	Address	79 Melville Street HOBART Tasmania 7000
	Facsimile	(03) 6235 8223
	Attention	

Recitals	<b>A</b>	Forestry Tasmania and Gunns are parties to the Wood Supply Agreements and the China Sale Agreement.
	<b>B</b>	Forestry Tasmania and Gunns are in dispute with respect to each party's obligations arising out of the Wood Supply Agreements and the China Sale Agreement and the continued existence of the Wood Supply Agreements themselves.
	<b>C</b>	Particularly Forestry Tasmania claims: <ul style="list-style-type: none"> <li>(i) that Gunns by letter dated the 18<sup>th</sup> day of April 2011 terminated the Wood Supply Agreements with that termination to take effect on the 15<sup>th</sup> day of October 2011;</li> <li>(ii) that Gunns is in breach of the terms of the Wood Supply Agreements and the China Sale Agreement by virtue of its failure to pay all sums of money accruing and due in accordance with the terms of those Agreements.</li> </ul>
	<b>D</b>	Particularly Gunns claims:

- (i) that its letter dated the 18<sup>th</sup> day of April 2011 was not legally effective to terminate the Wood Supply Agreements;
  - (ii) that Forestry Tasmania is in breach of the terms of the Wood Supply Agreements and the China Sale Agreement and as a consequence Gunns has incurred loss and damage which is claimed from Forestry Tasmania.
- E Forestry Tasmania and Gunns each deny the other's claims.
- F Forestry Tasmania and Gunns are agreed that in the event that the letter of the 18<sup>th</sup> day of April 2011 was legally effective to terminate the Wood Supply Agreements then Forestry Tasmania is legally obliged to enter into good faith negotiations with Gunns about the terms of new agreements for the supply of Pulpwood (as defined in Wood Supply Agreement 917) and Supply Products (as defined in Wood Supply Agreement 918).
- G Gunns has indicated that it wishes to exit native forest logging operations in Tasmania.
- H The Crown has entered into the Tasmanian Forests Intergovernmental Agreement with the Commonwealth.
- I Under the Tasmanian Forests Intergovernmental Agreement the Commonwealth has agreed to provide funding to the Crown for the purposes of enabling the creation of the Reserves.
- J The Reserves cannot be created unless:
  - (i) there is certainty that Forestry Tasmania is not legally obligated to make any further supplies of wood to Gunns pursuant to the Wood Supply Agreements and the China Sale Agreement; or
  - (ii) if the Wood Supply Agreements have been terminated, there is legal certainty that Forestry Tasmania is not under a legal obligation to enter into good faith negotiations with Gunns about the terms of new agreements for the supply of pulpwood (as defined in Wood Supply Agreement 917) and the Supply Products (as defined in Wood Supply Agreement 918).
- K By virtue of clause 22 of the Tasmanian Forests Intergovernmental Agreement the Crown is obliged to ensure that a sufficient volume of native forest sawlog supply is retired to achieve the objects set out in clauses 17 and 29 of that Agreement.
- L The parties have entered into this Deed to facilitate the requirements of the Tasmanian Forests Intergovernmental Agreement by ensuring the termination of the Wood Supply Agreements and the China Sale Agreement and, except for



Excluded Claims, to resolve all claims Forestry Tasmania has against Gunns arising out of the Wood Supply Agreements and the China Sale Agreement.

---

<b>Date</b>	See signing page
-------------	------------------

## Operative provisions

---

### 1 Definitions and interpretation

#### 1.1 Definitions

In this Deed, unless the context otherwise requires:

**China Sale Agreement** means the agreement known as 'the China Sale Agreement' constituted by the letter dated 9 June 2010 from Forestry Tasmania to Gunns, and countersigned by Greg L'Estrange as an authorised representative of Gunns.

**Claim** means any allegation, debt, cause of action, liability, claim, proceeding, suit or demand of any nature however arising and whether present or future, fixed or unascertained, actual or contingent, and whether at law, in equity, under statute or otherwise.

**Commonwealth** means the Commonwealth of Australia.

**this Deed** means this deed of release.

**Excluded Claims** means the following claims or rights:

- (a) a claim under the indemnity in clause 8 of Schedule 13 of Wood Supply Agreement 917;
- (b) a claim under the indemnity in clause 8 of Schedule 13 of Wood Supply Agreement 918;
- (c) a claim under any indemnity in the China Sale Agreement; or
- (d) rights arising out of clause 16 of Schedule 13 of each of the Wood Supply Agreements.

**Gunns** means Gunns Limited ABN 29 009 478 148.

**Forestry Act** means the *Forestry Act 1920* (Tas).

**Reserves** means the reserves which are to be created pursuant to the Tasmanian Forests Intergovernmental Agreement.

**Rights** includes a right, a power, a remedy, a discretion or an authority.

**Settlement Date** means the            day of            2011 or such other date agreed to in writing by both parties.

**Tasmanian Forests Intergovernmental Agreement** means the agreement made between the Commonwealth and the Crown on the 7<sup>th</sup> day of August 2011, a copy of which is annexed to this Deed marked "A".

**Wood Supply Agreements** mean Wood Supply Agreement 917 and Wood Supply Agreement 918.

**Wood Supply Agreement 917** means contract for sale No. 917 dated 20 December 2007 made between Forestry Tasmania and Gunns and titled 'LONG TERM PULPWOOD SUPPLY AGREEMENT'.

**Wood Supply Agreement 918** means contract for sale No. 918 dated 20 December 2007 made between Forestry Tasmania and Gunns and titled 'SAWLOG AND OTHER PRODUCTS SUPPLY AGREEMENT'.

## 1.2 Interpretation

In this Deed, unless the context otherwise requires:

- (a) a reference to this Deed, or any document referred to in this Deed or another document, includes any variation or replacement of any of them;
- (b) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (c) the singular includes the plural and vice versa;
- (d) **person** includes a firm, a body corporate, an unincorporated association, a responsible authority, or other entity, as constituted from time to time;
- (e) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes and permitted assigns;
- (f) a reference to writing includes a reference to printing, typing and each other method of producing words, figures or symbols in visible form;
- (g) a reference to a body (other than a party to this Deed) whether or not it is a statutory body:
  - (i) which ceases to exist; or
  - (ii) whose powers or functions are transferred to any other body,
 refers to the body which replaces it or which substantially succeeds to its powers or functions;
- (h) an agreement, representation or warranty on the part of, or in favour of, two or more persons binds, or is for the benefit of them, jointly and severally;
- (i) words importing any gender include all other genders, as applicable;
- (j) a reference to any thing (including any amount) is a reference to the whole or any part of it and a reference to a group of persons is a reference to any one or more of them;

- (k) a covenant prohibiting a person from doing anything also prohibits that person from authorising it to be done by another person;
- (l) a reference to a clause, schedule or appendix is to a clause, schedule or appendix in or to this Deed;
- (m) mentioning any thing after the words **include**, **included** or **including** does not limit the meaning of any thing mentioned before those words;
- (n) a reference to a day must be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (o) reference to a time and date in connection with the performance of an obligation by a party is a reference to the time and date in Hobart, Tasmania, even if the obligation is to be performed elsewhere;
- (p) other parts of speech and grammatical forms of a word or phrase defined in this Deed have a corresponding meaning; and
- (q) references to '\$' and 'dollars' are to Australian dollars.

### **1.3 No contra proferentum**

In the interpretation of this Deed, no rule of construction will apply to disadvantage a party because that party proposed a provision of this Deed or the Deed itself.

### **1.4 Headings**

Headings are included for convenience only and do not affect the construction or interpretation of this Deed.

### **1.5 Defined terms**

Terms used in this Deed and not defined herein and which are defined in the Tasmanian Forests Intergovernmental Agreement have the meaning given to them in the Tasmanian Forests Intergovernmental Agreement.

---

## **2 Condition**

### **2.1 Condition**

Each party's obligations under clauses 3 and 5 of this Deed are subject to the conditions precedent that on or before the Settlement Date the Crown enters into a deed with Gunns whereby:

- (a) Gunns releases Forestry Tasmania in the same terms as clause 3(a) of this Deed;

- (b) Gunns agrees to the termination of and to treat as terminated the Wood Supply Agreements and the China Sale Agreement in the terms of clause 3(b) of this Deed;
- (c) Gunns releases Forestry Tasmania from all its obligations and liabilities under the Wood Supply Agreements and the China Sale Agreement in the terms of clause 3(c) of this Deed; and
- (d) Gunns agrees to assign the residual rights and obligations under the Wood Supply Agreements and the China Sale Agreement in the same terms as clause 5 of this Deed.

## 2.2 Termination

- (a) Either party may elect to terminate this Deed by notice in writing to the other if the condition in clause 2.1 is not satisfied on or before the Settlement Date.
- (b) If this Deed is terminated pursuant to clause 2.2(a) then:
  - (i) each party will have the same Rights and obligations that it would have had as if the parties had never entered into this Deed; and
  - (ii) neither party will have a Claim against the other in respect of the subject matter of this Deed.

---

## 3 Payment

In consideration of the payment on the Settlement Date by the Crown to Forestry Tasmania of the sum of \$12,650,000.00 (GST inclusive):

- (a) Forestry Tasmania agrees to release Gunns from all Claims, except for the Excluded Claims, that Forestry Tasmania now has, or may in the future have, against Gunns in connection with or arising out of the Wood Supply Agreements and the China Sale Agreement including any breach of the same by Gunns;
- (b) Forestry Tasmania agrees to the termination of and to treat as terminated the Wood Supply Agreements and the China Sale Agreement as at the Settlement Date;
- (c) Forestry Tasmania agrees to release Gunns from its obligations and liabilities under the Wood Supply Agreements and the China Sale Agreement whether arising before on or after the Settlement Date; and
- (d) Subject to its powers and obligations under the Forestry Act (as amended) and the *Government Business Enterprises Act* (as amended), Forestry Tasmania agrees to set aside the Reserves from wood production and to do and facilitate all that it reasonably can to further the requirements of the Tasmanian Forests Intergovernmental Agreement particularly but without limitation:

- (i) provision of data and information as reasonably required by the Independent Verification Group to which the Tasmanian Forests Intergovernmental Agreement refers to facilitate its work;
- (ii) creation of the required Informal Reserves pursuant to clauses 25 and 28;
- (iii) not to supply wood or allow wood production within the High Conservation Value forest area in accordance with the requirements of clause 26;

---

#### **4 Excluded Claims**

Nothing in this Deed affects any Rights of a party (including any Rights of that party against the other party) in connection with any Excluded Claims.

---

#### **5 Assignment**

- (a) Subject to clause 4, to the extent that the Wood Supply Agreements and the China Sale Agreement may subsist or that there are continuing Rights and obligations of Forestry Tasmania arising out of those Agreements after the Settlement Date then Forestry Tasmania assigns to the Crown absolutely the benefit of those Agreements.
- (b) Forestry Tasmania consents to the assignment of the Wood Supply Agreements and the China Sale Agreement by Gunns to the Crown.

---

#### **6 GST**

- (a) The consideration payable by the Crown to Forestry Tasmania as expressed in this Deed is GST inclusive.
- (b) On the Settlement Date Forestry Tasmania must provide to the Crown a valid tax invoice for the consideration.
- (c) In this clause 6 unless the context otherwise requires:
  - (i) **GST Act** means the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth) and the related imposition Acts of the Commonwealth; and
  - (ii) expressions defined in the GST Act have the same meaning when used in this clause 6.

---

## 7 Notices

### 7.1 Method of giving Notices

A notice, consent, approval, application or other communication (each a **Notice**) under this Deed must be in writing, signed by or on behalf of the person giving it, addressed to the person to whom it is to be given and:

- (a) delivered;
- (b) sent by pre-paid mail; or
- (c) sent by facsimile,

to that person's address or facsimile number (as applicable).

For the avoidance of doubt, no Notice may be given either orally or by email.

### 7.2 Time of receipt of Notices

A Notice given to a person is treated as having been given and received:

- (a) if delivered, on the day of delivery if delivered after 9.00am and before 4.00pm on a Business Day, otherwise on the next Business Day;
- (b) if sent by pre-paid mail, on the day of actual delivery if delivered after 9.00am and before 4.00pm on a Business Day, otherwise on the next Business Day; and
- (c) if sent by facsimile and the transmission report states that it was sent in full and without error, on the day of transmission if that report states that the transmission was completed after 9.00am and before 4.00pm on a Business Day, otherwise on the next Business Day.

### 7.3 Address for Notices

For the purposes of this clause 7, a person (the **sender**) may take the address and facsimile number of another person (the **recipient**) to be:

- (a) the address and number set out in the Details above; or
- (b) if the recipient has notified the sender of another address or facsimile number, the last address or facsimile number so notified to the sender.

---

## 8 Law and jurisdiction

### 8.1 Governing Law

This Deed is governed by the Law of Tasmania.

## **8.2 Submission to jurisdiction**

The parties submit to the non-exclusive jurisdiction of the courts of Tasmania and any courts that may hear appeals from those courts in respect of any proceedings in connection with this Deed.

---

# **9 General**

## **9.1 Waiver**

The non-exercise of or delay in exercising any power or right of a party does not operate as a waiver of that power or right, nor does any single exercise of a power or right preclude any other exercise of it or the exercise of any other power or right. A power or right may only be waived in writing, signed by the party to be bound by the waiver and such a waiver is effective only in the specific instance and for the specific purpose for which it was given.

## **9.2 Amendment**

This Deed may only be amended or supplemented in writing signed by the parties.

## **9.3 Severability**

If any provision of this Deed is or at any time becomes illegal, prohibited, void or unenforceable for any reason in any jurisdiction then, as to that jurisdiction, that provision is severed from this Deed and the remaining provisions of this Deed:

- (a) continue to be enforceable; and
- (b) are to be construed with such additions, deletions and modifications of language as are necessary to give effect to the remaining provisions of this Deed.

## **9.4 Further assurance**

Each party must do, sign, execute and deliver and must procure that each of its employees and agents does, signs, executes and delivers, all deeds, documents, instruments and acts as reasonably required of it or them and must carry out and give full effect to this Deed and the Rights and obligations of the parties under it.

## **9.5 Counterparts**

- (a) This Deed may be executed in any number of counterparts.
- (b) A party may execute this Deed by signing any counterpart.
- (c) All counterparts, taken together, constitute one instrument.

