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THE FORESTS ORDINANCE, 2015

FORESTS (FOREST CARBON ACTIVITY) RULES, 2022

Made under section 113(1)(bb)

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## THE FORESTS ORDINANCE, 2015

## FORESTS (FOREST CARBON ACTIVITY) RULES, 2022

Made under section 113(1)(bb)

In exercise of the powers conferred by section 113(1)(bb) of the Forests Ordinance, 2015 [*Cap. 71*], the Minister, with approval of the Majlis Mesyuarat Kerajaan Negeri, has made the following Rules:

PART I  
PRELIMINARY

**Citation and commencement**

1. These Rules shall be cited as the **Forests (Forest Carbon Activity) Rules, 2022**, and shall come into force on the 1st day of January, 2023.

**Interpretation**

2.—(1) In these Rules—

“additionality” means in respect of a Forest Carbon Activity, any activity or scheme which increases the actual net greenhouse gases (GHGs) removals or reductions by sinks above the sum of the changes in carbon stocks within the Forest Carbon Area that would have occurred in the absence of the Forest Carbon Activity;

“alienated land” shall have the same meaning assigned to it under the Land Code [*Cap. 81 (1958 Ed.)*];

“authorized officer” means any officer authorised by the Director to carry out the functions and duties under these Rules;

“authorized agent” means any employee, personnel, contractor, consultant, agent or representative authorized by the holder of a Carbon Licence and the holder of the Carbon Study Permit, as the case maybe, to act on his behalf as approved by the Director;

“carbon buffer” means the amount of carbon credits generated or to be generated by a Forest Carbon Activity which are set aside to mitigate the effects of any leakage or non – permanence resulting from that or any other Forest Carbon Activity as determined by and applied in accordance with the applicable Carbon Standard Rules;

“Carbon Licence Register” means a register of the carbon licences established and maintained under rule 28 of these Rules;

“carbon study” means a study, the purpose of which is to measure the carbon stock baseline in a carbon study designated area for the purposes of determining whether a proposed Forest Carbon Activity in that carbon study designated area is or is likely to be viable which shall include a survey and assessment of the composition and distribution of the forest, the carbon stock or GHG stock, and other resources in the carbon study designated area as well as the risk analysis in respect of the proposed Forest Carbon Activity;

“carbon study designated area” means the area approved and designated by the Director for the purpose of a carbon study;

“Carbon Study Permit” means the permit issued by the Director under rule 4 authorizing a carbon study;

“Carbon Study Plan” means the study plan submitted to the Director in accordance with rule 3(2)(d) as part of an application for a Carbon Study Permit;

“carbon trading” means the buying, selling or trading of carbon credits in the voluntary, regulated or compliance markets including in the international emission trading platforms and exchanges, in a carbon trading mechanism established under the Paris Agreement or otherwise in the open market, and “trade” and “traded” shall be construed accordingly;

“corresponding adjustment” means any adjustment by the Government of Malaysia to its national GHG inventory, as reported in its Nationally Determined Contribution, to reflect the international transfer of carbon credit units generated in Malaysia to a recipient located in a jurisdiction outside of Malaysia pursuant to and in accordance with these Rules, and in accordance with the Paris Agreement;

“double counting” means the benefit or value of one carbon credit unit being inadvertently or intentionally used twice or more;

“Forest Carbon Area” means the area in which a Forest Carbon Activity has been approved to be undertaken in pursuant to a carbon licence;

“Government” means the State Government of Sarawak;

“holding company” shall have the same meaning as assigned to it under the Companies Act 2016 [Act 777];

“International Guidelines” means Intergovernmental Panel on Climate Change (IPCC) Guidelines or any other guidelines use to calculate GHG inventories, as amended or updated from time to time;

“leakage” means in respect of a Forest Carbon Activity, an increase in GHG emissions or reduction in GHG sequestration that occurs outside of a

Forest Carbon Area and is measurable and attributable to the Forest Carbon Activity thereby negating some of the benefits of the Forest Carbon Activity;

“Monitoring, Reporting and Validation” means the methodology and plan for monitoring above and below ground carbon emission, reporting emissions reductions and validating the Forest Carbon Activity;

“non-permanence” means in respect of a Forest Carbon Activity, the reversal of emissions reductions achieved by a Forest Carbon Activity;

“Ordinance” means the Forests Ordinance, 2015 [*Cap. 711*];

“Sarawak Forest Carbon Registry” means a carbon registry established and maintained under rule 27 of these Rules;

“Sarawak Project Design Document” means a document prepared in accordance with rule 11 after the completion of a carbon study;

“subsidiary company” shall have the same meaning as assigned to it under the Companies Act 2016 [*Act 777*];

“registered proprietor” shall have the same meaning assigned to it under the Land Code [*Cap. 81(1958 Ed.)*];

“validation” means the independent assessment of a Forest Carbon Activity by a validation agent to determine whether the Forest Carbon Activity complies with and is being carried out in accordance with the applicable Carbon Standard Rules; and

“validation agent” means an independent person or body formally approved or accredited in accordance with the relevant Carbon Standard as qualified to validate the Forest Carbon Activity in accordance with the applicable Carbon Standard Rules.

(2) Unless otherwise specifically provided under these Rules, the definitions and interpretations of words or phrases shall bear the same meaning as provided in the Ordinance.

