Hopin Boulder Timber Sale Contract No. 341-12-43
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STATE OF OREGON

DEPARTMENT OF FORESTRY

Oregon Department of Forestry
State Forests Division
2600 State Street, Building D
Salem, Oregon 97310

TIMBER SALE CONTRACT

SALE NAME: Hopin Boulder
CONTRACT NO 341-12-43
ODF DISTRICT: Astoria

Section 1000. Signatures of Contract Parties.

This Contract (the "Contract") is by and between the STATE OF OREGON, acting by and through the State Forester on behalf of the DEPARTMENT OF FORESTRY ("STATE") and _____ ("PURCHASER"). The Contract shall be effective as of the latest date signed below. The parties do hereby agree as follows:

(1) Signature of STATE means he/she is a duly Authorized Representative of the STATE and is authorized by STATE to make all representations, attestations, and certifications contained in this Contract and all addenda, if any, issued, and to execute this Contract document on behalf of STATE;

(2) Signature of PURCHASER means he/she is a duly Authorized Representative of the PURCHASER, has been authorized by PURCHASER to make all representations, attestations, and certifications contained in this bid/proposal document and all addenda, if any, issued, and to execute this bid/proposal document on behalf of PURCHASER;

(3) PURCHASER, acting through its Authorized Representative, has read, understands, and agrees to all Contract instructions, specifications, and terms and conditions contained in this Contract document (including all listed attachments and addenda, if any, issued);

(4) PURCHASER is bound by and shall comply with all requirements, specifications, and terms and conditions contained in this Contract document (including all listed attachments and addenda, if any, issued);

(5) PURCHASER shall furnish the designated item(s) and/or service(s) in accordance with the bid/proposal specifications and requirements, and shall comply in all respects with the terms of the resulting agreement upon award.

IN WITNESS WHEREOF, the State of Oregon hereby awards the Contract to the above Purchaser for the item(s) and/or service(s) contained in the Contract, including all terms, conditions, and specifications. The Parties have affixed their signatures as of the latest date indicated below.

STATE:
State of Oregon, acting by and through the DEPARTMENT OF FORESTRY

_____
Chief, State Forests Division

Date: _____

PURCHASER:
(Purchaser Name) (SEAL)

By: _____
(Signature of Purchaser Authorized Representative)

Printed Name: _____

As its: _____

Date: _____

PART I: SALE OF TIMBER

GENERAL

Section 1010. Definitions of Terms.

Anchor Stump - a stump used to tie off or wrap a cable or line to firmly secure it.

Archaeological or Historical Resource - those sites, buildings, structures, and artifacts, which possess material evidence of human life and culture of prehistoric and historic past.

Areas of Operations - the locations where PURCHASER performs the Operations described in the Contract. Each Area of Operation usually has specific operating requirements.

At Price Above – material will be charged at the highest rate for that species.

Authorized Representative - a representative of the PURCHASER authorized to receive any notice or instructions from STATE on behalf of PURCHASER and to take any action required in regard to performance of PURCHASER under this Contract.

Basal Area - a measure of the cross-sectional area of a Tree Bole, in square feet, measured 4½ feet above the ground on the uphill side of the tree.

Bidder – is a person, business, corporation, or other entity recognized by the STATE that submits a bid to enter into a contract with the STATE to purchase forest products, and that certifies that the timber will be harvested.

Bunk – a bed for logs with a pair of stakes at each end.

Contract - the entire written agreement between the parties, including but not limited to the Notice of Timber Sale, Invitation to Bid or Request for Proposal, Instructions to Bidders, specifications, terms, and conditions, Exhibits, Operations Plan, change notices, if any, and the accepted bid.

Cultural Resource - an Archaeological or Historical Resource. They may include objects, structures, or sites used by people in the past.

DBH (Diameter at Breast Height) - the diameter of a standing tree inclusive of the bark measured 4½ feet above the ground on the uphill side of the tree.

Down Timber - timber that is down as of the date of this Contract, as determined by STATE.