## **Executed as a deed**



Signing page

Dated:

Signed for and on behalf of **The Crown in Right of Tasmania** by **The Honourable Larissa Tahireh Giddings MP**, Premier of Tasmania in the presence of:

Signature

Signature of witness

Name of witness (print)

Address of witness

Occupation

**The common seal of Forestry Tasmania** was hereunto affixed by the authority of its Board in the presence of:

Signature

Name and position held (print)

Signature

Name and position held (print)

## Annexure “A”

### Tasmanian Forests Intergovernmental Agreement



## Deed

**Dated**

**The Crown in Right of Tasmania  
(Crown)**

**and**

**Gunns Limited  
(Gunns)**

**The Crown Solicitor of Tasmania**

Executive Building  
15 Murray Street Hobart Tasmania 7000  
GPO Box 825 Hobart Tasmania 7001  
Telephone: (03) 6233 3922  
Facsimile: (03) 6233 2874  
File Ref: DPAC | 38146  
Doc Ref: Deed of Release - Crown & Gunns -  
Final - 8.9.11

# Contents

<b>1</b>	<b>Definitions and interpretation .....</b>	<b>4</b>
1.1	Definitions .....	4
1.2	Interpretation .....	5
1.3	No contra proferentum .....	6
1.4	Headings .....	6
<b>2</b>	<b>Condition .....</b>	<b>7</b>
2.1	Condition .....	7
2.2	Termination .....	7
<b>3</b>	<b>Payment .....</b>	<b>7</b>
<b>4</b>	<b>Excluded Claims .....</b>	<b>8</b>
<b>5</b>	<b>Assignment.....</b>	<b>8</b>
<b>6</b>	<b>GST.....</b>	<b>9</b>
<b>7</b>	<b>Representation and warranties.....</b>	<b>9</b>
7.1	Gunns' warranties .....	9
<b>8</b>	<b>Notices .....</b>	<b>10</b>
8.1	Method of giving Notices .....	10
8.2	Time of receipt of Notices .....	10
8.3	Address for Notices.....	10
<b>9</b>	<b>Law and jurisdiction .....</b>	<b>10</b>
9.1	Governing Law .....	10
9.2	Submission to jurisdiction.....	11
<b>10</b>	<b>General.....</b>	<b>11</b>
10.1	Waiver.....	11
10.2	Amendment.....	11
10.3	Severability.....	11
10.4	Further assurance .....	11
10.5	Counterparts .....	11
	<b>Annexure "A" .....</b>	<b>13</b>
	Tasmanian Forests Intergovernmental Agreement.....	13

## Deed

## Details

Parties	Crown, Gunns	
Crown	Name	<b>The Crown in Right of Tasmania</b> represented by the Department of Treasury and Finance
	Short form name	The Crown
	Address	21 Murray Street HOBART Tasmania 7000
	Facsimile	(03) 6223 2755
	Attention	Secretary
Gunns	Name	<b>Gunns Limited</b>
	ACN	009 478 148
	Short form name	Gunns
	Address	78 Lindsay Street LAUNCESTON Tasmania 7250
	Facsimile	(03) 6335 5498
	Attention	Managing Director
Recitals	A	Forestry Tasmania and Gunns are parties to the Wood Supply Agreements and the China Sale Agreement.
	B	Forestry Tasmania and Gunns are in dispute with respect to each party's obligations arising out of the Wood Supply Agreements and the China Sale Agreement and the continued existence of the Wood Supply Agreements themselves.
	C	Particularly Forestry Tasmania claims: <ul style="list-style-type: none"> <li>(i) that Gunns by letter dated the 18<sup>th</sup> day of April 2011 terminated the Wood Supply Agreements with that termination to take effect on the 15<sup>th</sup> day of October 2011;</li> <li>(ii) that Gunns is in breach of the terms of the Wood Supply Agreements and the China Sale Agreement by virtue of its failure to pay all sums of money accruing and due in accordance with the terms of those Agreements.</li> </ul>
	D	Particularly Gunns claims:

- (i) that its letter dated the 18<sup>th</sup> day of April 2011 was not legally effective to terminate the Wood Supply Agreements;
- (ii) that Forestry Tasmania is in breach of the terms of the Wood Supply Agreements and the China Sale Agreement and as a consequence Gunns has incurred loss and damage which is claimed from Forestry Tasmania.

**E** Forestry Tasmania and Gunns each deny the other's claims.

**F** Forestry Tasmania and Gunns are agreed that in the event that the letter of the 18<sup>th</sup> day of April 2011 was legally effective to terminate the Wood Supply Agreements then Forestry Tasmania is legally obliged to enter into good faith negotiations with Gunns about the terms of new agreements for the supply of Pulpwood (as defined in Wood Supply Agreement 917) and Supply Products (as defined in Wood Supply Agreement 918).

**G** Gunns has indicated that it wishes to exit native forest logging operations in Tasmania.

**H** The Crown has entered into the Tasmanian Forests Intergovernmental Agreement with the Commonwealth.

**I** Under the Tasmanian Forests Intergovernmental Agreement the Commonwealth has agreed to provide funding to the Crown for the purposes of enabling the creation of the Reserves.

**J** The Reserves cannot be created unless:

- (i) there is certainty that Forestry Tasmania is not legally obligated to make any further supplies of wood to Gunns pursuant to the Wood Supply Agreements and the China Sale Agreement; or
- (ii) if the Wood Supply Agreements have been terminated, there is legal certainty that Forestry Tasmania is not under a legal obligation to enter into good faith negotiations with Gunns about the terms of new agreements for the supply of pulpwood (as defined in Wood Supply Agreement 917) and the Supply Products (as defined in Wood Supply Agreement 918).

**K** By virtue of clause 22 of the Tasmanian Forests Intergovernmental Agreement the Crown is obliged to ensure that a sufficient volume of native forest sawlog supply is retired to achieve the objects set out in clauses 17 and 29 of that Agreement.

**L** The parties have entered into this Deed to facilitate the requirements of the Tasmanian Forests Intergovernmental

Agreement by ensuring the termination of the Wood Supply Agreements and the China Sale Agreement and, except for Excluded Claims, to resolve all claims Gunns has against Forestry Tasmania arising out of the Wood Supply Agreements and the China Sale Agreement.

---

<b>Date</b>	See signing page
-------------	------------------

## Operative provisions

---

### 1 Definitions and interpretation

#### 1.1 Definitions

In this Deed, unless the context otherwise requires:

**China Sale Agreement** means the agreement known as 'the China Sale Agreement' constituted by the letter dated 9 June 2010 from Forestry Tasmania to Gunns, and countersigned by Greg L'Estrange as an authorised representative of Gunns.

**Claim** means any allegation, debt, cause of action, liability, claim, proceeding, suit or demand of any nature however arising and whether present or future, fixed or unascertained, actual or contingent, and whether at law, in equity, under statute or otherwise.

**Commonwealth** means the Commonwealth of Australia.

**this Deed** means this deed of release.

**Excluded Claims** means the following claims or rights:

- (a) a claim under the indemnity in clause 8 of Schedule 13 of Wood Supply Agreement 917;
- (b) a claim under the indemnity in clause 8 of Schedule 13 of Wood Supply Agreement 918;
- (c) a claim under any indemnity in the China Sale Agreement; or
- (d) rights arising out of clause 16 of Schedule 13 of each of the Wood Supply Agreements.

**Forestry Tasmania** means Forestry Tasmania ABN 91 628 769 359.

**Reserves** means the reserves which are to be created pursuant to the Tasmanian Forests Intergovernmental Agreement.

**Rights** includes a right, a power, a remedy, a discretion or an authority.

**Settlement Date** means the            day of            2011 or such other date agreed to in writing by both parties.

**Tasmanian Forests Intergovernmental Agreement** means the agreement made between the Commonwealth and the Crown on the 7<sup>th</sup> day of August 2011, a copy of which is annexed to this Deed marked "A".

**Tasmanian Forests Statement of Principles** means the principles agreed by forest industries stakeholders as a basis for agreement on the restructure of the



Tasmanian forest industry as presented to the Tasmanian Government in October 2010.

**Triabunna Agreement** means the Agreement for Sale dated around mid-July 2011 whereby Gunns and others agreed to sell the Triabunna Mill to Jan Cameron and Graeme Wood (or a company or companies associated with or controlled by them).

**Triabunna Mill** means the woodchip mill including the freehold real estate, plant and equipment and other assets necessary for its continued operation at 555 Freestone Road, Triabunna.

**Triabunna Wharf Lease** means the lease between the Hobart Ports Corporation Pty Ltd and Gunns for the Triabunna Wharf commencing 1 November 2002.

**Wood Supply Agreements** mean Wood Supply Agreement 917 and Wood Supply Agreement 918.

**Wood Supply Agreement 917** means contract for sale No. 917 dated 20 December 2007 made between Forestry Tasmania and Gunns and titled 'LONG TERM PULPWOOD SUPPLY AGREEMENT'.

**Wood Supply Agreement 918** means contract for sale No. 918 dated 20 December 2007 made between Forestry Tasmania and Gunns and titled 'SAWLOG AND OTHER PRODUCTS SUPPLY AGREEMENT'.

## 1.2 Interpretation

In this Deed, unless the context otherwise requires:

- (a) a reference to this Deed, or any document referred to in this Deed or another document, includes any variation or replacement of any of them;
- (b) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (c) the singular includes the plural and vice versa;
- (d) **person** includes a firm, a body corporate, an unincorporated association, a responsible authority, or other entity, as constituted from time to time;
- (e) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes and permitted assigns;
- (f) a reference to writing includes a reference to printing, typing and each other method of producing words, figures or symbols in visible form;
- (g) a reference to a body (other than a party to this Deed) whether or not it is a statutory body:

- (i) which ceases to exist; or
- (ii) whose powers or functions are transferred to any other body,  
refers to the body which replaces it or which substantially succeeds to its powers or functions;
- (h) an agreement, representation or warranty on the part of, or in favour of, two or more persons binds, or is for the benefit of them, jointly and severally;
- (i) words importing any gender include all other genders, as applicable;
- (j) a reference to any thing (including any amount) is a reference to the whole or any part of it and a reference to a group of persons is a reference to any one or more of them;
- (k) a covenant prohibiting a person from doing anything also prohibits that person from authorising it to be done by another person;
- (l) a reference to a clause, schedule or appendix is to a clause, schedule or appendix in or to this Deed;
- (m) mentioning any thing after the words **include**, **included** or **including** does not limit the meaning of any thing mentioned before those words;
- (n) a reference to a day must be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (o) reference to a time and date in connection with the performance of an obligation by a party is a reference to the time and date in Hobart, Tasmania, even if the obligation is to be performed elsewhere;
- (p) other parts of speech and grammatical forms of a word or phrase defined in this Deed have a corresponding meaning; and
- (q) references to '\$' and 'dollars' are to Australian dollars.

### 1.3 No contra proferentum

In the interpretation of this Deed, no rule of construction will apply to disadvantage a party because that party proposed a provision of this Deed or the Deed itself.

### 1.4 Headings

Headings are included for convenience only and do not affect the construction or interpretation of this Deed.

## 1.5 Defined terms

Terms used in this Deed and not defined herein and which are defined in the Tasmanian Forests Intergovernmental Agreement have the meaning given to them in the Tasmanian Forests Intergovernmental Agreement.

---

## 2 Condition

### 2.1 Condition

Each party's obligations under clauses 3 and 5 of this Deed are subject to the conditions precedent that on or before the Settlement Date the Crown enters into a deed with Forestry Tasmania whereby:

- (a) Forestry Tasmania releases Gunns in the same terms as clause 3(a) of this Deed;
- (b) Forestry Tasmania agrees to the termination of and to treat as terminated the Wood Supply Agreements and the China Sale Agreement in the terms of clause 3(b) of this Deed;
- (c) Forestry Tasmania releases Gunns from all its obligations and liabilities under the Wood Supply Agreements and the China Sale Agreement in the terms of clause 3(c) of this Deed; and
- (d) Forestry Tasmania agrees to assign the residual rights and obligations under the Wood Supply Agreements and the China Sale Agreement in the same terms as clause 5 of this Deed.

### 2.2 Termination

- (a) Either party may elect to terminate this Deed by notice in writing to the other if the condition in clause 2.1 is not satisfied on or before the Settlement Date.
- (b) If this Deed is terminated pursuant to clause 2.2(a) then:
  - (i) each party will have the same Rights and obligations that it would have had as if the parties had never entered into this Deed; and
  - (ii) neither party will have a Claim against the other in respect of the subject matter of this Deed.

---

## 3 Payment

In consideration of the payment on the Settlement Date by the Crown to Gunns of the sum of \$25,300,000.00 (GST inclusive):

- (a) Gunns agrees to release Forestry Tasmania from all Claims, except for the Excluded Claims, that Gunns now has, or may in the future have, against Forestry Tasmania in connection with or arising out of the Wood Supply

Agreements and the China Sale Agreement including any breach of the same by Forestry Tasmania;

- (b) Gunns agrees to the termination of and to treat as terminated the Wood Supply Agreements and the China Sale Agreement as at the Settlement Date;
- (c) Gunns agrees to release Forestry Tasmania from its obligations and liabilities under the Wood Supply Agreements and the China Sale Agreement whether arising before on or after the Settlement Date;
- (d) Subject to the Tasmanian Ports Corporation Pty Ltd consenting to an assignment of the Triabunna Wharf Lease from Gunns to Triabunna Investments Pty Ltd Gunns must waive or confirm as satisfied, effective as at the Settlement Date, all conditions in the Triabunna Agreement which currently preclude or might preclude in the future the reopening and continued operation of the Triabunna Mill particularly but without limitation any condition regarding implementation of the Tasmanian Forests Statement of Principles or like condition;
- (e) Subject to the Tasmanian Ports Corporation Pty Ltd consenting to an assignment of the Triabunna Wharf Lease from Gunns to Triabunna Investments Pty Ltd, Gunns must do everything and anything reasonably required of it under the Triabunna Agreement to enable the reopening and continued operation of the Triabunna Mill; and
- (f) Subject to Tasmanian Ports Corporation Pty Ltd consenting to an assignment of the Triabunna Wharf Lease from Gunns to Triabunna Investments Pty Ltd, Gunns must cause any related party of it to, as may be required under the Triabunna Agreement, also waive or confirm as satisfied any condition in the terms of clause 3(d) and to do anything reasonably required of it to enable the reopening and continued operation of the Triabunna Mill.

---

#### **4 Excluded Claims**

Nothing in this Deed affects any Rights of a party (including any Rights of that party against the other party) in connection with any Excluded Claims.

---

#### **5 Assignment**

- (a) Subject to clause 4, to the extent that the Wood Supply Agreements and the China Sale Agreement may subsist or that there are continuing Rights and obligations of Gunns arising out of those Agreements after the Settlement Date then Gunns assigns to the Crown absolutely the benefit of those Agreements.
- (b) Gunns consents to the assignment of the Wood Supply Agreements and the China Sale Agreement by Forestry Tasmania to the Crown.

---

## 6 GST

- (a) The consideration payable by the Crown to Gunns as expressed in this Deed is GST inclusive.
- (b) On the Settlement Date Gunns must provide to the Crown a valid tax invoice for the consideration.
- (c) In this clause 6 unless the context otherwise requires:
  - (i) **GST Act** means the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth) and the related imposition Acts of the Commonwealth; and
  - (ii) expressions defined in the GST Act have the same meaning when used in this clause 6.

---

## 7 Representation and warranties

### 7.1 Gunns' warranties

Gunns represents and warrants to the Crown that:

- (a) **(incorporation)**: Gunns is a corporation duly incorporated and existing under the law of its place of incorporation and has the corporate power to enter into and perform its obligations;
- (b) **(legal disability)**: Gunns is not an externally administered body corporate (within the meaning of section 9 of the *Corporations Act 2001* (Cwlth));
- (c) **(controllers)**: no controller (within the meaning of section 9 of the *Corporations Act 2001* (Cwlth)) has been appointed over any of Gunns assets and no such appointment has been threatened;
- (d) **(solvency)**: Gunns is solvent (within the meaning of section 9 of the *Corporations Act 2001* (Cwlth));
- (e) **(authorisations)**: all necessary action has been taken by Gunns to authorise the execution and performance of its obligations under this Deed;
- (f) **(transaction permitted)**: the performance by Gunns of its obligations under this Deed will not breach in any respect any provision of:
  - (i) any applicable law or an order or ruling of a Government Body;
  - (ii) any agreement binding on Gunns; or
  - (iii) the Gunns' constitution.

---

## 8 Notices

### 8.1 Method of giving Notices

A notice, consent, approval, application or other communication (each a **Notice**) under this Deed must be in writing, signed by or on behalf of the person giving it, addressed to the person to whom it is to be given and:

- (a) delivered;
- (a) sent by pre-paid mail; or
- (b) sent by facsimile,

to that person's address or facsimile number (as applicable).

For the avoidance of doubt, no Notice may be given either orally or by email.