## PART II

### CARBON STUDY PERMIT

#### **Application for a Carbon Study Permit**

3.—(1) Any person intending to carry out a carbon study under these Rules shall apply for a Carbon Study Permit from the Director in the form as prescribed in First Schedule together with the payment of the fee as prescribed in the Third Schedule.



(2) The application made under sub-rule (1) shall be accompanied with:

(a) certified true copies of documents relating to the applicant's profile including its incorporation, shareholders and their respective shareholdings, directors and its latest annual returns;

(b) audited financial statements for at least the last three consecutive financial years and the latest management accounts and where the applicant is a subsidiary, such audited financial statements and management accounts of the holding company;

(c) a precise description of the land on which the carbon study is intended to be carried out, including the status of such land, and if the carbon study is to be carried out on an alienated land of which the applicant is not the registered proprietor, the application shall be accompanied by a letter from the registered proprietor thereof, giving his consent to the use of the land for the carbon study; and

(d) a carbon study plan which shall include the following:

(i) a description of the procedures and methodologies to be used to determine the baseline scenario within the proposed Forest Carbon Area;

(ii) information on the proposed Forest Carbon Activity including:

(A) a description of the proposed scope of the intended activities and the crediting periods;

(B) a map illustrating the boundaries of the proposed Forest Carbon Area;

(C) a description of the methodology to be used for quantifying the emissions reductions to be generated by the proposed Forest Carbon Activity and any scheme which could constitute additionality;

(D) where rights and interests of native communities may be affected by the carbon project, the methodology or measures including benefits sharing to be adopted to secure their consent and support; and

(iii) a description of the local stakeholder consultation to be undertaken in accordance with applicable laws including the procedures or methods to be used for engaging local stakeholders, the methods for documenting such consultation, and the mechanisms for on-going communications with local stakeholders; and

(iv) such other information as may be relevant to the carbon study.

#### **Issuance of a Carbon Study Permit**

4.—(1) The Director shall upon being satisfied that the application complies with all the requirements of rule 3, issue a Carbon Study Permit subject to such terms and conditions as he may deem fit, upon the payment of such fees as prescribed in the Third Schedule.

(2) A Carbon Study Permit issued under this Rule is not transferrable without the approval in writing by the Director.

(3) The issuance of such Carbon Study Permit shall not create any expectation for the issuance of a carbon licence.

#### **Duration and extension of a Carbon Study Permit**

5.—(1) Subject to sub-rule (2), the issuance of a Carbon Study Permit under rule 4 shall not be more than two years.

(2) The holder shall submit an application for extension of the Carbon Study Permit, at least three months prior to its expiration, in the form as prescribed in First Schedule, which shall include the grounds for seeking such extension, together with payment of the fee prescribed in the Third Schedule, to the Director.

(3) The Director may in his discretion approve the application for extension of the period of the Carbon Study Permit for a period not exceeding one year subject to such terms and conditions as he may deem fit.

#### **Extension Fee**

6. Upon the approval of the extension of the period of the Carbon Study Permit, the holder of a Carbon Study Permit shall pay the extension fee as prescribed under Second Schedule and the Director or any authorized officer shall endorse the approved extended period on the Carbon Study Permit.

#### **Carbon Study Designated Area**

7. The carbon study designated area approved in the Carbon Study Permit shall not be less than one hundred hectares.

#### **Activities under a Carbon Study Permit**

8. Upon the issuance of a Carbon Study Permit, the holder of a Carbon Study Permit shall undertake such activities as stipulated in the Carbon Study Permit within the carbon study designated area.

**Commencement of a carbon study**

9.—(1) The holder of a Carbon Study Permit shall commence the carbon study within two months from the date of issuance of the Carbon Study Permit.

(2) Prior to commencing the carbon study, the holder of a Carbon Study Permit shall notify the Director and Regional Forest Officer in writing of:

- (a) the Carbon Study Permit number;
- (b) the date of commencement of the carbon study; and
- (c) the list of the personnel involved in the carbon study.

**Suspension or cancellation of a Carbon Study Permit**

10.—(1) The Director may suspend or cancel a Carbon Study Permit if he is satisfied that the holder of a Carbon Study Permit—

(a) has breached any of the terms and conditions specified in the Carbon Study Permit and has failed to remedy such breach within twenty-one days of receipt of a notice from the Director requiring him to remedy such breach; or

(b) has contravened any of the provisions of these Rules or the Ordinance.

(2) The holder of a Carbon Study Permit whose Carbon Study Permit has been cancelled under this Rule shall not be eligible to apply for a new Carbon Study Permit for a period of one year from the date of cancellation of the Carbon Study Permit.

(3) Nothing in this Rule shall prohibit the Director from issuing a new Carbon Study Permit, to any other person, in respect of a carbon study designated area for which a Carbon Study Permit has been cancelled.

**Sarawak Project Design Document**

11.—(1) The holder of a Carbon Study Permit shall prepare and submit the Sarawak Project Design Document which contains the results of its carbon study to the Director within three months of the completion of the carbon study in accordance with the requirements of these Rule.