Down Wood - trees and logs on the ground.

Fire Season - when the State Forester has declared that conditions of fire hazard exist in a forest protection district or any part thereof. The State Forester designates for each district or any part thereof the date of the beginning of a Fire Season for that year. The Fire Season continues for each district or part thereof until ended by order of the State Forester when conditions of fire hazard no longer exist in that district or part thereof.

Green Tree Retention - the practice of leaving live, growing trees on a site during timber harvest as a future source of Snags, old growth trees, large diameter wood, and native seed.

Group Selection Area (GSA) – an area within the Timber Sale Area that has a unique prescription as described in this Contract. Group Selection Areas are less than five acres in most circumstances and are usually marked on the ground with boundary signs. Prescription trees are marked with paint within the Group Selection Area.

Guy Stump - a stump used to tie off or wrap a cable or line to firmly secure it.

Guyline - a cable or rope attached to something to brace, steady, or guide it.

Hazardous Substances - any substance or material that is hazardous or toxic to health or otherwise regulated or controlled under any applicable federal, state or local statute, regulation, ordinance or law.

Improvements - a permanent addition or change to real property, such as a road, structure, or utility, which increases the value of the property.

Landing - a collecting point for logs; the place to which logs are yarded for loading and transportation from the woods.

Live Crown Ratio - the length of a Tree Bole supporting the growth of live branches compared to total tree height, expressed as a percentage.

"Live" Stream - a stream with water flowing through it.

Log Load Receipt Book - a book issued by the STATE used for log load accountability. In each book there are sequentially numbered multipart pages (tickets). Each page is a four-part form. Each of the four parts, on each page, has the same identifying number. The four parts are:

Woods Receipt
Turned in to the ODF District Office that the timber sale is in.

Trucker Receipt
Retained by the log truck driver.

Load Receipt
Stapled to the log load on the truck before the truck leaves the Timber Sale Area Landing. Stays with the log load until the load is dispersed and processed at the mill.

Scaler Receipt
Stapled to the log load on the truck before the truck leaves the Timber Sale Area Landing. When the load is scaled (measured) the Scaler Receipt is transferred to the Scaling Bureau's printout of the log breakdown of the load. This log breakdown (which shows number of logs, species of logs, grades of logs, and board foot volume), along with the Scaler Receipt is sent to ODF headquarters in Salem.

Low Relative Density – an area of heavy thinning where the Relative Density of the residual stand is less than 15.

Major Catastrophes - windstorms, floods, fire, landslides, or other acts of God, which are beyond the control of PURCHASER and in no way connected with negligent acts or omissions of PURCHASER, its officers, employees, agents, or subcontractors.

MBF - thousand board feet.

Operations - all the activities conducted by PURCHASER under this Contract, including Project Work, logging, or post-harvest activities; or the furnishing of all materials, equipment, labor, and incidentals necessary to successfully complete any individual item or the entire Contract.

Operations Plan - the document by which PURCHASER notifies STATE of the plans and schedule for completing the Operations described in the Contract. It also contains the names of the subcontractors, PURCHASER's Authorized Representatives, and STATE's Authorized Representatives.

Patchcut – a small clearcut area; 0.5 to 2 acres in size.

Permit - any Permit required by a federal, STATE, or local government agency before Operations under this Contract may lawfully begin or continue. Permit includes an incidental take Permit under the federal Endangered Species Act.

Pre-Operations Meeting – the initial meeting between the Authorized Representatives of PURCHASER and STATE to discuss operational issues and requirements of the Contract, and to identify the elements to be addressed in the Operations Plan.

Project Location - the points or areas designated as such on Exhibit A and located on the ground by reference to points, stations, natural land features, Improvements, or area boundary signs. The location(s) where project activities occur.

Project Work - work required of the PURCHASER in addition to normal log removal and hauling activities. The PURCHASER is usually compensated for Project Work with Project Work Credits. Project Work can include, but is not limited to, road building, road improvement, rock quarry development, stream enhancement, site preparation, soil stabilization, and water runoff control measures.