### 8.2 Time of receipt of Notices

A Notice given to a person is treated as having been given and received:

- (a) if delivered, on the day of delivery if delivered after 9.00am and before 4.00pm on a Business Day, otherwise on the next Business Day;
- (b) if sent by pre-paid mail, on the day of actual delivery if delivered after 9.00am and before 4.00pm on a Business Day, otherwise on the next Business Day; and
- (c) if sent by facsimile and the transmission report states that it was sent in full and without error, on the day of transmission if that report states that the transmission was completed after 9.00am and before 4.00pm on a Business Day, otherwise on the next Business Day.

### 8.3 Address for Notices

For the purposes of this clause 8, a person (the **sender**) may take the address and facsimile number of another person (the **recipient**) to be:

- (a) the address and number set out in the Details above; or
- (b) if the recipient has notified the sender of another address or facsimile number, the last address or facsimile number so notified to the sender.

---

## 9 Law and jurisdiction

### 9.1 Governing Law

This Deed is governed by the Law of Tasmania.

## **9.2 Submission to jurisdiction**

The parties submit to the non-exclusive jurisdiction of the courts of Tasmania and any courts that may hear appeals from those courts in respect of any proceedings in connection with this Deed.

---

# **10 General**

## **10.1 Waiver**

The non-exercise of or delay in exercising any power or right of a party does not operate as a waiver of that power or right, nor does any single exercise of a power or right preclude any other exercise of it or the exercise of any other power or right. A power or right may only be waived in writing, signed by the party to be bound by the waiver and such a waiver is effective only in the specific instance and for the specific purpose for which it was given.

## **10.2 Amendment**

This Deed may only be amended or supplemented in writing signed by the parties.

## **10.3 Severability**

If any provision of this Deed is or at any time becomes illegal, prohibited, void or unenforceable for any reason in any jurisdiction then, as to that jurisdiction, that provision is severed from this Deed and the remaining provisions of this Deed:

- (a) continue to be enforceable; and
- (b) are to be construed with such additions, deletions and modifications of language as are necessary to give effect to the remaining provisions of this Deed.

## **10.4 Further assurance**

Each party must do, sign, execute and deliver and must procure that each of its employees and agents does, signs, executes and delivers, all deeds, documents, instruments and acts as reasonably required of it or them and must carry out and give full effect to this Deed and the Rights and obligations of the parties under it.

## **10.5 Counterparts**

- (a) This Deed may be executed in any number of counterparts.
- (b) A party may execute this Deed by signing any counterpart.
- (c) All counterparts, taken together, constitute one instrument.

## **Executed as a deed**

## Signing page

**Dated:**

**Signed for and on behalf of The Crown in Right of Tasmania by The Honourable Larissa Tahireh Giddings MP, Premier of Tasmania in the presence of:**

\_\_\_\_\_  
Signature ←

\_\_\_\_\_  
Signature of witness ←

\_\_\_\_\_  
Name of witness (print)

\_\_\_\_\_  
Address of witness

\_\_\_\_\_  
Occupation

**The common seal of Gunns Limited**  
was hereunto affixed in accordance with section 127 of the *Corporations Act 2001* (Cwlth):

\_\_\_\_\_  
Signature of director ←

\_\_\_\_\_  
Signature of director/company secretary  
(Please delete as applicable) ←

\_\_\_\_\_  
Name of director (print)

\_\_\_\_\_  
Name of director/company secretary (print)



## Annexure "A"

### Tasmanian Forests Intergovernmental Agreement



## Deed

**Dated**

**Forestry Tasmania  
(Forestry Tasmania)**

**and**

**Gunns Limited  
(Gunns)**

**The Crown Solicitor of Tasmania**

Executive Building  
15 Murray Street Hobart Tasmania 7000  
GPO Box 825 Hobart Tasmania 7001  
Telephone: (03) 6233 3922  
Facsimile: (03) 6233 2874  
File Ref: DPAC | 38146  
Doc Ref: Deed of Release - Forestry & Gunns -  
Final - 8.9.11

# Contents

<b>1</b>	<b>Definitions and interpretation .....</b>	<b>3</b>
1.1	Definitions .....	3
1.2	Interpretation .....	4
1.3	No contra proferentum .....	5
1.4	Headings .....	5
<b>2</b>	<b>Condition .....</b>	<b>5</b>
2.1	Condition .....	5
2.2	Termination .....	5
<b>3</b>	<b>Termination of Wood Supply Agreements.....</b>	<b>6</b>
<b>4</b>	<b>Releases.....</b>	<b>6</b>
4.1	Release by Forestry Tasmania .....	6
4.2	Release by Gunns.....	6
<b>5</b>	<b>Excluded Claims .....</b>	<b>6</b>
<b>6</b>	<b>Interdependent obligations .....</b>	<b>6</b>
<b>7</b>	<b>Representation and warranties .....</b>	<b>7</b>
7.1	Gunns' warranties .....	7
<b>8</b>	<b>Notices .....</b>	<b>7</b>
8.1	Method of giving Notices .....	7
8.2	Time of receipt of Notices .....	8
8.3	Address for Notices.....	8
<b>9</b>	<b>Law and jurisdiction .....</b>	<b>8</b>
9.1	Governing Law .....	8
9.2	Submission to jurisdiction.....	8
<b>10</b>	<b>General.....</b>	<b>8</b>
10.1	Waiver .....	8
10.2	Amendment.....	9
10.3	Severability.....	9
10.4	Further assurance .....	9
10.5	Counterparts .....	9
	<b>Annexure "A" .....</b>	<b>11</b>
	Forestry Tasmania Release Deed .....	11
	<b>Annexure "B" .....</b>	<b>1</b>
	Gunns Release Deed .....	1

## Deed

## Details

Parties		Forestry Tasmania, Gunns
Forestry Tasmania	Name	Forestry Tasmania (being the body corporate established pursuant to section 6 of the <i>Forestry Act 1920</i> (Tas))
	ABN	91 628 769 359
	Short form name	Forestry Tasmania
	Address	79 Melville Street HOBART Tasmania 7000
	Facsimile	(03) 6235 8223
	Attention	
Gunns	Name	Gunns Limited
	ACN	009 478 148
	Short form name	Gunns
	Address	78 Lindsay Street LAUNCESTON Tasmania 7250
	Facsimile	(03) 6335 5498
	Attention	Managing Director
Recitals	A	Forestry Tasmania and Gunns are parties to the Wood Supply Agreements and the China Sale Agreement.
	B	Forestry Tasmania and Gunns are in dispute with respect to each party's obligations arising out of the Wood Supply Agreements and the China Sale Agreement and the continued existence of the Wood Supply Agreements themselves.
	C	Particularly Forestry Tasmania claims: <ul style="list-style-type: none"> <li>(i) that Gunns by letter dated the 18<sup>th</sup> day of April 2011 terminated the Wood Supply Agreements with that termination to take effect on the 15<sup>th</sup> day of October 2011;</li> <li>(ii) that Gunns is in breach of the terms of the Wood Supply Agreements and the China Sale Agreement by virtue of its failure to pay all sums of money accruing and due in accordance with the terms of those Agreements.</li> </ul>

- D** Particularly Gunns claims:
- (i) that its letter dated the 18<sup>th</sup> day of April 2011 was not legally effective to terminate the Wood Supply Agreements;
  - (ii) that Forestry Tasmania is in breach of the terms of the Wood Supply Agreements and the China Sale Agreement and as a consequence Gunns has incurred loss and damage which is claimed from Forestry Tasmania.
- E** Forestry Tasmania and Gunns each deny the other's claims.
- F** Forestry Tasmania and Gunns are agreed that in the event that the letter of the 18<sup>th</sup> day of April 2011 was legally effective to terminate the Wood Supply Agreements then Forestry Tasmania is legally obliged to enter into good faith negotiations with Gunns about the terms of new agreements for the supply of Pulpwood (as defined in Wood Supply Agreement 917) and Supply Products (as defined in Wood Supply Agreement 918).
- G** Gunns has indicated that it wishes to exit native forest logging operations in Tasmania.
- H** The parties have entered into this Deed for the purpose of:
- (i) except for the Excluded Claims extinguishing on and from the Settlement Date all Claims which each party has against the other in connection with the Wood Supply Agreements and the China Sale Agreement; and
  - (ii) terminating the Wood Supply Agreements and the China Sale Agreement on the Settlement Date.

---

**Date**                      See signing page

## Operative provisions

### 1 Definitions and interpretation

#### 1.1 Definitions

In this Deed, unless the context otherwise requires:

**China Sale Agreement** means the agreement known as 'the China Sale Agreement' constituted by the letter dated 9 June 2010 from Forestry Tasmania to Gunns, and countersigned by Greg L'Estrange as an authorised representative of Gunns.

**Claim** means any allegation, debt, cause of action, liability, claim, proceeding, suit or demand of any nature however arising and whether present or future, fixed or unascertained, actual or contingent, and whether at law, in equity, under statute or otherwise.

**this Deed** means this deed of release.

**Excluded Claims** means the following claims or rights:

- (a) a claim under the indemnity in clause 8 of Schedule 13 of Wood Supply Agreement 917;
- (b) a claim under the indemnity in clause 8 of Schedule 13 of Wood Supply Agreement 918;
- (c) a claim under any indemnity in the China Sale Agreement; or
- (d) rights arising out of clause 16 of Schedule 13 of each of the Wood Supply Agreements.

**Forestry Tasmania** means Forestry Tasmania ABN 91 628 769 359.

**Forestry Tasmania Release Deed** means the Deed of Release to be entered into between the Crown and Forestry Tasmania in the form annexed to this Deed marked "A".

**Gunns Release Deed** means the Deed of Release to be entered into between the Crown and Gunns in the form annexed to this Deed marked "B".

**Rights** includes a right, a power, a remedy, a discretion or an authority.

**Settlement Date** means the                      day of                      2011 or such other date agreed to in writing by both parties.

**Wood Supply Agreements** mean Wood Supply Agreement 917 and Wood Supply Agreement 918.

**Wood Supply Agreement 917** means contract for sale No. 917 dated 20 December 2007 made between Forestry Tasmania and Gunns and titled 'LONG TERM PULPWOOD SUPPLY AGREEMENT'.

**Wood Supply Agreement 918** means contract for sale No. 918 dated 20 December 2007 made between Forestry Tasmania and Gunns and titled 'SAWLOG AND OTHER PRODUCTS SUPPLY AGREEMENT'.

## 1.2 Interpretation

In this Deed, unless the context otherwise requires:

- (a) a reference to this Deed, or any document referred to in this Deed or another document, includes any variation or replacement of any of them;
- (b) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (c) the singular includes the plural and vice versa;
- (d) **person** includes a firm, a body corporate, an unincorporated association, a responsible authority, or other entity, as constituted from time to time;
- (e) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes and permitted assigns;
- (f) a reference to writing includes a reference to printing, typing and each other method of producing words, figures or symbols in visible form;
- (g) a reference to a body (other than a party to this Deed) whether or not it is a statutory body:
  - (i) which ceases to exist; or
  - (ii) whose powers or functions are transferred to any other body,
 refers to the body which replaces it or which substantially succeeds to its powers or functions;
- (h) an agreement, representation or warranty on the part of, or in favour of, two or more persons binds, or is for the benefit of them, jointly and severally;
- (i) words importing any gender include all other genders, as applicable;
- (j) a reference to any thing (including any amount) is a reference to the whole or any part of it and a reference to a group of persons is a reference to any one or more of them;
- (k) a covenant prohibiting a person from doing anything also prohibits that person from authorising it to be done by another person;

- (l) a reference to a clause, schedule or appendix is to a clause, schedule or appendix in or to this Deed;
- (m) mentioning any thing after the words **include**, **included** or **including** does not limit the meaning of any thing mentioned before those words;
- (n) a reference to a day must be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (o) reference to a time and date in connection with the performance of an obligation by a party is a reference to the time and date in Hobart, Tasmania, even if the obligation is to be performed elsewhere;
- (p) other parts of speech and grammatical forms of a word or phrase defined in this Deed have a corresponding meaning; and
- (q) references to '\$' and 'dollars' are to Australian dollars.

### **1.3 No contra proferentum**

In the interpretation of this Deed, no rule of construction will apply to disadvantage a party because that party proposed a provision of this Deed or the Deed itself.

### **1.4 Headings**

Headings are included for convenience only and do not affect the construction or interpretation of this Deed.

---

## **2 Condition**

### **2.1 Condition**

Each party's obligations under clauses 3 and 4 of this Deed are subject to the conditions precedent that on or before the Settlement Date:

- (a) the Crown and Gunns enter into the Gunns Release Deed; and
- (b) the Crown and Forestry Tasmania enter into the Forestry Tasmania Release Deed.

### **2.2 Termination**

- (a) Either party may elect to terminate this Deed by notice in writing to the other if either of the conditions in clause 2.1 is not satisfied on or before the Settlement Date.
- (b) If this Deed is terminated pursuant to clause 2.2(a) then:
  - (i) each party will have the same Rights and obligations that it would have had as if the parties had never entered into this Deed; and



- (ii) neither party will have a Claim against the other in respect of the subject matter of this Deed.

---

### **3 Termination of Wood Supply Agreements**

Subject to satisfaction or waiver of the conditions precedent in clause 2.1, on the Settlement Date:

- (a) to the extent that each of the Wood Supply Agreements and the China Sale Agreement are otherwise subsisting as at that date, each of the Wood Supply Agreements and the China Sale Agreement are terminated; and
- (b) each party is released from its obligations and liabilities under each of the Wood Supply Agreements and the China Sale Agreement which relate to any period before, on or after the Settlement Date.

---

### **4 Releases**

#### **4.1 Release by Forestry Tasmania**

Subject to satisfaction or waiver of the conditions precedent in clause 2.1, on the Settlement Date, except for the Excluded Claims, Forestry Tasmania releases Gunns from all Claims that Forestry Tasmania now has or may in the future have against Gunns in connection with or arising out of the Wood Supply Agreements and the China Sale Agreement and/or any breach of them by Gunns.

#### **4.2 Release by Gunns**

Subject to satisfaction or waiver of the conditions precedent in clause 2.1, on the Settlement Date, except for the Excluded Claims, Gunns releases Forestry Tasmania from all Claims that Gunns now has or may in the future have against Forestry Tasmania in connection with or arising out of the Wood Supply Agreements and the China Sale Agreement and/or any breach of them by Forestry Tasmania.

---

### **5 Excluded Claims**

Nothing in this Deed affects any Rights of a party (including any Rights of that party against the other party) in connection with any Excluded Claims.

---

### **6 Interdependent obligations**

The obligations of each party under clauses 3 and 4 are to be performed on the Settlement Date interdependent with the obligations of the other party under those clauses. Accordingly, a party (the First Party) is not required to perform its obligations under those clauses on the Settlement Date if the other party is unable or refuses to perform its obligations under those clauses on the Settlement Date and the inability or refusal is not attributable to any breach of this Deed by the First Party.

---

## 7 Representation and warranties

### 7.1 Gunns' warranties

Gunns represents and warrants to Forestry Tasmania that:

- (a) **(incorporation)**: Gunns is a corporation duly incorporated and existing under the law of its place of incorporation and has the corporate power to enter into and perform its obligations;
- (b) **(legal disability)**: Gunns is not an externally administered body corporate (within the meaning of section 9 of the *Corporations Act 2001* (Cwlth));
- (c) **(controllers)**: no controller (within the meaning of section 9 of the *Corporations Act 2001* (Cwlth)) has been appointed over any of Gunns assets and no such appointment has been threatened;
- (d) **(solvency)**: Gunns is solvent (within the meaning of section 9 of the *Corporations Act 2001* (Cwlth));
- (e) **(authorisations)**: all necessary action has been taken by Gunns to authorise the execution and performance of its obligations under this Deed;
- (f) **(transaction permitted)**: the performance by Gunns of its obligations under this Deed will not breach in any respect any provision of:
  - (i) any applicable law or an order or ruling of a Government Body;
  - (ii) any agreement binding on Gunns; or
  - (iii) the Gunns' constitution.