(2) The Sarawak Project Design Document shall be prepared in accordance with the validation requirements of the applicable Carbon Standard Rules and shall include:

(a) details of the proposed Forest Carbon Activity including a description of the project activities and project design, the project's eligibility

under the applicable Carbon Standard, the intended project start date and the project crediting period;

(b) a description of the baseline scenario within the carbon study designated area including baseline emissions and/or removals calculated in accordance with the applied methodology;

(c) a description on how the proposed Forest Carbon Activity will satisfy the requirement of additionality;

(d) the outcomes from the local stakeholder consultations undertaken during the carbon study including how any input received during the consultation has been taken into account;

(e) estimates of the emission reductions expected to be achieved by the proposed Forest Carbon Activity and a plan for the monitoring of emissions reductions achieved by the proposed Forest Carbon Activity; and

(f) any other information as may be required by the applicable Carbon Standard Rules as part of the validation process.

(3) The proposed Forest Carbon Activity specified in the Sarawak Project Design Document shall—

(a) be designed to achieve emissions reductions;

(b) endeavor to:

(i) deliver real, measurable and long-term benefits related to climate;

(ii) minimize the risk of reversals and displacements of emission reductions and, where reversals occur, ensure that these are addressed in full;

(iii) avoid negative environmental and social impacts;

(iv) avoid double counting; and

(v) establish a robust accounting system.

(c) includes technology and knowledge transfer used for carbon study.

**Power of the Director to require changes to the Sarawak Project Design Document**

12.—(1) On receipt of the Sarawak Project Design Document, the Director may request the holder of a Carbon Study Permit to modify, amend or alter the contents thereof or make additions thereto so as to ensure the proposed Forest Carbon Activity complies with—

- (a) the applicable laws;
- (b) the applicable Carbon Standard Rules; and
- (c) the verification requirements by a Verification Agent.

(2) Once the Sarawak Project Design Document is reviewed by the Director, the holder of a Carbon Study Permit shall make modification, amendment, alteration or addition to such document, if necessary.

**PART III****CARBON LICENCE****Application for a carbon licence**

13.—(1) Any person who intends to carry out a Forest Carbon Activity shall apply for a carbon licence from the Director under section 70A of the Ordinance in the form as prescribed in the First Schedule.

(2) An application for a carbon licence shall be submitted together with the following:

- (a) a Sarawak Project Design Document duly completed in accordance with rule 11 following a carbon study together with all reports, analysis, maps, plans, data and other information obtained or prepared during the carbon study;
- (b) audited financial statements for at least the last three consecutive financial years and the most recent management accounts and where the applicant is a subsidiary, such audited financial statements and management accounts of the holding company;

(c) if the Forest Carbon Activity is to be carried out on alienated land of which the applicant is not the registered proprietor or on a land or area issued with any other licences under the Ordinance or any land which is subject to any native customary rights under the Land Code [*Cap. 81 (1958 Ed.)*], the application shall be accompanied by a letter from the registered proprietor or the holder of such licences or a native customary rights owner thereof, as the

case maybe, giving his consent for the use of the land for the Forest Carbon Activity;

(d) where the applicant intends to undertake the carbon project jointly with another person or entity, the name of that person or entity, particulars of the shareholders and directors thereof and the respective roles of the applicant and the other person or entity in the carrying out the Forest Carbon Activity for the carbon project;

(e) such other information, data and documents as may be necessary in support of the application; and

(f) the payment of a processing fee as prescribed in the Third Schedule.

#### **Issue of a carbon licence**

14—(1) The Director may consider any application for a carbon licence made under rule 13, and upon having obtained the approval of the Minister, decide to issue a carbon licence, subject to the acceptance by the applicant of such terms and conditions as he deems fit including such security as he may determine for the due performance of the applicant's obligations under the carbon licence.

(2) Upon acceptance by the applicant of the terms and conditions imposed by the Director and on furnishing of the security in sub-rule (1), together with payment of the prescribed fee in the Third Schedule, the Director may, with the written approval of the Minister issue a carbon licence.

(3) Any carbon licence issued under Section 70A of the Ordinance in accordance with this Rule shall be conditional upon the proposed Forest Carbon Activity being validated against a Carbon Standard by a Validation Agent in accordance with the applicable Carbon Standard Rules and the holder of a carbon licence evidencing this validation to the Director within a period as may be determined by the Director in the carbon licence.

(4) A carbon licence shall be terminated automatically if the proposed Forest Carbon Activity is not validated within the time period as specified in the terms and conditions of such licence, unless the Director, on any reasonable ground, determine otherwise.

(5)(a) A copy of the carbon licence issued under this Rule shall be submitted by the Director to the Ministry responsible for energy and environmental sustainability for its record.

(b) The Director shall notify the Ministry responsible for energy and environmental sustainability of any modification, variation or amendment to the carbon licence including any suspension or cancellation thereof.

**Forest Carbon Area**

15.—(1) A carbon licence shall be issued for an area not less than one hundred hectares but not exceeding the carbon study designated area stipulated in the Carbon Study Permit issued under rule 4.

(2) (a) Where the proposed Forest Carbon Area includes an alienated land of which the holder of the carbon licence is not the registered proprietor, the written consent of the registered proprietor shall be obtained before the carbon licence is issued;

(b) Where the proposed Forest Carbon Area includes a land that is subject to an existing licence issued under the Ordinance including a forest timber licence or licence for planted forests:

(i) where the holder of such existing licence is not the applicant for the carbon licence, the applicant shall obtain written consent from the holder of the existing licence to exclude the area which is overlap with the area of the existing licence for the Forest Carbon Area; or

(ii) where the holder of such existing licence is also the applicant, the Director, may in approving the application, make such amendment to the existing licence to enable the Forest Carbon Activity to be undertaken simultaneously with the activities authorised under the existing licence in so far as the simultaneous activities under both licences would not contravene the applicable Carbon Standard Rules, the Ordinance and any rules made thereunder.