Protected Genetic Parent Tree - a seed tree selected for its desirable characteristics that is designated not to be cut or harmed.

Pulp – any conifer log that does not contain a segment of at least 6 inches in gross scaling diameter and 20 board feet (net); or any hardwood log that does not contain a segment of at least 30 board feet (net).

Purchase Price - for each species sold on a recovery basis, "Purchase Price" is defined as the price per MBF listed in Section 1740, "Log Prices." If species is not listed in Section 1740, "Log Prices," the highest price listed in Section 1740, "Log Prices," shall apply.

For bid species sold on a lump sum basis, the Purchase Price for each species shall be determined by using STATE's unamortized timber appraisal value, multiplied by the bid-up factor. Bid-up factor shall be calculated by STATE using the following calculation: Bid value all species/appraised value all species = bid-up factor.

For no-bid species sold on a lump sum basis, the Purchase Price for each species shall be determined by using STATE's unamortized timber appraisal value.

PURCHASER's Authorized Representatives - the representatives authorized by PURCHASER to receive any notice or instructions from STATE on behalf of PURCHASER and to take any action required in regard to performance of PURCHASER under the Contract. PURCHASER's Authorized Representatives are identified in the Operations Plan.

PURCHASER's Deposit Account - an account where PURCHASER timber sale payments are deposited. This is an account set up by the State of Oregon to accept regular and advance timber sale payments from the PURCHASER. Advance payments are defined in the Payment Schedule section of the Contract.

Residual Tree - green tree left standing on an Area of Operation or Timber Sale Unit.

Right-of-Way Timber - trees harvested from a strip of land to enable a road to be constructed.

Setting - the area of a logging operation from which logs are yarded to a single Landing.

Slash - all woody debris resulting from logging Operations, construction of roads, or other Improvements.

Snag - a standing dead tree, or portion of a tree, from which most of the foliage and limbs have fallen.

STATE - the Oregon Department of Forestry, State Forester, or a duly Authorized Representative of the State Forester.

Stream Buffer - designated areas adjacent to a stream where timber is left uncut, or there are other special management or operational requirements. Stream Buffer may be marked in the field.

SUB - Submerchantable materials. SUB, as used by STATE, references that material containing at least 10 board feet (net) but less than the lower merchantable net volume limit or grade requirements for other merchantable material, as defined in Section 2045, "Log Removal."

Subcontract - assign responsibility for work required under the Contract to a party other than the PURCHASER.

SUM - lump sum material.

Tailblock - a pulley that is attached to an Anchor Stump, Guy Stump, Tailhold Stump, tree, or other sturdy object, through which a cable is passed and used to return the mainline and chokers to the cutting area from the Landing.

Tailhold - a stump, tree, or other sturdy object to which a Tailblock, cable, or line is attached.

Tailhold Stump - a stump used to tie off or wrap a cable or line to firmly secure it.

Timber Harvesting Operations - activities conducted by the PURCHASER on a timber sale to remove logs from the woods. These activities can include, but are not limited to, felling, bucking, Yarding, loading, and hauling.

Timber Sale Area - the area or areas designated as such on Exhibit A and located on the ground by reference to legal subdivisions, monuments, natural land features, Improvements, or sale boundary signs. It is the entire area encompassing the material that is required to be harvested.

Timber Sale Unit - a sub-area within an Area of Operation. A Timber Sale Unit usually has more operational requirements, in addition to the operational requirements of the Area of Operation.

Total Purchase Price - For sales with species sold on a recovery basis or a combination recovery basis and lump sum, Total Purchase Price is the sum of each recovery basis species' volume multiplied by the price per MBF listed in Section 1740, "Log Prices," and each lump sum basis species' lump sum price.

For sales with all species sold on a lump sum basis, Total Purchase Price is the total bid price.

TPSO (Third-Party Scaling Organization) - a scaling organization not affiliated with either the PURCHASER or STATE.

Tree Bole - the trunk of a tree.