---

## 8 Notices

### 8.1 Method of giving Notices

A notice, consent, approval, application or other communication (each a **Notice**) under this Deed must be in writing, signed by or on behalf of the person giving it, addressed to the person to whom it is to be given and:

- (a) delivered;
- (a) sent by pre-paid mail; or
- (b) sent by facsimile,

to that person's address or facsimile number (as applicable).

For the avoidance of doubt, no Notice may be given either orally or by email.

## 8.2 Time of receipt of Notices

A Notice given to a person is treated as having been given and received:

- (a) if delivered, on the day of delivery if delivered after 9.00am and before 4.00pm on a Business Day, otherwise on the next Business Day;
- (b) if sent by pre-paid mail, on the day of actual delivery if delivered after 9.00am and before 4.00pm on a Business Day, otherwise on the next Business Day; and
- (c) if sent by facsimile and the transmission report states that it was sent in full and without error, on the day of transmission if that report states that the transmission was completed after 9.00am and before 4.00pm on a Business Day, otherwise on the next Business Day.

## 8.3 Address for Notices

For the purposes of this clause 8, a person (the **sender**) may take the address and facsimile number of another person (the **recipient**) to be:

- (a) the address and number set out in the Details above; or
- (b) if the recipient has notified the sender of another address or facsimile number, the last address or facsimile number so notified to the sender.

---

# 9 Law and jurisdiction

## 9.1 Governing Law

This Deed is governed by the Law of Tasmania.

## 9.2 Submission to jurisdiction

The parties submit to the non-exclusive jurisdiction of the courts of Tasmania and any courts that may hear appeals from those courts in respect of any proceedings in connection with this Deed.

---

# 10 General

## 10.1 Waiver

The non-exercise of or delay in exercising any power or right of a party does not operate as a waiver of that power or right, nor does any single exercise of a power or right preclude any other exercise of it or the exercise of any other power or right. A power or right may only be waived in writing, signed by the party to be bound by the waiver and such a waiver is effective only in the specific instance and for the specific purpose for which it was given.

**10.2 Amendment**

This Deed may only be amended or supplemented in writing signed by the parties.

**10.3 Severability**

If any provision of this Deed is or at any time becomes illegal, prohibited, void or unenforceable for any reason in any jurisdiction then, as to that jurisdiction, that provision is severed from this Deed and the remaining provisions of this Deed:

- (a) continue to be enforceable; and
- (b) are to be construed with such additions, deletions and modifications of language as are necessary to give effect to the remaining provisions of this Deed.

**10.4 Further assurance**

Each party must do, sign, execute and deliver and must procure that each of its employees and agents does, signs, executes and delivers, all deeds, documents, instruments and acts as reasonably required of it or them and must carry out and give full effect to this Deed and the Rights and obligations of the parties under it.

**10.5 Counterparts**

- (a) This Deed may be executed in any number of counterparts.
- (b) A party may execute this Deed by signing any counterpart.
- (c) All counterparts, taken together, constitute one instrument.

**Executed as a deed**

## Signing page

**Dated:**

**The common seal of  
Forestry Tasmania**  
was hereunto affixed by the authority of  
its Board in the presence of:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and position held (print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and position held (print)

**The common seal of  
Gunns Limited**  
was hereunto affixed in accordance with  
section 127 of the *Corporations Act*  
*2001* (Cwlth):

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/company secretary  
(Please delete as applicable)

\_\_\_\_\_  
Name of director (print)

\_\_\_\_\_  
Name of director/company secretary (print)

## Annexure "A"

### Forestry Tasmania Release Deed

## Annexure “B”

### Gunns Release Deed

To: mark.sayer@dpac.tas.gov.au  
cc:  
From: Tony Ferrall/FSq/TreasFin  
Date: 09/09/2011 04:24:34 PM  
Subject: Premiers Letter

Mark

Attached is a draft of the email from you to Greg L'Estrange. It is prepared on the assumption that Minister Burke responds as expected in relation to the Premiers letter. You will also need to attach the scanned copy of the Premiers letter.

Cheers

Tony

Dear Greg

Please find attached an electronic copy of a letter and enclosed Deeds sent to you today from the Premier.

Treasury will be the contact point for any queries. Tony Ferrall is acting Secretary of the Department. His phone number is 62332132.

Regards

Mark Sayer



\_ Deed of Release - Crown & Forestry.pdf



Deed of Release - Crown & Gunns.pdf



Deed of Release - Forestry & Gunns.pdf





## Deed

### Dated

**The Crown in Right of Tasmania  
(Crown)**

**and**

**Forestry Tasmania  
(Forestry Tasmania)**

**The Crown Solicitor of Tasmania**

Executive Building  
15 Murray Street Hobart Tasmania 7000  
GPO Box 825 Hobart Tasmania 7001  
Telephone: (03) 6233 3922  
Facsimile: (03) 6233 2874  
File Ref: DPAC | 38146  
Doc Ref: Deed of Release - Crown & Forestry -  
Final - 8.9.11

# Contents

<b>1</b>	<b>Definitions and interpretation .....</b>	<b>4</b>
1.1	Definitions .....	4
1.2	Interpretation .....	5
1.3	No contra proferentum .....	6
1.4	Headings .....	6
<b>2</b>	<b>Condition .....</b>	<b>6</b>
2.1	Condition .....	6
2.2	Termination .....	7
<b>3</b>	<b>Payment .....</b>	<b>7</b>
<b>4</b>	<b>Excluded Claims .....</b>	<b>8</b>
<b>5</b>	<b>Assignment.....</b>	<b>8</b>
<b>6</b>	<b>GST.....</b>	<b>8</b>
<b>7</b>	<b>Notices .....</b>	<b>9</b>
7.1	Method of giving Notices .....	9
7.2	Time of receipt of Notices .....	9
7.3	Address for Notices .....	9
<b>8</b>	<b>Law and jurisdiction .....</b>	<b>9</b>
8.1	Governing Law .....	9
8.2	Submission to jurisdiction.....	10
<b>9</b>	<b>General.....</b>	<b>10</b>
9.1	Waiver .....	10
9.2	Amendment.....	10
9.3	Severability.....	10
9.4	Further assurance .....	10
9.5	Counterparts .....	10
	<b>Annexure "A" .....</b>	<b>12</b>
	Tasmanian Forests Intergovernmental Agreement.....	12

## Deed

## Details

Parties		Crown, Forestry Tasmania
Crown	Name	<b>The Crown in Right of Tasmania</b> represented by the Department of Treasury and Finance
	Short form name	The Crown
	Address	21 Murray Street HOBART Tasmania 7000
	Facsimile	(03) 6223 2755
	Attention	Secretary
Forestry Tasmania	Name	<b>Forestry Tasmania</b> (being the body corporate established pursuant to section 6 of the <i>Forestry Act 1920</i> (Tas))
	ABN	91 628 769 359
	Short form name	Forestry Tasmania
	Address	79 Melville Street HOBART Tasmania 7000
	Facsimile	(03) 6235 8223
	Attention	
<hr/>		
Recitals	A	Forestry Tasmania and Gunns are parties to the Wood Supply Agreements and the China Sale Agreement.
	B	Forestry Tasmania and Gunns are in dispute with respect to each party's obligations arising out of the Wood Supply Agreements and the China Sale Agreement and the continued existence of the Wood Supply Agreements themselves.
	C	Particularly Forestry Tasmania claims: <ul style="list-style-type: none"> <li>(i) that Gunns by letter dated the 18<sup>th</sup> day of April 2011 terminated the Wood Supply Agreements with that termination to take effect on the 15<sup>th</sup> day of October 2011;</li> <li>(ii) that Gunns is in breach of the terms of the Wood Supply Agreements and the China Sale Agreement by virtue of its failure to pay all sums of money accruing and due in accordance with the terms of those Agreements.</li> </ul>
	D	Particularly Gunns claims:

- (i) that its letter dated the 18<sup>th</sup> day of April 2011 was not legally effective to terminate the Wood Supply Agreements;
  - (ii) that Forestry Tasmania is in breach of the terms of the Wood Supply Agreements and the China Sale Agreement and as a consequence Gunns has incurred loss and damage which is claimed from Forestry Tasmania.
- E Forestry Tasmania and Gunns each deny the other's claims.
- F Forestry Tasmania and Gunns are agreed that in the event that the letter of the 18<sup>th</sup> day of April 2011 was legally effective to terminate the Wood Supply Agreements then Forestry Tasmania is legally obliged to enter into good faith negotiations with Gunns about the terms of new agreements for the supply of Pulpwood (as defined in Wood Supply Agreement 917) and Supply Products (as defined in Wood Supply Agreement 918).
- G Gunns has indicated that it wishes to exit native forest logging operations in Tasmania.
- H The Crown has entered into the Tasmanian Forests Intergovernmental Agreement with the Commonwealth.
- I Under the Tasmanian Forests Intergovernmental Agreement the Commonwealth has agreed to provide funding to the Crown for the purposes of enabling the creation of the Reserves.
- J The Reserves cannot be created unless:
  - (i) there is certainty that Forestry Tasmania is not legally obligated to make any further supplies of wood to Gunns pursuant to the Wood Supply Agreements and the China Sale Agreement; or
  - (ii) if the Wood Supply Agreements have been terminated, there is legal certainty that Forestry Tasmania is not under a legal obligation to enter into good faith negotiations with Gunns about the terms of new agreements for the supply of pulpwood (as defined in Wood Supply Agreement 917) and the Supply Products (as defined in Wood Supply Agreement 918).
- K By virtue of clause 22 of the Tasmanian Forests Intergovernmental Agreement the Crown is obliged to ensure that a sufficient volume of native forest sawlog supply is retired to achieve the objects set out in clauses 17 and 29 of that Agreement.
- L The parties have entered into this Deed to facilitate the requirements of the Tasmanian Forests Intergovernmental Agreement by ensuring the termination of the Wood Supply Agreements and the China Sale Agreement and, except for

Excluded Claims, to resolve all claims Forestry Tasmania has against Gunns arising out of the Wood Supply Agreements and the China Sale Agreement.

---

<b>Date</b>	See signing page
-------------	------------------

## Operative provisions

### 1 Definitions and interpretation

#### 1.1 Definitions

In this Deed, unless the context otherwise requires:

**China Sale Agreement** means the agreement known as 'the China Sale Agreement' constituted by the letter dated 9 June 2010 from Forestry Tasmania to Gunns, and countersigned by Greg L'Estrange as an authorised representative of Gunns.

**Claim** means any allegation, debt, cause of action, liability, claim, proceeding, suit or demand of any nature however arising and whether present or future, fixed or unascertained, actual or contingent, and whether at law, in equity, under statute or otherwise.

**Commonwealth** means the Commonwealth of Australia.

**this Deed** means this deed of release.

**Excluded Claims** means the following claims or rights:

- (a) a claim under the indemnity in clause 8 of Schedule 13 of Wood Supply Agreement 917;
- (b) a claim under the indemnity in clause 8 of Schedule 13 of Wood Supply Agreement 918;
- (c) a claim under any indemnity in the China Sale Agreement; or
- (d) rights arising out of clause 16 of Schedule 13 of each of the Wood Supply Agreements.

**Gunns** means Gunns Limited ABN 29 009 478 148.

**Forestry Act** means the *Forestry Act 1920* (Tas).

**Reserves** means the reserves which are to be created pursuant to the Tasmanian Forests Intergovernmental Agreement.

**Rights** includes a right, a power, a remedy, a discretion or an authority.

**Settlement Date** means the            day of            2011 or such other date agreed to in writing by both parties.

**Tasmanian Forests Intergovernmental Agreement** means the agreement made between the Commonwealth and the Crown on the 7<sup>th</sup> day of August 2011, a copy of which is annexed to this Deed marked "A".

**Wood Supply Agreements** mean Wood Supply Agreement 917 and Wood Supply Agreement 918.

**Wood Supply Agreement 917** means contract for sale No. 917 dated 20 December 2007 made between Forestry Tasmania and Gunns and titled 'LONG TERM PULPWOOD SUPPLY AGREEMENT'.

**Wood Supply Agreement 918** means contract for sale No. 918 dated 20 December 2007 made between Forestry Tasmania and Gunns and titled 'SAWLOG AND OTHER PRODUCTS SUPPLY AGREEMENT'.

## 1.2 Interpretation

In this Deed, unless the context otherwise requires:

- (a) a reference to this Deed, or any document referred to in this Deed or another document, includes any variation or replacement of any of them;
- (b) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (c) the singular includes the plural and vice versa;
- (d) **person** includes a firm, a body corporate, an unincorporated association, a responsible authority, or other entity, as constituted from time to time;
- (e) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes and permitted assigns;
- (f) a reference to writing includes a reference to printing, typing and each other method of producing words, figures or symbols in visible form;
- (g) a reference to a body (other than a party to this Deed) whether or not it is a statutory body:
  - (i) which ceases to exist; or
  - (ii) whose powers or functions are transferred to any other body,
 refers to the body which replaces it or which substantially succeeds to its powers or functions;
- (h) an agreement, representation or warranty on the part of, or in favour of, two or more persons binds, or is for the benefit of them, jointly and severally;
- (i) words importing any gender include all other genders, as applicable;
- (j) a reference to any thing (including any amount) is a reference to the whole or any part of it and a reference to a group of persons is a reference to any one or more of them;

- (k) a covenant prohibiting a person from doing anything also prohibits that person from authorising it to be done by another person;
- (l) a reference to a clause, schedule or appendix is to a clause, schedule or appendix in or to this Deed;
- (m) mentioning any thing after the words **include**, **included** or **including** does not limit the meaning of any thing mentioned before those words;
- (n) a reference to a day must be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (o) reference to a time and date in connection with the performance of an obligation by a party is a reference to the time and date in Hobart, Tasmania, even if the obligation is to be performed elsewhere;
- (p) other parts of speech and grammatical forms of a word or phrase defined in this Deed have a corresponding meaning; and
- (q) references to '\$' and 'dollars' are to Australian dollars.

### **1.3 No contra proferentum**

In the interpretation of this Deed, no rule of construction will apply to disadvantage a party because that party proposed a provision of this Deed or the Deed itself.

### **1.4 Headings**

Headings are included for convenience only and do not affect the construction or interpretation of this Deed.

### **1.5 Defined terms**

Terms used in this Deed and not defined herein and which are defined in the Tasmanian Forests Intergovernmental Agreement have the meaning given to them in the Tasmanian Forests Intergovernmental Agreement.

---

## **2 Condition**

### **2.1 Condition**

Each party's obligations under clauses 3 and 5 of this Deed are subject to the conditions precedent that on or before the Settlement Date the Crown enters into a deed with Gunns whereby:

- (a) Gunns releases Forestry Tasmania in the same terms as clause 3(a) of this Deed;



- (b) Gunns agrees to the termination of and to treat as terminated the Wood Supply Agreements and the China Sale Agreement in the terms of clause 3(b) of this Deed;
- (c) Gunns releases Forestry Tasmania from all its obligations and liabilities under the Wood Supply Agreements and the China Sale Agreement in the terms of clause 3(c) of this Deed; and
- (d) Gunns agrees to assign the residual rights and obligations under the Wood Supply Agreements and the China Sale Agreement in the same terms as clause 5 of this Deed.