(c) Where the proposed Forest Carbon Area includes any land which is subject to any native customary rights under the Land Code [*Cap. 81 (1958 Ed.)*], such land shall be excised or excluded from the carbon licence unless the native customary rights owner consented in writing to the Forest Carbon Activity.

**Validity, renewal, etc. of a carbon licence**

16.—(1) A carbon licence issued under rule 14 shall be valid for a period of not exceeding the crediting period of the Forest Carbon Activity determined in accordance with rule 35 pursuant to the applicable Carbon Standard.

(2) Any application for renewal shall be made by the holder of the carbon licence in the form as prescribed in the First Schedule and be submitted to the Director at least six month before the expiry of such licence together with the payment of fee as prescribed in the Third Schedule.

(3) The Director may, with the written approval of the Minister, approve the application for renewal of the carbon licence for any period in accordance with the applicable Carbon Standard.

(4) The Director may grant such application to renew made by the holder of a carbon licence after the expiry of such licence subject to the payment of penalty of ten thousand ringgit together with the payment of renewal fee as prescribed in the Third Schedule.

(5) The holder of a carbon licence whose application for renewal is refused shall surrender his carbon licence to the Director or any authorized officer in accordance with rule 26.

#### **Activities permitted in a Forest Carbon Area**

17.—(1) No person shall carry out any activities in a Forest Carbon Area, unless allowed under a carbon licence.

(2) Where the holder of a carbon licence wishes to undertake any other activities that are not allowed in the carbon licence, he shall apply to the Director in writing for approval and the Director may approve any such application subject to terms and conditions as he deems fit.

(3) Activities in a Forest Carbon Area shall be carried out by the holder of a carbon licence or its authorized agent in accordance with the terms and conditions of the carbon licence, the Ordinance and its regulations, any procedures or guidelines issued by the Director, from time to time.

(4) A holder of a carbon licence or his authorized agent shall, at any time upon a written request by the Director or any authorized officer, permit the Forest Carbon Area to be inspected by the Director or any authorized officer.

(5) A holder of a carbon licence or his authorized agent who contravenes this Rule commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding five years, or to both.

#### **Boundary Demarcation, etc.**

18.—(1) The holder of a carbon licence shall upon issuance of such licence, demarcate, maintain and secure the boundary of the Forest Carbon Area in the manner as prescribed in the carbon licence and the demarcation shall be completed within the specified period as may be determined in writing by the Director.

(2) A holder of a carbon licence who fails to carry out the demarcation of the boundary upon being instructed to do so in writing by the Director within the time specified, commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.



**Display of a carbon licence, business signage, etc.**

19.—(1) A holder of a carbon licence shall display such licence, business signage and any other relevant information as determined by the Director in the Forest Carbon Area.

(2) A holder of a carbon licence who contravenes sub-rule (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit and in the case of a continuing offence, a further fine of not exceeding five thousand ringgit for each day during which the offence continues after conviction.

**Non transferable, non security, etc.**

20. Subject to section 2 of the Ordinance, a carbon licence issued under these Rules shall not be transferrable.

**Notification of change in address, information, etc.**

21.—(1) A holder of a carbon licence shall inform the Director, in writing, of any change in address or any information required in rule 13 within fourteen days of such change.

(2) A holder of a carbon licence who contravenes sub-rule (1) shall be liable to a fine of not exceeding fifty thousand ringgit.

**Certified copy of a carbon licence**

22. The Director shall, subject to the payment of the sum of one thousand ringgit, furnish to the holder of a carbon licence, a certified copy of such licence, upon receiving a statutory declaration made by the holder of such licence declaring that the carbon licence issued to him is lost, destroyed or mutilated due to any reasonable grounds acceptable to the Director.

**Non-Compliance with a carbon licence**

23.—(1) A holder of a carbon licence shall comply with the terms and condition as specified in the carbon licence.

(2) Notwithstanding rule 24, a holder of a carbon licence who fails to comply with sub-rule (1), shall be liable for a fine of not exceeding fifty thousand ringgit and shall rectify the non-compliance within a specified time as may be directed by the Director.

**Stoppage of activities under a carbon licence**

24. Without prejudice to rule 25, where a holder of a carbon licence fails to comply with the terms and conditions of such licence, the Director may direct the stoppage of any activity allowed under the carbon licence or any activity associated

therewith, within the Forest Carbon Area for a period until such non-compliance is rectified.

### **Suspension or cancellation of a carbon licence**

25.—(1) The Director may with the approval of the Minister suspend or cancel a carbon licence if—

(a) the holder of such licence breaches any terms and conditions of the carbon licence and fails to remedy such breach within twenty-one days from the receipt of a notice requiring him to remedy such breach;

(b) the holder of such licence contravenes any terms and conditions of the carbon licence;

(c) the continuance of such licence would contravene the Ordinance, its regulations or any direction made by the Minister or Director;

(d) the grant of the carbon licence was induced by a false representation of fact by or on behalf of the holder of such licence;

(e) such licence has been or is intended to be used for a purpose contrary to any written and in force law of Malaysia or Sarawak;

(f) the original purpose for which such licence was issued no longer exists;

(g) the holder of such licence has contravened or has failed to comply with any direction or order made by the Director under these Rules or any of the provisions under the Ordinance or any rules made thereunder;

(h) the holder of such licence has contravened or has failed to comply with any other written laws whether or not there has been a prosecution for an offence in respect of such contravention or failure;

(i) the holder of such licence has been convicted by a court in Malaysia or abroad for any offence under any written laws;

(j) the holder of such licence has abandoned the activity for which he is licensed to undertake;

(k) the proposed Forest Carbon Activity is not validated within the time period as specified in the terms and conditions of such licence under rule 14(4);

(l) the Forest Carbon Activity under the carbon licence loses its validation or verification under the applicable Carbon Standard; or

(m) any circumstances exist which would, in the public interest, warrant such action.