Utilization Scale - scaling of logs to account for merchantable material that has been lost due to logs not removed from the harvest area, or from improper logging practices that resulted in breakage or wastage to otherwise merchantable logs.

Written Plan - a plan that describes how an operation will be conducted, including the means to protect resource sites described in ORS 527.710(3)(a) (relating to the collection and analysis of resource site inventories), if applicable.

Yarding - the process of conveying logs from the cutting area to the Landing.

YUM (Yarding Unmerchantable Material) - to yard logging residue to a Landing or other specified location.

Section 1020. Sale of Timber. Under the terms and conditions of this Contract, STATE sells to PURCHASER, and PURCHASER buys from STATE, that Board of Forestry timber designated and described in Section 2210, "Designated Timber," which for all purposes of this Contract is hereinafter referred to as "timber." The location of Designated Timber is shown on Exhibit A. PURCHASER shall pay STATE the Total Purchase Price for timber set forth in Section 1710, "Purchase Price," or 1740, "Log Prices." The Total Purchase Price shall be paid to STATE in accordance with the payment schedule in Section 1720 or 1750, "Payment Schedule."

This is a sale of "State Timber" as defined in OAR 629-031-0005 and timber harvested or sold under this Contract must not be exported from the United States. PURCHASER must comply with the provisions of the Forest Resources Conservation and Shortage Relief Amendments Act of 1993, which authorizes Oregon and other western states to prohibit the export of unprocessed timber from public lands, and with ORS 526.801 through 526.831 and OAR 629-031-0005 through 629-031-0045, in disposing of timber from this timber sale.

Section 1030. Title to Timber. During the period of this Contract, and any extension, PURCHASER shall have the right to cut and remove the timber. Such right shall be conditioned upon PURCHASER complying with the provisions of this Contract.

The ownership of and title to the timber shall pass to PURCHASER as the timber is paid for following removal from the Timber Sale Area. Any right of PURCHASER to cut and remove the timber shall expire and end at the time this Contract, or any extension, terminates. All rights and interests of PURCHASER in and to timber and logs remaining on the Timber Sale Area shall, at that time, automatically revert to and revest in STATE, without compensation to PURCHASER.

Section 1040. Quality and Quantity of Timber. STATE makes no guarantee or warranty to PURCHASER as to the quality or quantity of the Designated Timber. PURCHASER shall be liable to STATE for the Total Purchase Price set forth in Section 1710, "Purchase Price," or 1740, "Log Prices," even if the quantity or quality of Designated Timber actually cut, removed, or designated for taking is more or less than that estimated by STATE to be available for harvesting on the Timber Sale Area.

Further, STATE makes no representation, warranty, or guarantee of the accuracy of any information either provided by STATE or made available by STATE under the Public Records Law with respect to this Contract. PURCHASER agrees to bear exclusive responsibility for, and to accept all risks associated with, the actual conditions on the Areas of Operations and PURCHASER's computation of its bid for this Contract.

Section 1050. Examination of Plans, Exhibits, and Areas of Operations. PURCHASER acknowledges and agrees that, before submitting a bid, PURCHASER: (i) has made a careful examination of the terms and conditions of the Contract; (ii) has become fully informed as to the quality and quantity of materials and the character of the Operations required; and (iii) has made a careful examination of the Areas of Operations and the location and conditions of the Operations, including the sources of supply for materials. STATE will in no case be responsible for any loss or for any unanticipated costs that may be suffered by PURCHASER as a result of PURCHASER's failure to acquire full information in advance in regard to all conditions pertaining to the Operations.

COMMENCEMENT AND COMPLETION OF CONTRACT

Section 1110. Commencement of Work. PURCHASER shall not commence work under the Contract until STATE provides written notification to PURCHASER that STATE has received and accepted the following:

(a) The performance bond required under Section 1210, "Performance Bond";

(b) The payment bond required under Section 1230, "Payment Bond";

(c) The certificate of insurance required under Section 1240, "Insurance," subpart (i);

(d) The first payment on the Contract specified in Section 1750, "Payment Schedule"; and

(e) A fully executed original of the Contract.