## 2.2 Termination

- (a) Either party may elect to terminate this Deed by notice in writing to the other if the condition in clause 2.1 is not satisfied on or before the Settlement Date.
- (b) If this Deed is terminated pursuant to clause 2.2(a) then:
  - (i) each party will have the same Rights and obligations that it would have had as if the parties had never entered into this Deed; and
  - (ii) neither party will have a Claim against the other in respect of the subject matter of this Deed.

---

## 3 Payment

In consideration of the payment on the Settlement Date by the Crown to Forestry Tasmania of the sum of \$12,650,000.00 (GST inclusive):

- (a) Forestry Tasmania agrees to release Gunns from all Claims, except for the Excluded Claims, that Forestry Tasmania now has, or may in the future have, against Gunns in connection with or arising out of the Wood Supply Agreements and the China Sale Agreement including any breach of the same by Gunns;
- (b) Forestry Tasmania agrees to the termination of and to treat as terminated the Wood Supply Agreements and the China Sale Agreement as at the Settlement Date;
- (c) Forestry Tasmania agrees to release Gunns from its obligations and liabilities under the Wood Supply Agreements and the China Sale Agreement whether arising before on or after the Settlement Date; and
- (d) Subject to its powers and obligations under the Forestry Act (as amended) and the *Government Business Enterprises Act* (as amended), Forestry Tasmania agrees to set aside the Reserves from wood production and to do and facilitate all that it reasonably can to further the requirements of the Tasmanian Forests Intergovernmental Agreement particularly but without limitation:

- (i) provision of data and information as reasonably required by the Independent Verification Group to which the Tasmanian Forests Intergovernmental Agreement refers to facilitate its work;
- (ii) creation of the required Informal Reserves pursuant to clauses 25 and 28;
- (iii) not to supply wood or allow wood production within the High Conservation Value forest area in accordance with the requirements of clause 26;

---

#### 4 Excluded Claims

Nothing in this Deed affects any Rights of a party (including any Rights of that party against the other party) in connection with any Excluded Claims.

---

#### 5 Assignment

- (a) Subject to clause 4, to the extent that the Wood Supply Agreements and the China Sale Agreement may subsist or that there are continuing Rights and obligations of Forestry Tasmania arising out of those Agreements after the Settlement Date then Forestry Tasmania assigns to the Crown absolutely the benefit of those Agreements.
- (b) Forestry Tasmania consents to the assignment of the Wood Supply Agreements and the China Sale Agreement by Gunns to the Crown.

---

#### 6 GST

- (a) The consideration payable by the Crown to Forestry Tasmania as expressed in this Deed is GST inclusive.
- (b) On the Settlement Date Forestry Tasmania must provide to the Crown a valid tax invoice for the consideration.
- (c) In this clause 6 unless the context otherwise requires:
  - (i) **GST Act** means the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth) and the related imposition Acts of the Commonwealth; and
  - (ii) expressions defined in the GST Act have the same meaning when used in this clause 6.

---

## 7 Notices

### 7.1 Method of giving Notices

A notice, consent, approval, application or other communication (each a **Notice**) under this Deed must be in writing, signed by or on behalf of the person giving it, addressed to the person to whom it is to be given and:

- (a) delivered;
- (b) sent by pre-paid mail; or
- (c) sent by facsimile,

to that person's address or facsimile number (as applicable).

For the avoidance of doubt, no Notice may be given either orally or by email.

### 7.2 Time of receipt of Notices

A Notice given to a person is treated as having been given and received:

- (a) if delivered, on the day of delivery if delivered after 9.00am and before 4.00pm on a Business Day, otherwise on the next Business Day;
- (b) if sent by pre-paid mail, on the day of actual delivery if delivered after 9.00am and before 4.00pm on a Business Day, otherwise on the next Business Day; and
- (c) if sent by facsimile and the transmission report states that it was sent in full and without error, on the day of transmission if that report states that the transmission was completed after 9.00am and before 4.00pm on a Business Day, otherwise on the next Business Day.

### 7.3 Address for Notices

For the purposes of this clause 7, a person (the **sender**) may take the address and facsimile number of another person (the **recipient**) to be:

- (a) the address and number set out in the Details above; or
- (b) if the recipient has notified the sender of another address or facsimile number, the last address or facsimile number so notified to the sender.

---

## 8 Law and jurisdiction

### 8.1 Governing Law

This Deed is governed by the Law of Tasmania.

## **8.2 Submission to jurisdiction**

The parties submit to the non-exclusive jurisdiction of the courts of Tasmania and any courts that may hear appeals from those courts in respect of any proceedings in connection with this Deed.

---

## **9 General**

### **9.1 Waiver**

The non-exercise of or delay in exercising any power or right of a party does not operate as a waiver of that power or right, nor does any single exercise of a power or right preclude any other exercise of it or the exercise of any other power or right. A power or right may only be waived in writing, signed by the party to be bound by the waiver and such a waiver is effective only in the specific instance and for the specific purpose for which it was given.

### **9.2 Amendment**

This Deed may only be amended or supplemented in writing signed by the parties.

### **9.3 Severability**

If any provision of this Deed is or at any time becomes illegal, prohibited, void or unenforceable for any reason in any jurisdiction then, as to that jurisdiction, that provision is severed from this Deed and the remaining provisions of this Deed:

- (a) continue to be enforceable; and
- (b) are to be construed with such additions, deletions and modifications of language as are necessary to give effect to the remaining provisions of this Deed.

### **9.4 Further assurance**

Each party must do, sign, execute and deliver and must procure that each of its employees and agents does, signs, executes and delivers, all deeds, documents, instruments and acts as reasonably required of it or them and must carry out and give full effect to this Deed and the Rights and obligations of the parties under it.

### **9.5 Counterparts**

- (a) This Deed may be executed in any number of counterparts.
- (b) A party may execute this Deed by signing any counterpart.
- (c) All counterparts, taken together, constitute one instrument.

### **Executed as a deed**

Signing page

Dated:

Signed for and on behalf of **The Crown in Right of Tasmania** by **The Honourable Larissa Tahireh Giddings MP**, Premier of Tasmania in the presence of:

\_\_\_\_\_  
Signature ←

\_\_\_\_\_  
Signature of witness ←

\_\_\_\_\_  
Name of witness (print)

\_\_\_\_\_  
Address of witness

\_\_\_\_\_  
Occupation

**The common seal of Forestry Tasmania** was hereunto affixed by the authority of its Board in the presence of:

\_\_\_\_\_  
Signature ←

\_\_\_\_\_  
Name and position held (print)

\_\_\_\_\_  
Signature ←

\_\_\_\_\_  
Name and position held (print)

## Annexure “A”

### Tasmanian Forests Intergovernmental Agreement



## Deed

**Dated**

**The Crown in Right of Tasmania  
(Crown)**

**and**

**Gunns Limited  
(Gunns)**

**The Crown Solicitor of Tasmania**

Executive Building  
15 Murray Street Hobart Tasmania 7000  
GPO Box 825 Hobart Tasmania 7001  
Telephone: (03) 6233 3922  
Facsimile: (03) 6233 2874  
File Ref: DPAC | 38146  
Doc Ref: Deed of Release - Crown & Gunns -  
Final - 8.9.11

# Contents

<b>1</b>	<b>Definitions and interpretation .....</b>	<b>4</b>
1.1	Definitions .....	4
1.2	Interpretation .....	5
1.3	No contra proferentum .....	6
1.4	Headings .....	6
<b>2</b>	<b>Condition .....</b>	<b>7</b>
2.1	Condition .....	7
2.2	Termination .....	7
<b>3</b>	<b>Payment .....</b>	<b>7</b>
<b>4</b>	<b>Excluded Claims .....</b>	<b>8</b>
<b>5</b>	<b>Assignment.....</b>	<b>8</b>
<b>6</b>	<b>GST.....</b>	<b>9</b>
<b>7</b>	<b>Representation and warranties.....</b>	<b>9</b>
7.1	Gunns' warranties .....	9
<b>8</b>	<b>Notices .....</b>	<b>10</b>
8.1	Method of giving Notices .....	10
8.2	Time of receipt of Notices .....	10
8.3	Address for Notices .....	10
<b>9</b>	<b>Law and jurisdiction .....</b>	<b>10</b>
9.1	Governing Law .....	10
9.2	Submission to jurisdiction.....	11
<b>10</b>	<b>General.....</b>	<b>11</b>
10.1	Waiver.....	11
10.2	Amendment.....	11
10.3	Severability.....	11
10.4	Further assurance .....	11
10.5	Counterparts .....	11
<b>Annexure "A"</b>	<b>.....</b>	<b>13</b>
Tasmanian Forests Intergovernmental Agreement.....		13



## Deed

## Details

Parties	Crown, Gunns	
Crown	Name	<b>The Crown in Right of Tasmania</b> represented by the Department of Treasury and Finance
	Short form name	The Crown
	Address	21 Murray Street HOBART Tasmania 7000
	Facsimile	(03) 6223 2755
	Attention	Secretary
Gunns	Name	<b>Gunns Limited</b>
	ACN	009 478 148
	Short form name	Gunns
	Address	78 Lindsay Street LAUNCESTON Tasmania 7250
	Facsimile	(03) 6335 5498
	Attention	Managing Director
Recitals	<b>A</b>	Forestry Tasmania and Gunns are parties to the Wood Supply Agreements and the China Sale Agreement.
	<b>B</b>	Forestry Tasmania and Gunns are in dispute with respect to each party's obligations arising out of the Wood Supply Agreements and the China Sale Agreement and the continued existence of the Wood Supply Agreements themselves.
	<b>C</b>	Particularly Forestry Tasmania claims: <ul style="list-style-type: none"> <li>(i) that Gunns by letter dated the 18<sup>th</sup> day of April 2011 terminated the Wood Supply Agreements with that termination to take effect on the 15<sup>th</sup> day of October 2011;</li> <li>(ii) that Gunns is in breach of the terms of the Wood Supply Agreements and the China Sale Agreement by virtue of its failure to pay all sums of money accruing and due in accordance with the terms of those Agreements.</li> </ul>
	<b>D</b>	Particularly Gunns claims:

- (i) that its letter dated the 18<sup>th</sup> day of April 2011 was not legally effective to terminate the Wood Supply Agreements;
  - (ii) that Forestry Tasmania is in breach of the terms of the Wood Supply Agreements and the China Sale Agreement and as a consequence Gunns has incurred loss and damage which is claimed from Forestry Tasmania.
- E Forestry Tasmania and Gunns each deny the other's claims.
- F Forestry Tasmania and Gunns are agreed that in the event that the letter of the 18<sup>th</sup> day of April 2011 was legally effective to terminate the Wood Supply Agreements then Forestry Tasmania is legally obliged to enter into good faith negotiations with Gunns about the terms of new agreements for the supply of Pulpwood (as defined in Wood Supply Agreement 917) and Supply Products (as defined in Wood Supply Agreement 918).
- G Gunns has indicated that it wishes to exit native forest logging operations in Tasmania.
- H The Crown has entered into the Tasmanian Forests Intergovernmental Agreement with the Commonwealth.
- I Under the Tasmanian Forests Intergovernmental Agreement the Commonwealth has agreed to provide funding to the Crown for the purposes of enabling the creation of the Reserves.
- J The Reserves cannot be created unless:
  - (i) there is certainty that Forestry Tasmania is not legally obligated to make any further supplies of wood to Gunns pursuant to the Wood Supply Agreements and the China Sale Agreement; or
  - (ii) if the Wood Supply Agreements have been terminated, there is legal certainty that Forestry Tasmania is not under a legal obligation to enter into good faith negotiations with Gunns about the terms of new agreements for the supply of pulpwood (as defined in Wood Supply Agreement 917) and the Supply Products (as defined in Wood Supply Agreement 918).
- K By virtue of clause 22 of the Tasmanian Forests Intergovernmental Agreement the Crown is obliged to ensure that a sufficient volume of native forest sawlog supply is retired to achieve the objects set out in clauses 17 and 29 of that Agreement.
- L The parties have entered into this Deed to facilitate the requirements of the Tasmanian Forests Intergovernmental

Agreement by ensuring the termination of the Wood Supply Agreements and the China Sale Agreement and, except for Excluded Claims, to resolve all claims Gunns has against Forestry Tasmania arising out of the Wood Supply Agreements and the China Sale Agreement.

---

<b>Date</b>	See signing page
-------------	------------------

## Operative provisions

### 1 Definitions and interpretation

#### 1.1 Definitions

In this Deed, unless the context otherwise requires:

**China Sale Agreement** means the agreement known as 'the China Sale Agreement' constituted by the letter dated 9 June 2010 from Forestry Tasmania to Gunns, and countersigned by Greg L'Estrange as an authorised representative of Gunns.

**Claim** means any allegation, debt, cause of action, liability, claim, proceeding, suit or demand of any nature however arising and whether present or future, fixed or unascertained, actual or contingent, and whether at law, in equity, under statute or otherwise.

**Commonwealth** means the Commonwealth of Australia.

**this Deed** means this deed of release.

**Excluded Claims** means the following claims or rights:

- (a) a claim under the indemnity in clause 8 of Schedule 13 of Wood Supply Agreement 917;
- (b) a claim under the indemnity in clause 8 of Schedule 13 of Wood Supply Agreement 918;
- (c) a claim under any indemnity in the China Sale Agreement; or
- (d) rights arising out of clause 16 of Schedule 13 of each of the Wood Supply Agreements.

**Forestry Tasmania** means Forestry Tasmania ABN 91 628 769 359.

**Reserves** means the reserves which are to be created pursuant to the Tasmanian Forests Intergovernmental Agreement.

**Rights** includes a right, a power, a remedy, a discretion or an authority.

**Settlement Date** means the        day of        2011 or such other date agreed to in writing by both parties.

**Tasmanian Forests Intergovernmental Agreement** means the agreement made between the Commonwealth and the Crown on the 7<sup>th</sup> day of August 2011, a copy of which is annexed to this Deed marked "A".

**Tasmanian Forests Statement of Principles** means the principles agreed by forest industries stakeholders as a basis for agreement on the restructure of the

Tasmanian forest industry as presented to the Tasmanian Government in October 2010.

**Triabunna Agreement** means the Agreement for Sale dated around mid-July 2011 whereby Gunns and others agreed to sell the Triabunna Mill to Jan Cameron and Graeme Wood (or a company or companies associated with or controlled by them).

**Triabunna Mill** means the woodchip mill including the freehold real estate, plant and equipment and other assets necessary for its continued operation at 555 Freestone Road, Triabunna.

**Triabunna Wharf Lease** means the lease between the Hobart Ports Corporation Pty Ltd and Gunns for the Triabunna Wharf commencing 1 November 2002.

**Wood Supply Agreements** mean Wood Supply Agreement 917 and Wood Supply Agreement 918.

**Wood Supply Agreement 917** means contract for sale No. 917 dated 20 December 2007 made between Forestry Tasmania and Gunns and titled 'LONG TERM PULPWOOD SUPPLY AGREEMENT'.

**Wood Supply Agreement 918** means contract for sale No. 918 dated 20 December 2007 made between Forestry Tasmania and Gunns and titled 'SAWLOG AND OTHER PRODUCTS SUPPLY AGREEMENT'.