(2) A carbon licence shall not be enforceable and have no effect during the period of suspension or from the date of cancellation, as the case may be.

#### **Surrender of a carbon licence**

26.—(1) The holder of a carbon licence shall surrender his carbon licence to the Director within twenty one days upon issuance of a written notice for surrender arising from cancellation, non renewal or expiry of the term of such licence.

(2) Notwithstanding sub-rule (1) the holder of a carbon licence may at any time surrender the carbon licence to the Director with a written notice of surrender.

(3) The surrender shall take effect on the date of the receipt of such carbon licence by the Director together with the written notice referred to in sub-rule (1) or (2), as the case may be, or on a later date as specified in such notice.

(4) The holder of such a carbon licence shall remove all his properties from the Forest Carbon Area within three months from the date from which such surrender takes effect failing which the properties shall be forfeited to the Government.

#### **PART IV**

#### **SARAWAK FOREST CARBON REGISTRY AND LICENCE REGISTER**

#### **Sarawak Forest Carbon Registry, etc.**

27.—(1) The Director or any authorized officer shall establish and maintain a Sarawak Forest Carbon Registry containing the following particulars:

- (a) details of each Forest Carbon Activity;
- (b) the total number of carbon credit units generated by each Forest Carbon Activity;
- (c) details of all carbon trades made in respect of the carbon credit units generated by a Forest Carbon Activity;
- (d) all corresponding adjustments that have been obtained pursuant rule 38 for the carbon trading made in accordance with these Rules;

(e) the cancellation or retirement of all carbon credit units generated by a Forest Carbon Activity; and

(f) any other particulars as the Director may deem necessary from time to time.

(2) Any entry in the Sarawak Forest Carbon Registry shall be made by the Director or any authorized officer.

(3) The Sarawak Forest Carbon Registry shall be kept at the Headquarters of the Forest Department.

(4) Any person may inspect the Sarawak Forest Carbon Registry and request for a certified copy of the documents therein subject to the payment of fee as prescribed in the Third Schedule.

(5) The Director shall submit all particulars contained in the Sarawak Forest Carbon Registry to the Ministry for energy and environmental sustainability for its record purposes.

**Carbon Licence Register, etc.**

28.—(1) The Director or any authorized officer shall establish and maintain a Carbon Licence Register of all carbon licences containing the following particulars:

(a) the name and address of the holder of a carbon licence;

(b) the description and location of the Forest Carbon Area on which the Forest Carbon Activity is established;

(c) the period of the carbon licence;

(d) the serial number of the carbon licence;

(e) the species of the trees approved for the planting within the Forest Carbon Area;

(f) the prescribed activities allowed to be carried out in the Forest Carbon Area under such carbon licence;

(g) the name and address of any authorized agent approved by the Director to undertake the Forest Carbon Activity;

(h) the date of cancellation, suspension, expiry or renewal of the carbon licence; and

- (i) any other particulars as the Director may deem necessary.
- (2) The Director or any authorized officer shall enter in the Carbon Licence Register a memorial of:
- (a) any transfer, suspension, cancellation or expiry of the carbon licence;
- (b) any variation, amendment, modification or alteration of any term or condition of the carbon licence;
- (c) any security document relating thereto or any other matters affecting the status or any interests in the carbon licence; or
- (d) or any change on the particulars or information required to be provided under the carbon licence including the change of address of the holder of a carbon licence.
- (3) The Director or any authorized officer may, upon such evidence appears to him, correct or rectify any errors or omissions in the Carbon Licence Register or any entry or memorial made therein where notice of such rectification in shall be given to the holder of a such carbon licence, any assignee or any person who has acquired any rights or interests in the carbon licence pursuant to rule 14.
- (4) Any entry in the Carbon Licence Registry shall be made by the Director or any authorized officer.
- (5) The Carbon Licence Register shall be kept at the Headquarters of the Forest Department.
- (6) Any person may inspect the Carbon Licence Register and request for a certified copy of the documents therein subject to the payment of fee as prescribed in the Third Schedule.

PART V  
CARBON STOCK

**Carbon stock in respect of a Forest Carbon Activity**

29. The generation of the carbon stock or GHG stock from a Forest Carbon Area shall comply with all applicable Carbon Standard Rules.

PART VI  
CARBON CREDIT

**Carbon Credit Units**

30.—(1) An emission reduction generated by a carbon stock from Forest Carbon Activity, upon verification pursuant to the applicable Carbon Standard Rules is referred to as a “carbon credit unit”.

(2) Subject to section 70A(3) of the Ordinance, the holder of a carbon licence shall be entitled to participate in the carbon trading of any carbon credit units to which it has full legal and beneficial title in accordance with the applicable Carbon Standard Rules and rule 34.