Further, PURCHASER shall not commence work under the Contract until PURCHASER has attended the Pre-Operations Meeting and STATE has approved the Operations Plan as specified in Section 1140, “Operations Plan.”

Section 1120. Completion Date of Contract. Time is of the essence in this Contract. PURCHASER shall complete and fully perform all Operations under this Contract no later than **October 31, 2013**, unless the term of the Contract is extended in accordance with Section 1530, "Extension of Time." PURCHASER may be required to perform uncompleted Contractual obligations at a time later than stated above or in Section 1530, "Extension of Time." STATE shall notify PURCHASER in writing of these obligations and their required completion date. Upon completion of final Operations, PURCHASER shall notify STATE as required under Section 1315, "Inspection and Acceptance." The Contract will not be complete until STATE has inspected and accepted PURCHASER's performance as specified in Section 1315, "Inspection and Acceptance."

Section 1130. Pre-Operations Meeting. PURCHASER shall meet with STATE prior to STATE approval of the initial Operations Plan required by Section 1140, "Operations Plan," and prior to commencement of operations, to discuss Contract matters, including Threatened and Endangered Species protection efforts, protection of Timber Sale Area resources, and to identify key issues to be addressed in the Operations Plan.

Section 1140. Operations Plan. PURCHASER shall prepare an Operations Plan for all Operations to be conducted under this Contract and shall submit the plan to STATE at least fifteen (15) calendar days prior to commencement of any Operations. This plan shall be prepared on a form provided by STATE, and shall be used for all types of Operations, including road maintenance, Project Work, logging, and post-harvest requirements. In addition to the Pre-Operations Meeting required by Section 1130, "Pre-Operations Meeting, " STATE may require an on-site meeting prior to approval of the Plan, to be attended by PURCHASER, subcontractor, and STATE representatives. STATE's approval of the Plan must be obtained prior to commencement of any Operations. Upon approval by STATE, the Operations Plan(s) shall automatically be incorporated into, and made part of, this Contract as Exhibit B. Each Operations Plan shall be dated.

PURCHASER shall notify STATE prior to any period of inactivity of Operations for more than three (3) days, and again prior to resumption of Operations.

STATE has prepared the Forest Practices Act (FPA) "Written Plan" for Operations within 300 feet of nesting or roosting sites of threatened or endangered species.

Any changes to the Written Plan must have STATE approval. PURCHASER shall comply with all provisions of the Written Plan. PURCHASER's Operations Plan must comply with STATE's Written Plan.

BONDING AND INSURANCE

Section 1210. Performance Bond. PURCHASER shall furnish STATE with a performance bond, in an amount of not less than the greater of (a) the value of all Project Work to be completed under the Contract, as specified in Section 2630, "Credit for Project Work," or (b) twenty percent (20%) of the Total Purchase Price, which bond shall guarantee complete compliance by PURCHASER with the terms and conditions of this Contract and the faithful performance of all required obligations, including payments to all suppliers, materialmen, Contractors, and subcontractors of PURCHASER. PURCHASER's bond may be in the form of one or more of the following: surety bonds, cash, cashier's or certified check, money order, assignment of surety, irrevocable letters of credit, or other securities determined acceptable by the State Forester. Surety bonds must be written by a surety company authorized to do business in the State of Oregon, on a form provided by STATE.

Performance Bond Release

PURCHASER shall keep the performance bond in effect during the term of the Contract, until released by STATE. STATE shall release PURCHASER's bond upon the later of: (a) 180 days after final acceptance of completed Timber harvesting Operations or (b) 180 days after STATE's acceptance of all Project Work required under Section 2610, "Project Work." "Acceptance" under (a) or (b) shall not be provided until STATE has inspected and approved the work and PURCHASER has provided satisfactory evidence of PURCHASER's compliance with all other terms and conditions of the Contract.