## 1.2 Interpretation

In this Deed, unless the context otherwise requires:

- (a) a reference to this Deed, or any document referred to in this Deed or another document, includes any variation or replacement of any of them;
- (b) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (c) the singular includes the plural and vice versa;
- (d) **person** includes a firm, a body corporate, an unincorporated association, a responsible authority, or other entity, as constituted from time to time;
- (e) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes and permitted assigns;
- (f) a reference to writing includes a reference to printing, typing and each other method of producing words, figures or symbols in visible form;
- (g) a reference to a body (other than a party to this Deed) whether or not it is a statutory body;

- (i) which ceases to exist; or
- (ii) whose powers or functions are transferred to any other body,  
refers to the body which replaces it or which substantially succeeds to its powers or functions;
- (h) an agreement, representation or warranty on the part of, or in favour of, two or more persons binds, or is for the benefit of them, jointly and severally;
- (i) words importing any gender include all other genders, as applicable;
- (j) a reference to any thing (including any amount) is a reference to the whole or any part of it and a reference to a group of persons is a reference to any one or more of them;
- (k) a covenant prohibiting a person from doing anything also prohibits that person from authorising it to be done by another person;
- (l) a reference to a clause, schedule or appendix is to a clause, schedule or appendix in or to this Deed;
- (m) mentioning any thing after the words **include**, **included** or **including** does not limit the meaning of any thing mentioned before those words;
- (n) a reference to a day must be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (o) reference to a time and date in connection with the performance of an obligation by a party is a reference to the time and date in Hobart, Tasmania, even if the obligation is to be performed elsewhere;
- (p) other parts of speech and grammatical forms of a word or phrase defined in this Deed have a corresponding meaning; and
- (q) references to '\$' and '**dollars**' are to Australian dollars.

### 1.3 No contra proferentum

In the interpretation of this Deed, no rule of construction will apply to disadvantage a party because that party proposed a provision of this Deed or the Deed itself.

### 1.4 Headings

Headings are included for convenience only and do not affect the construction or interpretation of this Deed.

## 1.5 Defined terms

Terms used in this Deed and not defined herein and which are defined in the Tasmanian Forests Intergovernmental Agreement have the meaning given to them in the Tasmanian Forests Intergovernmental Agreement.

---

## 2 Condition

### 2.1 Condition

Each party's obligations under clauses 3 and 5 of this Deed are subject to the conditions precedent that on or before the Settlement Date the Crown enters into a deed with Forestry Tasmania whereby:

- (a) Forestry Tasmania releases Gunns in the same terms as clause 3(a) of this Deed;
- (b) Forestry Tasmania agrees to the termination of and to treat as terminated the Wood Supply Agreements and the China Sale Agreement in the terms of clause 3(b) of this Deed;
- (c) Forestry Tasmania releases Gunns from all its obligations and liabilities under the Wood Supply Agreements and the China Sale Agreement in the terms of clause 3(c) of this Deed; and
- (d) Forestry Tasmania agrees to assign the residual rights and obligations under the Wood Supply Agreements and the China Sale Agreement in the same terms as clause 5 of this Deed.

### 2.2 Termination

- (a) Either party may elect to terminate this Deed by notice in writing to the other if the condition in clause 2.1 is not satisfied on or before the Settlement Date.
- (b) If this Deed is terminated pursuant to clause 2.2(a) then:
  - (i) each party will have the same Rights and obligations that it would have had as if the parties had never entered into this Deed; and
  - (ii) neither party will have a Claim against the other in respect of the subject matter of this Deed.

---

## 3 Payment

In consideration of the payment on the Settlement Date by the Crown to Gunns of the sum of \$25,300,000.00 (GST inclusive):

- (a) Gunns agrees to release Forestry Tasmania from all Claims, except for the Excluded Claims, that Gunns now has, or may in the future have, against Forestry Tasmania in connection with or arising out of the Wood Supply

Agreements and the China Sale Agreement including any breach of the same by Forestry Tasmania;

- (b) Gunns agrees to the termination of and to treat as terminated the Wood Supply Agreements and the China Sale Agreement as at the Settlement Date;
- (c) Gunns agrees to release Forestry Tasmania from its obligations and liabilities under the Wood Supply Agreements and the China Sale Agreement whether arising before on or after the Settlement Date;
- (d) Subject to the Tasmanian Ports Corporation Pty Ltd consenting to an assignment of the Triabunna Wharf Lease from Gunns to Triabunna Investments Pty Ltd Gunns must waive or confirm as satisfied, effective as at the Settlement Date, all conditions in the Triabunna Agreement which currently preclude or might preclude in the future the reopening and continued operation of the Triabunna Mill particularly but without limitation any condition regarding implementation of the Tasmanian Forests Statement of Principles or like condition;
- (e) Subject to the Tasmanian Ports Corporation Pty Ltd consenting to an assignment of the Triabunna Wharf Lease from Gunns to Triabunna Investments Pty Ltd, Gunns must do everything and anything reasonably required of it under the Triabunna Agreement to enable the reopening and continued operation of the Triabunna Mill; and
- (f) Subject to Tasmanian Ports Corporation Pty Ltd consenting to an assignment of the Triabunna Wharf Lease from Gunns to Triabunna Investments Pty Ltd, Gunns must cause any related party of it to, as may be required under the Triabunna Agreement, also waive or confirm as satisfied any condition in the terms of clause 3(d) and to do anything reasonably required of it to enable the reopening and continued operation of the Triabunna Mill.

---

#### **4 Excluded Claims**

Nothing in this Deed affects any Rights of a party (including any Rights of that party against the other party) in connection with any Excluded Claims.

---

#### **5 Assignment**

- (a) Subject to clause 4, to the extent that the Wood Supply Agreements and the China Sale Agreement may subsist or that there are continuing Rights and obligations of Gunns arising out of those Agreements after the Settlement Date then Gunns assigns to the Crown absolutely the benefit of those Agreements.
- (b) Gunns consents to the assignment of the Wood Supply Agreements and the China Sale Agreement by Forestry Tasmania to the Crown.



---

## 6 GST

- (a) The consideration payable by the Crown to Gunns as expressed in this Deed is GST inclusive.
  - (b) On the Settlement Date Gunns must provide to the Crown a valid tax invoice for the consideration.
  - (c) In this clause 6 unless the context otherwise requires:
    - (i) **GST Act** means the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth) and the related imposition Acts of the Commonwealth; and
    - (ii) expressions defined in the GST Act have the same meaning when used in this clause 6.
- 

## 7 Representation and warranties

### 7.1 Gunns' warranties

Gunns represents and warrants to the Crown that:

- (a) **(incorporation)**: Gunns is a corporation duly incorporated and existing under the law of its place of incorporation and has the corporate power to enter into and perform its obligations;
- (b) **(legal disability)**: Gunns is not an externally administered body corporate (within the meaning of section 9 of the *Corporations Act 2001*(Cwlth));
- (c) **(controllers)**: no controller (within the meaning of section 9 of the *Corporations Act 2001* (Cwlth)) has been appointed over any of Gunns assets and no such appointment has been threatened;
- (d) **(solvency)**: Gunns is solvent (within the meaning of section 9 of the *Corporations Act 2001* (Cwlth));
- (e) **(authorisations)**: all necessary action has been taken by Gunns to authorise the execution and performance of its obligations under this Deed;
- (f) **(transaction permitted)**: the performance by Gunns of its obligations under this Deed will not breach in any respect any provision of:
  - (i) any applicable law or an order or ruling of a Government Body;
  - (ii) any agreement binding on Gunns; or
  - (iii) the Gunns' constitution.

---

## 8 Notices

### 8.1 Method of giving Notices

A notice, consent, approval, application or other communication (each a **Notice**) under this Deed must be in writing, signed by or on behalf of the person giving it, addressed to the person to whom it is to be given and:

- (a) delivered;
- (a) sent by pre-paid mail; or
- (b) sent by facsimile,

to that person's address or facsimile number (as applicable).

For the avoidance of doubt, no Notice may be given either orally or by email.

### 8.2 Time of receipt of Notices

A Notice given to a person is treated as having been given and received:

- (a) if delivered, on the day of delivery if delivered after 9.00am and before 4.00pm on a Business Day, otherwise on the next Business Day;
- (b) if sent by pre-paid mail, on the day of actual delivery if delivered after 9.00am and before 4.00pm on a Business Day, otherwise on the next Business Day; and
- (c) if sent by facsimile and the transmission report states that it was sent in full and without error, on the day of transmission if that report states that the transmission was completed after 9.00am and before 4.00pm on a Business Day, otherwise on the next Business Day.

### 8.3 Address for Notices

For the purposes of this clause 8, a person (the **sender**) may take the address and facsimile number of another person (the **recipient**) to be:

- (a) the address and number set out in the Details above; or
- (b) if the recipient has notified the sender of another address or facsimile number, the last address or facsimile number so notified to the sender.

---

## 9 Law and jurisdiction

### 9.1 Governing Law

This Deed is governed by the Law of Tasmania.

## **9.2 Submission to jurisdiction**

The parties submit to the non-exclusive jurisdiction of the courts of Tasmania and any courts that may hear appeals from those courts in respect of any proceedings in connection with this Deed.

---

# **10 General**

## **10.1 Waiver**

The non-exercise of or delay in exercising any power or right of a party does not operate as a waiver of that power or right, nor does any single exercise of a power or right preclude any other exercise of it or the exercise of any other power or right. A power or right may only be waived in writing, signed by the party to be bound by the waiver and such a waiver is effective only in the specific instance and for the specific purpose for which it was given.

## **10.2 Amendment**

This Deed may only be amended or supplemented in writing signed by the parties.

## **10.3 Severability**

If any provision of this Deed is or at any time becomes illegal, prohibited, void or unenforceable for any reason in any jurisdiction then, as to that jurisdiction, that provision is severed from this Deed and the remaining provisions of this Deed:

- (a) continue to be enforceable; and
- (b) are to be construed with such additions, deletions and modifications of language as are necessary to give effect to the remaining provisions of this Deed.

## **10.4 Further assurance**

Each party must do, sign, execute and deliver and must procure that each of its employees and agents does, signs, executes and delivers, all deeds, documents, instruments and acts as reasonably required of it or them and must carry out and give full effect to this Deed and the Rights and obligations of the parties under it.

## **10.5 Counterparts**

- (a) This Deed may be executed in any number of counterparts.
- (b) A party may execute this Deed by signing any counterpart.
- (c) All counterparts, taken together, constitute one instrument.

## **Executed as a deed**

## Signing page

**Dated:**

**Signed** for and on behalf of **The Crown in Right of Tasmania** by **The Honourable Larissa Tahireh Giddings MP**, Premier of Tasmania in the presence of:

\_\_\_\_\_  
Signature ←

\_\_\_\_\_  
Signature of witness ←

\_\_\_\_\_  
Name of witness (print)

\_\_\_\_\_  
Address of witness

\_\_\_\_\_  
Occupation

**The common seal of Gunns Limited** was hereunto affixed in accordance with section 127 of the *Corporations Act 2001* (Cwlth):

\_\_\_\_\_  
Signature of director ←

\_\_\_\_\_  
Signature of director/company secretary  
(Please delete as applicable) ←

\_\_\_\_\_  
Name of director (print)

\_\_\_\_\_  
Name of director/company secretary (print)

## Annexure "A"

### Tasmanian Forests Intergovernmental Agreement



## Deed

**Dated**

**Forestry Tasmania  
(Forestry Tasmania)**

**and**

**Gunns Limited  
(Gunns)**

**The Crown Solicitor of Tasmania**

Executive Building  
15 Murray Street Hobart Tasmania 7000  
GPO Box 825 Hobart Tasmania 7001  
Telephone: (03) 6233 3922  
Facsimile: (03) 6233 2874  
File Ref: DPAC | 38146  
Doc Ref: Deed of Release - Forestry & Gunns -  
Final - 8.9.11

# Contents

<b>1</b>	<b>Definitions and interpretation .....</b>	<b>3</b>
1.1	Definitions .....	3
1.2	Interpretation .....	4
1.3	No contra proferentum .....	5
1.4	Headings .....	5
<b>2</b>	<b>Condition .....</b>	<b>5</b>
2.1	Condition .....	5
2.2	Termination .....	5
<b>3</b>	<b>Termination of Wood Supply Agreements.....</b>	<b>6</b>
<b>4</b>	<b>Releases.....</b>	<b>6</b>
4.1	Release by Forestry Tasmania .....	6
4.2	Release by Gunns.....	6
<b>5</b>	<b>Excluded Claims .....</b>	<b>6</b>
<b>6</b>	<b>Interdependent obligations .....</b>	<b>6</b>
<b>7</b>	<b>Representation and warranties .....</b>	<b>7</b>
7.1	Gunns' warranties .....	7
<b>8</b>	<b>Notices .....</b>	<b>7</b>
8.1	Method of giving Notices .....	7
8.2	Time of receipt of Notices .....	8
8.3	Address for Notices .....	8
<b>9</b>	<b>Law and jurisdiction .....</b>	<b>8</b>
9.1	Governing Law .....	8
9.2	Submission to jurisdiction.....	8
<b>10</b>	<b>General.....</b>	<b>8</b>
10.1	Waiver.....	8
10.2	Amendment.....	9
10.3	Severability.....	9
10.4	Further assurance .....	9
10.5	Counterparts .....	9
	<b>Annexure "A" .....</b>	<b>11</b>
	Forestry Tasmania Release Deed .....	11
	<b>Annexure "B" .....</b>	<b>1</b>
	Gunns Release Deed .....	1

## Deed

## Details

Parties		
<b>Forestry Tasmania, Gunns</b>		
<b>Forestry Tasmania</b>	Name	<b>Forestry Tasmania</b> (being the body corporate established pursuant to section 6 of the <i>Forestry Act 1920</i> (Tas))
	ABN	91 628 769 359
	Short form name	Forestry Tasmania
	Address	79 Melville Street HOBART Tasmania 7000
	Facsimile	(03) 6235 8223
	Attention	
<b>Gunns</b>		
	Name	<b>Gunns Limited</b>
	ACN	009 478 148
	Short form name	Gunns
	Address	78 Lindsay Street LAUNCESTON Tasmania 7250
	Facsimile	(03) 6335 5498
	Attention	Managing Director
<b>Recitals</b>		
<b>A</b>	Forestry Tasmania and Gunns are parties to the Wood Supply Agreements and the China Sale Agreement.	
	<b>B</b> Forestry Tasmania and Gunns are in dispute with respect to each party's obligations arising out of the Wood Supply Agreements and the China Sale Agreement and the continued existence of the Wood Supply Agreements themselves.	
	<b>C</b> Particularly Forestry Tasmania claims:	
	(i)	that Gunns by letter dated the 18 <sup>th</sup> day of April 2011 terminated the Wood Supply Agreements with that termination to take effect on the 15 <sup>th</sup> day of October 2011;
	(ii)	that Gunns is in breach of the terms of the Wood Supply Agreements and the China Sale Agreement by virtue of its failure to pay all sums of money accruing and due in accordance with the terms of those Agreements.



- D** Particularly Gunns claims:
- (i) that its letter dated the 18<sup>th</sup> day of April 2011 was not legally effective to terminate the Wood Supply Agreements;
  - (ii) that Forestry Tasmania is in breach of the terms of the Wood Supply Agreements and the China Sale Agreement and as a consequence Gunns has incurred loss and damage which is claimed from Forestry Tasmania.
- E** Forestry Tasmania and Gunns each deny the other's claims.
- F** Forestry Tasmania and Gunns are agreed that in the event that the letter of the 18<sup>th</sup> day of April 2011 was legally effective to terminate the Wood Supply Agreements then Forestry Tasmania is legally obliged to enter into good faith negotiations with Gunns about the terms of new agreements for the supply of Pulpwood (as defined in Wood Supply Agreement 917) and Supply Products (as defined in Wood Supply Agreement 918).
- G** Gunns has indicated that it wishes to exit native forest logging operations in Tasmania.
- H** The parties have entered into this Deed for the purpose of:
- (i) except for the Excluded Claims extinguishing on and from the Settlement Date all Claims which each party has against the other in connection with the Wood Supply Agreements and the China Sale Agreement; and
  - (ii) terminating the Wood Supply Agreements and the China Sale Agreement on the Settlement Date.