**Reporting of Carbon Credit Units**

31. The holder of a carbon licence shall report on the carbon credits units to the Director together with the relevant information on the Forest Carbon Activity, in the Sarawak Forest Carbon Registry including:

(a) the date in respect of which the carbon credit units within the Forest Carbon Area were issued by the relevant Carbon Standard;

(b) the number of carbon credit units issued within the Forest Carbon Area by the relevant Carbon Standard;

(c) the number of carbon credit units that the holder of the carbon licence has traded, its rate and the relevant information relating to the buyer; and

(d) the number of carbon credit units that the holder of the carbon licence has retired or cancelled.

**Carbon Buffer**

32.—(1) The holder of a carbon licence shall comply with the carbon buffer requirements of the applicable Carbon Standard Rules.

(2) The Director may determine additional carbon buffer of the carbon credit unit based on risk analysis, with an intention to absorb any leakage and non-permanence.

**Trading of Carbon Credit Units**

33. The Director shall determine the total number of carbon credit units generated by such Forest Carbon Activity that is tradable, after deduction of carbon buffer with a sum not exceeding fifty per centum of Sarawak-LULUCF (Removal)

meant for domestic GHG mitigation and shall be specified in the terms and conditions of the carbon licence.

**Carbon Credit Units unaffected by cancellation or expiry of carbon licence**

34. Where a carbon licence is cancelled or expired under these Rules, the ownership and control of all carbon stocks within the Forest Carbon Area under such licence shall belong to the Government, who shall take such measures as may be necessary to maintain and preserve the carbon stocks and any carbon credit units already issued from such Forest Carbon Area.

**Crediting period**

35.—(1) The crediting period for a carbon project is to be determined by the applicable Carbon Standard Rules.

(2) The holder of the carbon licence shall notify, in writing, the amount of carbon credit units for carbon trading and crediting period to the Director.

PART VII

MONITORING, REPORTING AND VALIDATION OF A CARBON PROJECT

**Reporting on a Carbon Project**

36. The holder of a carbon licence or his authorized agent shall report on the carbon project to the Director in the manner as may be determined by the Director.

**Monitoring, Reporting and Validation**

37.—(1) The holder of a carbon licence shall adopt the Monitoring, Reporting and Validation of a Forest Carbon Activity as specified by the applicable Carbon Standard Rules to obtain high quality and reliable data on carbon stocks and GHG stocks within that Forest Carbon Area and any emission reductions achieved by the Forest Carbon Activity.

(2) The holder of a carbon licence shall prepare and submit to the Director annually the Monitoring, Reporting and Validation report which shall include:

- (a) information of the Forest Carbon Activity;
- (b) the scope of activity and the crediting periods;
- (c) the boundary of the Forest Carbon Area;
- (d) the methodology used and baselines developed;

(e) measures that have been and will be taken and applied to achieve the carbon emission reduction;

(f) annual reporting of the carbon credit units generated by the Forest Carbon Activity and annual reporting of the carbon credit units sold, traded, retired and cancelled; and

(g) where rights and interests of native communities may be affected by the Forest Carbon Activity, the methodology or measures including benefits sharing adopted to secure consent and support from the native communities on the Forest Carbon Activity.

(3) Any holder of a carbon licence who fails to comply with sub-rules (1) and (2) commits an offence and shall be liable to a fine of not exceeding fifty thousand ringgit.

## PART VIII CARBON ACCOUNTING

### **Nationally Determined Contribution**

38. —(1) The holder of a carbon licence shall report to the Director on the carbon stock and GHG stock, emissions reductions and any carbon credit units generated and traded.

(2) The holder of a carbon licence shall maintain transparency, accuracy and consistency in scope and coverage, definitions, data sources, metrics, assumptions and methodological approaches throughout the Forest Carbon Activity.

(3) The holder of a carbon licence in his report shall ensure that the steps taken by him are aligned with any national guidance on forest carbon markets which the Director may, from time to time, determine.

(4) For the purpose of reporting in sub-rule (1), the holder of a carbon licence shall ensure data, estimates and methodologies used for baseline development and accounting shall be in accordance with the International Guidelines.

### **Double Counting**

39. The holder of a carbon licence and its authorized agent shall not engage in any practice which may result in double counting of carbon credit units.

### **Duty of Director**

40.—(1) All information and documents received by the Director under this Part shall be transmitted and forwarded by him, in writing, to the Ministry for energy



and environmental sustainability to enable such Ministry to submit the same to the Government of Malaysia.

(2) The Director shall through the Ministry for Energy and Environmental Sustainability, ensure that corresponding adjustments are included by the Government of Malaysia for any carbon credit units that are traded internationally pursuant to these Rules in accordance with requirements of the Paris Agreement.

PART IX  
FEES, ROYALTY, *ETC.*

**Payment to the Government**

41.—(1) A holder of a carbon licence shall pay an annual carbon licence fee based on the size of the Forest Carbon Area at a rate as prescribed in the Third Schedule and such amount is to be stipulated in the carbon licence.

(2) Unless varied by the Minister under sub-rule (9), the annual carbon licence fee shall be as stipulated under the Third Schedule.

(3) The holder of a carbon licence shall pay to the Government the annual royalty for the carbon stock contained in the Forest Carbon Area and the Forest Ecosystem Fee at the rates stipulated in the Fourth Schedule.

(4) Any payment due under the Ordinance or these Rules shall be payable within thirty days from the date of which such payment becomes due failing which, a surcharge, at the rate of five per centum, shall be imposed on the amount due.