Performance Bond Reduction

STATE shall permit PURCHASER to reduce its performance bond under the following circumstances:

180 days after final acceptance of completed Timber harvesting Operations, upon PURCHASER's request and provided no claims are then pending, STATE may permit PURCHASER to reduce the amount of their bond to an amount equal to the value of all Project Work remaining to be performed or accepted.

180 days after STATE has accepted all Project Work required under Section 2610, “Project Work,” upon PURCHASER's request and provided no claims are then pending, STATE may permit PURCHASER to reduce the amount of their bond to an amount equal to twenty percent (20%) of the Total Purchase Price.

Section 1220. Claims Against PURCHASER's Performance Bond.

(a) Claims against PURCHASER's performance bond for failure to make payments when due to suppliers, materialmen, Contractors, and subcontractors of PURCHASER shall be processed in the following manner:

(1) Upon receiving notice from a supplier, materialman, Contractor, or subcontractor of an unpaid obligation of PURCHASER, STATE shall notify PURCHASER and PURCHASER's surety in writing, describing the claim and specifying a date not later than fifteen (15) days from the date of the notice within which PURCHASER shall be expected to respond to the claim.

(2) PURCHASER shall provide, within the time requested by STATE, verification reasonably satisfactory to STATE that the claim has been satisfied or is being addressed in a manner reasonably satisfactory to STATE. If PURCHASER fails to provide such evidence within the time requested, PURCHASER shall be deemed to be in default of the Contract, and STATE shall be entitled to make a claim against PURCHASER's performance bond on behalf of the claimant.

(b) Claims against PURCHASER's performance bond for failure to comply with or perform other obligations under the Contract shall be processed in the following manner:

(1) STATE shall provide notice in writing to PURCHASER and PURCHASER's surety of the nature of the failure to comply or the unperformed obligation, and shall specify a date by which the failure must be remedied.

(2) If PURCHASER fails to remedy the failure or to respond in writing with reasons adequate in STATE's judgment to waive the failure within the time specified in STATE's notice, PURCHASER shall be deemed to be in default and STATE shall be entitled to make a claim against PURCHASER's performance bond on behalf of STATE for an amount deemed reasonably sufficient to cure the failure.

(c) STATE reserves the right to invoke any remedy available to it under the Contract or at law or in equity in the event STATE is required to seek redress from PURCHASER's surety for a Contract violation or default by PURCHASER including, without limitation, termination of the Contract.

Section 1230. Payment Bond. PURCHASER shall furnish a payment bond (or blanket payment bond for multiple Contracts) acceptable to STATE guaranteeing payment for all timber harvested. PURCHASER shall keep the payment bond in effect during the term of the Contract, until released by STATE. Payment bonds may be in the form of one or more of the following: surety bonds, cash, cashier's or certified check, money order, assignment of surety, irrevocable letters of credit, or other securities determined acceptable by the State Forester. Surety bonds (including riders) must be written by a surety company authorized to do business in the State of Oregon, on a form provided by STATE. PURCHASER’s bond shall be in an amount at least equal to the value of timber estimated to be removed during a one-month plus 15-day billing period, as determined by STATE. In any event, the amount shall not be less than one installment payment as specified in Section 1750, "Payment Schedule." Provision of a satisfactory payment bond will permit PURCHASER to remove timber for a 30-day period, after which time, payment for all such removed timber shall be due and owing. PURCHASER shall make cash payment within fifteen (15) days following the end of the monthly period. Upon payment for timber removed in the monthly period, the payment guarantee may be applied as a guarantee for a subsequent period.

A blanket payment bond shall be in an amount at least equal to the value of the timber estimated to be removed from all Contracts covered by the blanket payment bond during a one-month plus 15-day billing period as determined by STATE. PURCHASER shall obtain and furnish STATE with a written consent of surety on forms provided by STATE for coverage of any Contracts to which the blanket payment bond may apply. In no event shall PURCHASER remove timber with a value greater than the amount of the payment guarantee.