---

**Date** See signing page

## Operative provisions

### 1 Definitions and interpretation

#### 1.1 Definitions

In this Deed, unless the context otherwise requires:

**China Sale Agreement** means the agreement known as 'the China Sale Agreement' constituted by the letter dated 9 June 2010 from Forestry Tasmania to Gunns, and countersigned by Greg L'Estrange as an authorised representative of Gunns.

**Claim** means any allegation, debt, cause of action, liability, claim, proceeding, suit or demand of any nature however arising and whether present or future, fixed or unascertained, actual or contingent, and whether at law, in equity, under statute or otherwise.

**this Deed** means this deed of release.

**Excluded Claims** means the following claims or rights:

- (a) a claim under the indemnity in clause 8 of Schedule 13 of Wood Supply Agreement 917;
- (b) a claim under the indemnity in clause 8 of Schedule 13 of Wood Supply Agreement 918;
- (c) a claim under any indemnity in the China Sale Agreement; or
- (d) rights arising out of clause 16 of Schedule 13 of each of the Wood Supply Agreements.

**Forestry Tasmania** means Forestry Tasmania ABN 91 628 769 359.

**Forestry Tasmania Release Deed** means the Deed of Release to be entered into between the Crown and Forestry Tasmania in the form annexed to this Deed marked "A".

**Gunns Release Deed** means the Deed of Release to be entered into between the Crown and Gunns in the form annexed to this Deed marked "B".

**Rights** includes a right, a power, a remedy, a discretion or an authority.

**Settlement Date** means the                      day of                      2011 or such other date agreed to in writing by both parties.

**Wood Supply Agreements** mean Wood Supply Agreement 917 and Wood Supply Agreement 918.

**Wood Supply Agreement 917** means contract for sale No. 917 dated 20 December 2007 made between Forestry Tasmania and Gunns and titled 'LONG TERM PULPWOOD SUPPLY AGREEMENT'.

**Wood Supply Agreement 918** means contract for sale No. 918 dated 20 December 2007 made between Forestry Tasmania and Gunns and titled 'SAWLOG AND OTHER PRODUCTS SUPPLY AGREEMENT'.

## 1.2 Interpretation

In this Deed, unless the context otherwise requires:

- (a) a reference to this Deed, or any document referred to in this Deed or another document, includes any variation or replacement of any of them;
- (b) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (c) the singular includes the plural and vice versa;
- (d) **person** includes a firm, a body corporate, an unincorporated association, a responsible authority, or other entity, as constituted from time to time;
- (e) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes and permitted assigns;
- (f) a reference to writing includes a reference to printing, typing and each other method of producing words, figures or symbols in visible form;
- (g) a reference to a body (other than a party to this Deed) whether or not it is a statutory body:
  - (i) which ceases to exist; or
  - (ii) whose powers or functions are transferred to any other body,
 refers to the body which replaces it or which substantially succeeds to its powers or functions;
- (h) an agreement, representation or warranty on the part of, or in favour of, two or more persons binds, or is for the benefit of them, jointly and severally;
- (i) words importing any gender include all other genders, as applicable;
- (j) a reference to any thing (including any amount) is a reference to the whole or any part of it and a reference to a group of persons is a reference to any one or more of them;
- (k) a covenant prohibiting a person from doing anything also prohibits that person from authorising it to be done by another person;

- (l) a reference to a clause, schedule or appendix is to a clause, schedule or appendix in or to this Deed;
- (m) mentioning any thing after the words **include**, **included** or **including** does not limit the meaning of any thing mentioned before those words;
- (n) a reference to a day must be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (o) reference to a time and date in connection with the performance of an obligation by a party is a reference to the time and date in Hobart, Tasmania, even if the obligation is to be performed elsewhere;
- (p) other parts of speech and grammatical forms of a word or phrase defined in this Deed have a corresponding meaning; and
- (q) references to '\$' and '**dollars**' are to Australian dollars.

### **1.3 No contra proferentum**

In the interpretation of this Deed, no rule of construction will apply to disadvantage a party because that party proposed a provision of this Deed or the Deed itself.

### **1.4 Headings**

Headings are included for convenience only and do not affect the construction or interpretation of this Deed.

---

## **2 Condition**

### **2.1 Condition**

Each party's obligations under clauses 3 and 4 of this Deed are subject to the conditions precedent that on or before the Settlement Date:

- (a) the Crown and Gunns enter into the Gunns Release Deed; and
- (b) the Crown and Forestry Tasmania enter into the Forestry Tasmania Release Deed.

### **2.2 Termination**

- (a) Either party may elect to terminate this Deed by notice in writing to the other if either of the conditions in clause 2.1 is not satisfied on or before the Settlement Date.
- (b) If this Deed is terminated pursuant to clause 2.2(a) then:
  - (i) each party will have the same Rights and obligations that it would have had as if the parties had never entered into this Deed; and

- (ii) neither party will have a Claim against the other in respect of the subject matter of this Deed.

---

### **3 Termination of Wood Supply Agreements**

Subject to satisfaction or waiver of the conditions precedent in clause 2.1, on the Settlement Date:

- (a) to the extent that each of the Wood Supply Agreements and the China Sale Agreement are otherwise subsisting as at that date, each of the Wood Supply Agreements and the China Sale Agreement are terminated; and
- (b) each party is released from its obligations and liabilities under each of the Wood Supply Agreements and the China Sale Agreement which relate to any period before, on or after the Settlement Date.

---

### **4 Releases**

#### **4.1 Release by Forestry Tasmania**

Subject to satisfaction or waiver of the conditions precedent in clause 2.1, on the Settlement Date, except for the Excluded Claims, Forestry Tasmania releases Gunns from all Claims that Forestry Tasmania now has or may in the future have against Gunns in connection with or arising out of the Wood Supply Agreements and the China Sale Agreement and/or any breach of them by Gunns.

#### **4.2 Release by Gunns**

Subject to satisfaction or waiver of the conditions precedent in clause 2.1, on the Settlement Date, except for the Excluded Claims, Gunns releases Forestry Tasmania from all Claims that Gunns now has or may in the future have against Forestry Tasmania in connection with or arising out of the Wood Supply Agreements and the China Sale Agreement and/or any breach of them by Forestry Tasmania.

---

### **5 Excluded Claims**

Nothing in this Deed affects any Rights of a party (including any Rights of that party against the other party) in connection with any Excluded Claims.

---

### **6 Interdependent obligations**

The obligations of each party under clauses 3 and 4 are to be performed on the Settlement Date interdependent with the obligations of the other party under those clauses. Accordingly, a party (the First Party) is not required to perform its obligations under those clauses on the Settlement Date if the other party is unable or refuses to perform its obligations under those clauses on the Settlement Date and the inability or refusal is not attributable to any breach of this Deed by the First Party.

---

## 7 Representation and warranties

### 7.1 Gunns' warranties

Gunns represents and warrants to Forestry Tasmania that:

- (a) **(incorporation)**: Gunns is a corporation duly incorporated and existing under the law of its place of incorporation and has the corporate power to enter into and perform its obligations;
- (b) **(legal disability)**: Gunns is not an externally administered body corporate (within the meaning of section 9 of the *Corporations Act 2001* (Cwlth));
- (c) **(controllers)**: no controller (within the meaning of section 9 of the *Corporations Act 2001* (Cwlth)) has been appointed over any of Gunns assets and no such appointment has been threatened;
- (d) **(solvency)**: Gunns is solvent (within the meaning of section 9 of the *Corporations Act 2001* (Cwlth));
- (e) **(authorisations)**: all necessary action has been taken by Gunns to authorise the execution and performance of its obligations under this Deed;
- (f) **(transaction permitted)**: the performance by Gunns of its obligations under this Deed will not breach in any respect any provision of:
  - (i) any applicable law or an order or ruling of a Government Body;
  - (ii) any agreement binding on Gunns; or
  - (iii) the Gunns' constitution.

---

## 8 Notices

### 8.1 Method of giving Notices

A notice, consent, approval, application or other communication (each a **Notice**) under this Deed must be in writing, signed by or on behalf of the person giving it, addressed to the person to whom it is to be given and:

- (a) delivered;
- (a) sent by pre-paid mail; or
- (b) sent by facsimile,

to that person's address or facsimile number (as applicable).

For the avoidance of doubt, no Notice may be given either orally or by email.

## 8.2 Time of receipt of Notices

A Notice given to a person is treated as having been given and received:

- (a) if delivered, on the day of delivery if delivered after 9.00am and before 4.00pm on a Business Day, otherwise on the next Business Day;
- (b) if sent by pre-paid mail, on the day of actual delivery if delivered after 9.00am and before 4.00pm on a Business Day, otherwise on the next Business Day; and
- (c) if sent by facsimile and the transmission report states that it was sent in full and without error, on the day of transmission if that report states that the transmission was completed after 9.00am and before 4.00pm on a Business Day, otherwise on the next Business Day.

## 8.3 Address for Notices

For the purposes of this clause 8, a person (the **sender**) may take the address and facsimile number of another person (the **recipient**) to be:

- (a) the address and number set out in the Details above; or
- (b) if the recipient has notified the sender of another address or facsimile number, the last address or facsimile number so notified to the sender.

---

# 9 Law and jurisdiction

## 9.1 Governing Law

This Deed is governed by the Law of Tasmania.

## 9.2 Submission to jurisdiction

The parties submit to the non-exclusive jurisdiction of the courts of Tasmania and any courts that may hear appeals from those courts in respect of any proceedings in connection with this Deed.

---

# 10 General

## 10.1 Waiver

The non-exercise of or delay in exercising any power or right of a party does not operate as a waiver of that power or right, nor does any single exercise of a power or right preclude any other exercise of it or the exercise of any other power or right. A power or right may only be waived in writing, signed by the party to be bound by the waiver and such a waiver is effective only in the specific instance and for the specific purpose for which it was given.

**10.2 Amendment**

This Deed may only be amended or supplemented in writing signed by the parties.

**10.3 Severability**

If any provision of this Deed is or at any time becomes illegal, prohibited, void or unenforceable for any reason in any jurisdiction then, as to that jurisdiction, that provision is severed from this Deed and the remaining provisions of this Deed:

- (a) continue to be enforceable; and
- (b) are to be construed with such additions, deletions and modifications of language as are necessary to give effect to the remaining provisions of this Deed.

**10.4 Further assurance**

Each party must do, sign, execute and deliver and must procure that each of its employees and agents does, signs, executes and delivers, all deeds, documents, instruments and acts as reasonably required of it or them and must carry out and give full effect to this Deed and the Rights and obligations of the parties under it.

**10.5 Counterparts**

- (a) This Deed may be executed in any number of counterparts.
- (b) A party may execute this Deed by signing any counterpart.
- (c) All counterparts, taken together, constitute one instrument.

**Executed as a deed**



## Signing page

**Dated:**

**The common seal of  
Forestry Tasmania**  
was hereunto affixed by the authority of  
its Board in the presence of:

\_\_\_\_\_  
Signature ←

\_\_\_\_\_  
Name and position held (print)

\_\_\_\_\_  
Signature ←

\_\_\_\_\_  
Name and position held (print)

**The common seal of  
Gunns Limited**  
was hereunto affixed in accordance with  
section 127 of the *Corporations Act*  
*2001* (Cwlth):

\_\_\_\_\_  
Signature of director ←

\_\_\_\_\_  
Signature of director/company secretary  
(Please delete as applicable) ←

\_\_\_\_\_  
Name of director (print)

\_\_\_\_\_  
Name of director/company secretary (print)

## Annexure "A"

### Forestry Tasmania Release Deed

## Annexure “B”

### Gunns Release Deed

To: Greg L'Estrange <Greg.L'Estrange@gunns.com.au>  
 cc: Wayne Chapman <Wayne.Chapman@gunns.com.au>, "Tony.Ferrall@treasury.tas.gov.au" <Tony.Ferrall@treasury.tas.gov.au>, Gary Swain <Gary.Swain@dpipwe.tas.gov.au>  
 From: "Sayer, Mark (DPaC)" <Mark.Sayer@dpac.tas.gov.au>  
 Date: 09/09/2011 05:26:43 PM  
 Subject: Premiers letter of offer and deeds

Dear Greg

Please find attached an electronic copy of a letter and enclosed Deeds sent to you today from the Premier.

Treasury will be the contact point for any queries. Tony Ferrall is acting Secretary of the Department. His phone number is 62332132.

Regards

Mark Sayer

(See attached file: Deed of Release - Crown & Forestry.pdf) (See attached file: Deed of Release - Crown & Gunns.pdf) (See attached file: Deed of Release - Forestry & Gunns.pdf)

-----  
 CONFIDENTIALITY NOTICE AND DISCLAIMER - The information in this transmission may be confidential and/or protected by legal professional privilege, and is intended only for the person or persons to whom it is addressed. If you are not such a person, you are warned that any disclosure, copying or dissemination of the information is unauthorised. If you have received the transmission in error, please advise this Office and delete all copies of the transmission from your records. No liability is accepted for any unauthorised use of the information contained in this transmission.  
 -----

CONFIDENTIALITY NOTICE AND DISCLAIMER

The information in this transmission may be confidential and/or protected by legal professional privilege, and is intended only for the person or persons to whom it is addressed. If you are not such a person, you are warned that any disclosure, copying or dissemination of the information is unauthorised. If you have received the transmission in error, please immediately contact this office by telephone, fax or email, to inform us of the error and to enable arrangements to be made for the destruction of the transmission, or its return at our cost. No liability is accepted for any unauthorised use of the information contained in this transmission.