(5) A further surcharge at the rate of two per centum per calendar month or any part of a calendar month shall apply thereafter if the payment remains unpaid.

(6) Where a holder of a carbon licence is in default of payment of any fee or other charges under these Rules, the Director may recover such arrears and any surcharge imposed under sub-rule (4) and such arrears and surcharge can be set off against the deposit lodged by the holder of a carbon licence, and the Director may require the holder of a carbon licence to furnish further deposit thereafter.

(7) Where no date is fixed for any payment to be made, such payment shall be deemed to become due and payable as soon as a written notice demanding for such payment has been served to the holder of a carbon licence.

(8) The Director may, in any case where he considers the circumstances so warrant, extend the time for payment under sub-rule (4) to a time not exceeding three months after the date when such payment become due and payable.

(9) The fees, royalty and other payments set out in these Rules may be varied by the Minister, from time to time, with approval of the Majlis Mesyuarat Kerajaan Negeri and shall be published in the *Gazette*.

PART X  
MISCELLANEOUS, *ETC.*

**Native Customary Rights and Interest**

42.—(1) Where any land issued with a carbon licence is subject to any claims under the native customary rights, the holder of a carbon licence shall be responsible to resolve such claims at his own cost and expense and where the rights and interest of the native community may be affected by the Forest Carbon Activity, he shall secure the consent of such native community for the Forest Carbon Activity, to be in accordance with the methodology or measures specified in the Sarawak Project Design Document and any requirements specified in the applicable Carbon Standard.

(2) The holder of a carbon licence shall provide the information on any action taken by the holder of a carbon licence under sub-rule (1) as requested by the Director.

**Government Rights**

43.—(1) The rights of the holder of a carbon licence shall be subject to the rights of the Government under any written law to acquire or require the holder to surrender the land or any part thereof for public purposes, subject to the payment of compensation to be assessed by a Tribunal appointed by the Majlis Mesyuarat Kerajaan Negeri.

(2) The compensation shall be assessed in accordance with any direction or guidelines issued by the Majlis Mesyuarat Kerajaan Negeri.

(3) The term “public purposes” in this rule, means those purposes stipulated in section 46 of the Land Code [*Cap. 81 (1958 Ed.)*].

**Government ownership of carbon data, etc.**

44. Any carbon data, documents and information obtained by the Director as a result of or arising from the issuance of a Carbon Study Permit or a carbon licence under these Rules shall belong absolutely to the Government and the ownership thereof shall vest in the Government.

## FIRST SCHEDULE

## APPLICATION FORM FOR CARBON STUDY PERMIT

(Rule 3)

CARBON STUDY PERMIT APPLICATION FORM - Rule 3(1)							
To: Director of Forests							
(Please (✓) In appropriate box)							
NEW APPLICATION		EXTENSION (PERMIT NO./NAME:					
PART 1 - APPLICANT PROFILE							
COMPANY		STATUTORY BODY		ASSOCIATION		INDIVIDUAL	
NAME							
IDENTIFICATION CARD (IC) (Attach copy of IC)							
CORRESPONDENCE ADDRESS							
TELEPHONE NO.							
FAX NO.							
EMAIL							
AUTHORIZED PERSON'S NAME (Attach copy of Authorization Letter)						TELEPHONE NO. :	
PART 2 - FOR COMPANY / STATUTORY BODY / ASSOCIATION (Please (✓) and submit the copy of documents as below)							
DOCUMENT				COMPANY		STATUTORY BODY	ASSOCIATION
Companies Act 2016, Section 78 (Return of Allotment of Shares)							
Companies Act 2016, Section 51 (Register of Member)							
Companies Act 2016, Section 58 (Notification of Change in The Register Of Directors, Managers and Secretaries)							
Trade Licence							
Certificate of Register of Society (ROS)							
Other relevant document (please specify)							
PART 3 - INFORMATION OF AREA APPLIED							
PERMANENT FOREST		STATELAND		ALIENATED LAND		GAZETTED NCR	
LOCALITY Please submit locality map with coordinate							
Lot No. & Land District (If Any)							
Total Area (ha)							

PART 4- GROUND (S) FOR EXTENSION			
PART 5 - DECLARATION			
I/we hereby declare that all the details furnished in this application form are true and correct to the best of my knowledge at the material time. I/we undertake to inform you that I/we shall be liable for any discrepancies or false declaration.			
SIGNATURE		DATE	
NAME		OFFICIAL STAMP	
POSITION/ DESIGNATION			

\* strike out whichever is not applicable

### APPLICATION FORM FOR CARBON LICENCE

(Rule 13)

CARBON LICENCE APPLICATION FORM - Rule 13(1)							
To: Director of Forests							
(Please (✓) In appropriate box)							
NEW APPLICATION		RENEWAL(LICENCENO./NAME):					
PART 1 - APPLICANT PROFILE							
COMPANY		STATUTORY BODY		ASSOCIATION		INDIVIDUAL	
NAME							
IDENTIFICATION CARD (IC) (Attach copy of IC)							
CORRESPONDENCE ADDRESS							
TELEPHONE NO.							
FAX NO.							
EMAIL							
AUTHORIZED PERSON'S NAME (Attach copy of Authorization Letter)						TELEPHONE NO. :	
PART 2 - FOR COMPANY / STATUTORY BODY / ASSOCIATION (Please (✓) and submit the copy of documents as below)							
DOCUMENT				COMPANY		STATUTORY BODY	ASSO CIATI ON
Companies Act 2016, Section 78 (Return of Allotment of Shares)							