Section 1240. Insurance. PURCHASER shall secure, at PURCHASER's expense, and keep in effect during the term of this Contract, the following insurance coverages, in a policy or policies issued by an insurance company or companies authorized to do business in the State of Oregon. The issuing company or companies shall indicate on the insurance certificates required below that STATE shall be given not less than thirty (30) days' notice of any cancellation, material change, or intent not to renew such policy. Any failure to comply with the reporting provisions of this insurance, except for the potential exhaustion of aggregate limits, shall not affect the coverage(s) provided to the State of Oregon, STATE, and their divisions, officers, and employees. PURCHASER shall be financially responsible for all deductibles included hereunder.

The coverage shall be as follows:

(a) Commercial General Liability insurance covering personal injury**,** death, and property damage or destruction in an amount not less than $2,000,000 combined single limit per occurrence and an amount not less than $4,000,000 per aggregate, with Contractual liability coverage to include all Contracts involving the work to be performed under this Contract, Premises Operations, Products and Completed Operations, and Independent Contractors. Required coverage shall be for explosion, collapse, and underground damage if blasting or excavation is required or performed under the Contract. **Excess or Umbrella Liability policies may be used in combination with the Commercial General Liability insurance to cover the required liability limits.**

(b) Automobile Liability insurance in an amount not less than $2,000,000 combined single limit per accident. This required insurance coverage shall include Business Automobile, an endorsement for auto pollution, and shall cover pollutants such as fuel tanks carried in vehicles. **Excess or Umbrella Liability policies may be used in combination with the Automobile Liability insurance to cover the required liability limits.**

(c) Loggers Broad Form coverage in an amount not less than $2,000,000 for costs of fire control, losses or damage from fire, and other causes arising or resulting from activities of PURCHASER, employees, Contractors, subcontractors, and others working or acting for PURCHASER.

(d) Worker's Compensation insurance as statutorily required for persons performing work under the Contract.

(e) Primary Coverage. Insurance carried by PURCHASER under this Contract shall be the primary coverage, and the STATE's insurance is excess and solely for damages or losses for which the STATE is responsible.

(f) "Tail" or "Basis of Occurrence" Coverage. If any of the aforementioned liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this Contract for a duration of 24 months, or the maximum time period reasonably available in the marketplace if less than 24 months. PURCHASER shall furnish certification of "tail" coverage as described or continuous "claims made" liability coverage for 24 months following Contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided its retroactive date is on or before the effective date of this Contract. If Continuous “claims made” coverage is used, Contractor shall be required to keep the coverage in effect for a duration of not less than 24 months from the end of the Contract.

(g) The Commercial General Liability insurance and the Automobile Liability insurance required under this Contract shall include the State of Oregon, the Oregon Board of Forestry, the Department of Forestry, the State Forester, their officers, agents, employees, and members as additional insureds. **The following language shall be used for naming additional insureds:**

ADDITIONAL INSURED: The State of Oregon, **the Oregon Board of Forestry, the Department of Forestry, the State Forester, their officers, employees and agents as Additional Insureds but only with respect to PURCHASER’s activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance.**

(h) As evidence of the insurance coverage required by this Contract, PURCHASER shall furnish a certificate or certificates of insurance including all of the foregoing coverages to STATE. PURCHASER must

provide this proof of insurance to STATE before the Contract period begins and prior to the commencement of work.

(i) All insurance shall be provided by a company with an A or better rating, as determined by A.M. Best Company, unless otherwise approved in writing by STATE.

GENERAL TERMS AND CONDITIONS

Section 1310. Authorized Representatives. During any period of Operations, PURCHASER shall have a designated representative(s) available to STATE on the Timber Sale Area or Project Location, or both, where such activity is separated. The representative(s) shall be authorized to receive any notice or instructions from STATE on behalf of PURCHASER and to take any action required in regard to performance of PURCHASER under this Contract. STATE shall designate a field representative(s) who shall be authorized to receive notices, inspect progress of the Operations, and issue instructions in regard to performance under the terms of this Contract. Authorized representatives of STATE and PURCHASER shall be designated in the Operations Plan required by Section 1140, "Operations Plan."