Deed of Release - Crown & Forestry.pdf Deed of Release - Crown & Gunns.pdf Deed of Release - Forestry & Gunns.pdf



Gunns letter of offer September 2011.pdf



## Deed

**Dated**

**The Crown in Right of Tasmania  
(Crown)**

**and**

**Forestry Tasmania  
(Forestry Tasmania)**

**The Crown Solicitor of Tasmania**

Executive Building  
15 Murray Street Hobart Tasmania 7000  
GPO Box 825 Hobart Tasmania 7001  
Telephone: (03) 6233 3922  
Facsimile: (03) 6233 2874  
File Ref: DPAC | 38146  
Doc Ref: Deed of Release - Crown & Forestry -  
Final - 8.9.11

# Contents

<b>1</b>	<b>Definitions and interpretation .....</b>	<b>4</b>
1.1	Definitions .....	4
1.2	Interpretation .....	5
1.3	No contra proferentum .....	6
1.4	Headings .....	6
<b>2</b>	<b>Condition .....</b>	<b>6</b>
2.1	Condition .....	6
2.2	Termination .....	7
<b>3</b>	<b>Payment .....</b>	<b>7</b>
<b>4</b>	<b>Excluded Claims .....</b>	<b>8</b>
<b>5</b>	<b>Assignment.....</b>	<b>8</b>
<b>6</b>	<b>GST.....</b>	<b>8</b>
<b>7</b>	<b>Notices .....</b>	<b>9</b>
7.1	Method of giving Notices .....	9
7.2	Time of receipt of Notices .....	9
7.3	Address for Notices.....	9
<b>8</b>	<b>Law and jurisdiction .....</b>	<b>9</b>
8.1	Governing Law .....	9
8.2	Submission to jurisdiction.....	10
<b>9</b>	<b>General.....</b>	<b>10</b>
9.1	Waiver .....	10
9.2	Amendment.....	10
9.3	Severability.....	10
9.4	Further assurance .....	10
9.5	Counterparts .....	10
	<b>Annexure "A" .....</b>	<b>12</b>
	Tasmanian Forests Intergovernmental Agreement.....	12

## Deed

## Details

<b>Parties</b>	<b>Crown, Forestry Tasmania</b>	
<b>Crown</b>	Name	<b>The Crown in Right of Tasmania</b> represented by the Department of Treasury and Finance
	Short form name	The Crown
	Address	21 Murray Street HOBART Tasmania 7000
	Facsimile	(03) 6223 2755
	Attention	Secretary
<b>Forestry Tasmania</b>	Name	<b>Forestry Tasmania</b> (being the body corporate established pursuant to section 6 of the <i>Forestry Act 1920</i> (Tas))
	ABN	91 628 769 359
	Short form name	Forestry Tasmania
	Address	79 Melville Street HOBART Tasmania 7000
	Facsimile	(03) 6235 8223
	Attention	
<b>Recitals</b>	<b>A</b>	Forestry Tasmania and Gunns are parties to the Wood Supply Agreements and the China Sale Agreement.
	<b>B</b>	Forestry Tasmania and Gunns are in dispute with respect to each party's obligations arising out of the Wood Supply Agreements and the China Sale Agreement and the continued existence of the Wood Supply Agreements themselves.
	<b>C</b>	Particularly Forestry Tasmania claims: <ul style="list-style-type: none"> <li>(i) that Gunns by letter dated the 18<sup>th</sup> day of April 2011 terminated the Wood Supply Agreements with that termination to take effect on the 15<sup>th</sup> day of October 2011;</li> <li>(ii) that Gunns is in breach of the terms of the Wood Supply Agreements and the China Sale Agreement by virtue of its failure to pay all sums of money accruing and due in accordance with the terms of those Agreements.</li> </ul>
	<b>D</b>	Particularly Gunns claims:



- (i) that its letter dated the 18<sup>th</sup> day of April 2011 was not legally effective to terminate the Wood Supply Agreements;
  - (ii) that Forestry Tasmania is in breach of the terms of the Wood Supply Agreements and the China Sale Agreement and as a consequence Gunns has incurred loss and damage which is claimed from Forestry Tasmania.
- E Forestry Tasmania and Gunns each deny the other's claims.
- F Forestry Tasmania and Gunns are agreed that in the event that the letter of the 18<sup>th</sup> day of April 2011 was legally effective to terminate the Wood Supply Agreements then Forestry Tasmania is legally obliged to enter into good faith negotiations with Gunns about the terms of new agreements for the supply of Pulpwood (as defined in Wood Supply Agreement 917) and Supply Products (as defined in Wood Supply Agreement 918).
- G Gunns has indicated that it wishes to exit native forest logging operations in Tasmania.
- H The Crown has entered into the Tasmanian Forests Intergovernmental Agreement with the Commonwealth.
- I Under the Tasmanian Forests Intergovernmental Agreement the Commonwealth has agreed to provide funding to the Crown for the purposes of enabling the creation of the Reserves.
- J The Reserves cannot be created unless:
  - (i) there is certainty that Forestry Tasmania is not legally obligated to make any further supplies of wood to Gunns pursuant to the Wood Supply Agreements and the China Sale Agreement; or
  - (ii) if the Wood Supply Agreements have been terminated, there is legal certainty that Forestry Tasmania is not under a legal obligation to enter into good faith negotiations with Gunns about the terms of new agreements for the supply of pulpwood (as defined in Wood Supply Agreement 917) and the Supply Products (as defined in Wood Supply Agreement 918).
- K By virtue of clause 22 of the Tasmanian Forests Intergovernmental Agreement the Crown is obliged to ensure that a sufficient volume of native forest sawlog supply is retired to achieve the objects set out in clauses 17 and 29 of that Agreement.
- L The parties have entered into this Deed to facilitate the requirements of the Tasmanian Forests Intergovernmental Agreement by ensuring the termination of the Wood Supply Agreements and the China Sale Agreement and, except for

Excluded Claims, to resolve all claims Forestry Tasmania has against Gunns arising out of the Wood Supply Agreements and the China Sale Agreement.

---

<b>Date</b>	See signing page
-------------	------------------

## Operative provisions

---

### 1 Definitions and interpretation

#### 1.1 Definitions

In this Deed, unless the context otherwise requires:

**China Sale Agreement** means the agreement known as 'the China Sale Agreement' constituted by the letter dated 9 June 2010 from Forestry Tasmania to Gunns, and countersigned by Greg L'Estrange as an authorised representative of Gunns.

**Claim** means any allegation, debt, cause of action, liability, claim, proceeding, suit or demand of any nature however arising and whether present or future, fixed or unascertained, actual or contingent, and whether at law, in equity, under statute or otherwise.

**Commonwealth** means the Commonwealth of Australia.

**this Deed** means this deed of release.

**Excluded Claims** means the following claims or rights:

- (a) a claim under the indemnity in clause 8 of Schedule 13 of Wood Supply Agreement 917;
- (b) a claim under the indemnity in clause 8 of Schedule 13 of Wood Supply Agreement 918;
- (c) a claim under any indemnity in the China Sale Agreement; or
- (d) rights arising out of clause 16 of Schedule 13 of each of the Wood Supply Agreements.

**Gunns** means Gunns Limited ABN 29 009 478 148.

**Forestry Act** means the *Forestry Act 1920* (Tas).

**Reserves** means the reserves which are to be created pursuant to the Tasmanian Forests Intergovernmental Agreement.

**Rights** includes a right, a power, a remedy, a discretion or an authority.

**Settlement Date** means the            day of            2011 or such other date agreed to in writing by both parties.

**Tasmanian Forests Intergovernmental Agreement** means the agreement made between the Commonwealth and the Crown on the 7<sup>th</sup> day of August 2011, a copy of which is annexed to this Deed marked "A".

**Wood Supply Agreements** mean Wood Supply Agreement 917 and Wood Supply Agreement 918.

**Wood Supply Agreement 917** means contract for sale No. 917 dated 20 December 2007 made between Forestry Tasmania and Gunns and titled 'LONG TERM PULPWOOD SUPPLY AGREEMENT'.

**Wood Supply Agreement 918** means contract for sale No. 918 dated 20 December 2007 made between Forestry Tasmania and Gunns and titled 'SAWLOG AND OTHER PRODUCTS SUPPLY AGREEMENT'.

## 1.2 Interpretation

In this Deed, unless the context otherwise requires:

- (a) a reference to this Deed, or any document referred to in this Deed or another document, includes any variation or replacement of any of them;
- (b) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (c) the singular includes the plural and vice versa;
- (d) **person** includes a firm, a body corporate, an unincorporated association, a responsible authority, or other entity, as constituted from time to time;
- (e) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes and permitted assigns;
- (f) a reference to writing includes a reference to printing, typing and each other method of producing words, figures or symbols in visible form;
- (g) a reference to a body (other than a party to this Deed) whether or not it is a statutory body:
  - (i) which ceases to exist; or
  - (ii) whose powers or functions are transferred to any other body,
 refers to the body which replaces it or which substantially succeeds to its powers or functions;
- (h) an agreement, representation or warranty on the part of, or in favour of, two or more persons binds, or is for the benefit of them, jointly and severally;
- (i) words importing any gender include all other genders, as applicable;
- (j) a reference to any thing (including any amount) is a reference to the whole or any part of it and a reference to a group of persons is a reference to any one or more of them;

- (k) a covenant prohibiting a person from doing anything also prohibits that person from authorising it to be done by another person;
- (l) a reference to a clause, schedule or appendix is to a clause, schedule or appendix in or to this Deed;
- (m) mentioning any thing after the words **include**, **included** or **including** does not limit the meaning of any thing mentioned before those words;
- (n) a reference to a day must be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (o) reference to a time and date in connection with the performance of an obligation by a party is a reference to the time and date in Hobart, Tasmania, even if the obligation is to be performed elsewhere;
- (p) other parts of speech and grammatical forms of a word or phrase defined in this Deed have a corresponding meaning; and
- (q) references to '\$' and 'dollars' are to Australian dollars.

### **1.3 No contra proferentum**

In the interpretation of this Deed, no rule of construction will apply to disadvantage a party because that party proposed a provision of this Deed or the Deed itself.

### **1.4 Headings**

Headings are included for convenience only and do not affect the construction or interpretation of this Deed.

### **1.5 Defined terms**

Terms used in this Deed and not defined herein and which are defined in the Tasmanian Forests Intergovernmental Agreement have the meaning given to them in the Tasmanian Forests Intergovernmental Agreement.

---

## **2 Condition**

### **2.1 Condition**

Each party's obligations under clauses 3 and 5 of this Deed are subject to the conditions precedent that on or before the Settlement Date the Crown enters into a deed with Gunns whereby:

- (a) Gunns releases Forestry Tasmania in the same terms as clause 3(a) of this Deed;

- (b) Gunns agrees to the termination of and to treat as terminated the Wood Supply Agreements and the China Sale Agreement in the terms of clause 3(b) of this Deed;
- (c) Gunns releases Forestry Tasmania from all its obligations and liabilities under the Wood Supply Agreements and the China Sale Agreement in the terms of clause 3(c) of this Deed; and
- (d) Gunns agrees to assign the residual rights and obligations under the Wood Supply Agreements and the China Sale Agreement in the same terms as clause 5 of this Deed.

## 2.2 Termination

- (a) Either party may elect to terminate this Deed by notice in writing to the other if the condition in clause 2.1 is not satisfied on or before the Settlement Date.
- (b) If this Deed is terminated pursuant to clause 2.2(a) then:
  - (i) each party will have the same Rights and obligations that it would have had as if the parties had never entered into this Deed; and
  - (ii) neither party will have a Claim against the other in respect of the subject matter of this Deed.

---

## 3 Payment

In consideration of the payment on the Settlement Date by the Crown to Forestry Tasmania of the sum of \$12,650,000.00 (GST inclusive):

- (a) Forestry Tasmania agrees to release Gunns from all Claims, except for the Excluded Claims, that Forestry Tasmania now has, or may in the future have, against Gunns in connection with or arising out of the Wood Supply Agreements and the China Sale Agreement including any breach of the same by Gunns;
- (b) Forestry Tasmania agrees to the termination of and to treat as terminated the Wood Supply Agreements and the China Sale Agreement as at the Settlement Date;
- (c) Forestry Tasmania agrees to release Gunns from its obligations and liabilities under the Wood Supply Agreements and the China Sale Agreement whether arising before on or after the Settlement Date; and
- (d) Subject to its powers and obligations under the Forestry Act (as amended) and the *Government Business Enterprises Act* (as amended), Forestry Tasmania agrees to set aside the Reserves from wood production and to do and facilitate all that it reasonably can to further the requirements of the Tasmanian Forests Intergovernmental Agreement particularly but without limitation:

- (i) provision of data and information as reasonably required by the Independent Verification Group to which the Tasmanian Forests Intergovernmental Agreement refers to facilitate its work;
- (ii) creation of the required Informal Reserves pursuant to clauses 25 and 28;
- (iii) not to supply wood or allow wood production within the High Conservation Value forest area in accordance with the requirements of clause 26;

---

#### **4 Excluded Claims**

Nothing in this Deed affects any Rights of a party (including any Rights of that party against the other party) in connection with any Excluded Claims.

---

#### **5 Assignment**

- (a) Subject to clause 4, to the extent that the Wood Supply Agreements and the China Sale Agreement may subsist or that there are continuing Rights and obligations of Forestry Tasmania arising out of those Agreements after the Settlement Date then Forestry Tasmania assigns to the Crown absolutely the benefit of those Agreements.
- (b) Forestry Tasmania consents to the assignment of the Wood Supply Agreements and the China Sale Agreement by Gunns to the Crown.

---

#### **6 GST**

- (a) The consideration payable by the Crown to Forestry Tasmania as expressed in this Deed is GST inclusive.
- (b) On the Settlement Date Forestry Tasmania must provide to the Crown a valid tax invoice for the consideration.
- (c) In this clause 6 unless the context otherwise requires:
  - (i) **GST Act** means the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth) and the related imposition Acts of the Commonwealth; and
  - (ii) expressions defined in the GST Act have the same meaning when used in this clause 6.

---

## 7 Notices

### 7.1 Method of giving Notices

A notice, consent, approval, application or other communication (each a **Notice**) under this Deed must be in writing, signed by or on behalf of the person giving it, addressed to the person to whom it is to be given and:

- (a) delivered;
- (b) sent by pre-paid mail; or
- (c) sent by facsimile,

to that person's address or facsimile number (as applicable).

For the avoidance of doubt, no Notice may be given either orally or by email.

### 7.2 Time of receipt of Notices

A Notice given to a person is treated as having been given and received:

- (a) if delivered, on the day of delivery if delivered after 9.00am and before 4.00pm on a Business Day, otherwise on the next Business Day;
- (b) if sent by pre-paid mail, on the day of actual delivery if delivered after 9.00am and before 4.00pm on a Business Day, otherwise on the next Business Day; and
- (c) if sent by facsimile and the transmission report states that it was sent in full and without error, on the day of transmission if that report states that the transmission was completed after 9.00am and before 4.00pm on a Business Day, otherwise on the next Business Day.

### 7.3 Address for Notices

For the purposes of this clause 7, a person (the **sender**) may take the address and facsimile number of another person (the **recipient**) to be:

- (a) the address and number set out in the Details above; or
- (b) if the recipient has notified the sender of another address or facsimile number, the last address or facsimile number so notified to the sender.

---

## 8 Law and jurisdiction

### 8.1 Governing Law

This Deed is governed by the Law of Tasmania.



## **8.2 Submission to jurisdiction**

The parties submit to the non-exclusive jurisdiction of the courts of Tasmania and any courts that may hear appeals from those courts in respect of any proceedings in connection with this Deed.

---

# **9 General**

## **9.1 Waiver**

The non-exercise of or delay in exercising any power or right of a party does not operate as a waiver of that power or right, nor does any single exercise of a power or right preclude any other exercise of it or the exercise of any other power or right. A power or right may only be waived in writing, signed by the party to be bound by the waiver and such a waiver is effective only in the specific instance and for the specific purpose for which it was given.

## **9.2 Amendment**

This Deed may only be amended or supplemented in writing signed by the parties.

## **9.3 Severability**

If any provision of this Deed is or at any time becomes illegal, prohibited, void or unenforceable for any reason in any jurisdiction then, as to that jurisdiction, that provision is severed from this Deed and the remaining provisions of this Deed:

- (a) continue to be enforceable; and
- (b) are to be construed with such additions, deletions and modifications of language as are necessary to give effect to the remaining provisions of this Deed.

## **9.4 Further assurance**

Each party must do, sign, execute and deliver and must procure that each of its employees and agents does, signs, executes and delivers, all deeds, documents, instruments and acts as reasonably required of it or them and must carry out and give full effect to this Deed and the Rights and obligations of the parties under it.

## **9.5 Counterparts**

- (a) This Deed may be executed in any number of counterparts.
- (b) A party may execute this Deed by signing any counterpart.
- (c) All counterparts, taken together, constitute one instrument.

## **Executed as a deed**

## Signing page

**Dated:**

**Signed** for and on behalf of **The Crown in Right of Tasmania** by  
**The Honourable Larissa Tahireh Giddings MP**, Premier of Tasmania in  
 the presence of:

\_\_\_\_\_  
 Signature ←

\_\_\_\_\_  
 Signature of witness ←

\_\_\_\_\_  
 Name of witness (print)

\_\_\_\_\_  
 Address of witness

\_\_\_\_\_  
 Occupation

**The common seal of Forestry Tasmania**  
 was hereunto affixed by the authority of  
 its Board in the presence of:

\_\_\_\_\_  
 Signature ←

\_\_\_\_\_  
 Name and position held (print)

\_\_\_\_\_  
 Signature ←

\_\_\_\_\_  
 Name and position held (print)