Companies Act 2016, Section 51 (Register of Member)				
Companies Act 2016, Section 58 (Notification of Change in The Register Of Directors, Managers and Secretaries)				
Trade Licence				
Certificate of Register of Society (ROS)				
Other relevant document (please specify)				
<b>PART 3 - INFORMATION OF AREA APPLIED</b>				
PERMANENT FOREST		STATELAND		ALIENATED LAND
				GAZETTED NCR
LOCALITY <i>Please submit locality map with coordinate</i>				
Lot No. & Land District (If Any)				
Total Area (ha)				
<b>PART 4- GROUND (S) FOR RENEWAL</b>				
<b>PART 5- DECLARATION</b>				
I/we hereby declare that all the details furnished in this application form are true and correct to the best of my knowledge at the material time. I/we undertake to inform you that I/we shall be liable for any discrepancies or false declaration.				
SIGNATURE		DATE		
NAME		OFFICIAL STAMP		
POSITION/ DESIGNATION				

\* strike out whichever is not applicable

*SECOND SCHEDULE*

**CARBON STUDY PERMIT**

THE FORESTS (FOREST CARBON ACTIVITY) RULES, 2022

(Rule 4)

**CARBON STUDY PERMIT**

In exercise of the powers conferred by Rule 4, the Director of Forests, hereby grants a Carbon Study Permit to ..... **(name)** (hereinafter referred to as "the Permit Holder") of ..... **(address)** to carry a study for the undertaking of a Forest Carbon Activity in an area shown and described in Schedule I hereof for a period of ..... years commencing from ..... unless earlier cancelled subject to:

- (a) payment of all fees and other charges prescribed in the Rules; and
- (b) all other terms and conditions stipulated in Schedule II hereof.

Dated this ..... day..... 20....

Issued by:

Director of Forests

Signed by:

Permit Holder of Carbon Study Permit

*Note:* All Schedules formed an integral part of this Permit.

**CARBON LICENCE**

THE FORESTS ORDINANCE, 2015

(Section 70A and Rule 14)

**FOREST CARBON LICENCE**

I, Director of Forest, with the approval of the Minister and pursuant to section 70A of the Forests Ordinance [*Cap. 71*] and rule 14 of these Rules, hereby grant to .....

- (1) Name of holder of licence:
- (2) Address of holder of licence:

to carry out a Forest Carbon Activity in an area shown and described in Schedule I hereof, in accordance with the Sarawak Project Design Document attached hereto as Schedule II for a period of .... years commencing from ..... unless earlier cancelled subject to:

- (a) payment of all fees and other charges prescribed in the Rules;
- (b) payment of a sum of .... in such form as may be acceptable to the Government as security for the due compliance of the provisions of the Ordinance, its rules and terms and conditions of this carbon licence; and
- (c) all other terms and conditions as stipulated in Schedule III hereof.

Dated this ..... day ..... 20.....

Issued by:

Director of Forests

Approved by:

Minister for Natural Resources and Urban Development

Signed by:

(Licence Holder of Forest Carbon Licence)

*Note:* All Schedules formed an integral part of this licence.

*THIRD SCHEDULE***RATES OF FEES**

(Rule 3)

**Carbon Study Permit**

Types of Carbon Study Permit	Area of Carbon Study Permit (Hectare)	Fees (RM)		
		Issuance	Extension	Processing (Issuance & Extension)
CSP-1	>50,000	5,000	1,000	1,000
CSP-2	2,500-49,999	3,000	800	800
CSP-3	100-2,499	300	100	100

**Carbon Licence**

Types of Carbon Licence	Area of Carbon Study Permit (Hectare)	Fees (RM)		
		Issuance / Renewal	Annual Carbon Licence Fee	Processing (Issuance & Renewal)
FCL-1	>50,000	12,000	1,000	1,000
FCL-2	2,500-49,999	8,000	800	800
FCL-3	100-2,499	700	100	100

<i>No.</i>	<i>Items and services</i>	<i>Fees Payable</i>
1.	Inspection of Sarawak Forest Carbon Registry	RM 100.00
2.	Reproduction of Sarawak Forest Carbon Registry	RM 5.00 per page
3.	Inspection of Licence Register	RM 50.00
4.	Reproduction of Licence Register	RM 5.00 per page



*FOURTH SCHEDULE***RATES OF STATUTORY CHARGES**

(Rule 41(3))

## Royalty and Forest Ecosystem Fee

Item	Particulars	Rates
1.	Royalty (RM/ha/year)	RM 260
2.	Forest Ecosystem Fee	five per centum (5%) or such higher quantum, as may be determined by the Minister, of annual revenue earned through Verified Carbon Unit (VCU) traded

Made this 21st day of December, 2022.

DATUK PATINGGI TAN SRI (DR) ABANG HAJI ABDUL RAHMAN  
ZOHARI BIN TUN DATUK ABANG HAJI OPENG,  
*Minister for Natural Resources and Urban Development*

Approved by the Majlis Mesyuarat Kerajaan Negeri this 8th day of  
December, 2022.

DATU MOHAMAD JUNAIDI BIN MOHIDIN  
*Clerk to Majlis Mesyuarat Kerajaan Negeri*

SARAWAK LAWNET



SARAWAK LAWNET