Section 1315. Inspection and Acceptance. STATE and its authorized and designated representative shall at all times be allowed access to all parts of the Operations and Areas of Operations of PURCHASER, as STATE may determine to be necessary or desirable to make a complete and detailed inspection of the Operations and PURCHASER's compliance with all terms and conditions of this Contract. STATE shall be furnished operation progress status or other information and assistance by PURCHASER, or the Authorized Representative(s), as STATE may determine necessary to permit STATE to verify PURCHASER's compliance with all terms and conditions of this Contract.

PURCHASER shall notify STATE in writing upon completion of final Operations. STATE will inspect the Operations completed by PURCHASER within twenty (20) business days after receipt of written notification that final Operations are complete. Following inspection, STATE shall notify PURCHASER in writing of STATE's acceptance of PURCHASER's performance of the Contract or, if PURCHASER's Operations are not acceptable to STATE, shall advise PURCHASER in writing of the particular defects to be remedied before final acceptance by STATE can be granted.

Section 1320. Assignment of Contract. PURCHASER shall not assign, sell, or transfer rights, or delegate responsibilities under this Contract, in whole or in part, without the prior consent of the STATE. STATE will consent only when assignment is consistent with STATE's fiduciary duties. No such written approval shall relieve PURCHASER of any obligations under this Contract, and any transferee shall be considered the agent of the PURCHASER and bound to perform in accordance with the Contract. PURCHASER shall remain liable as between the original parties to the Contract as if no assignment had occurred. PURCHASER agrees to pay STATE a $250 administrative fee for processing each assignment.

Section 1325. Subcontracting. PURCHASER acknowledges and agrees that if PURCHASER subcontracts all or any part of the Operations, such subcontracting shall in no way relieve PURCHASER of any responsibility under this Contract. PURCHASER shall notify STATE in writing of the names and addresses of each subcontractor prior to the commencement of any Contract work by the subcontractor.

Section 1330. Conditions of Areas of Operations.

Use of Areas of Operations. PURCHASER shall follow the STATE's Authorized Representative's instructions, if any, regarding use of the Areas of Operations. STATE reserves the right to issue written authorization to others to use the Areas of Operations when, in the determination of STATE, such use will not materially interfere with the Operations of PURCHASER. During the term of this Contract, STATE reserves the right to sell any products or materials from the Areas of Operations, provided that the products or materials are not timber included in this

Contract and that removal will not materially interfere with the Operations of PURCHASER. PURCHASER shall not interfere with the use of roads by other authorized users. PURCHASER shall not be held liable for any acts, omissions, or neglect of authorized simultaneous users.

In an emergency affecting the safety of life or of the Operations or of adjoining property, PURCHASER, without special instruction or authorization from STATE's Authorized Representative, shall act reasonably to prevent threatened loss or injury, and shall so act, without appeal, if instructed by STATE's Authorized Representative. Any compensation claimed by PURCHASER on account of emergency work shall be equitably determined by STATE.

Section 1335. Hazardous Substances Discovered by PURCHASER. Unless disposition of Hazardous Substances is specifically made a part of PURCHASER's Operations under this Contract, PURCHASER shall immediately notify STATE of any Hazardous Substances which PURCHASER discovers or encounters during performance of Operations. PURCHASER shall immediately cease operating in any part of the Area of Operations where Hazardous Substances have been discovered or encountered, if continued Operations in such area would present a bona fide risk or danger to the environment or to the health or well being of PURCHASER's or any subcontractor's work force.

Unless disposition of Hazardous Substances is specifically made a part of PURCHASER's Operations under this Contract, upon being notified by PURCHASER of the presence of Hazardous Substances in the Area of Operations, STATE shall arrange for the proper disposition of such Hazardous Substances.

Section 1340. Hazardous Substances Generated/Aggravated by PURCHASER. PURCHASER shall be held responsible for any and all releases of Hazardous Substances during performance of the Contract which occur as a result of, or are aggravated by, actions of its agents, personnel, or subcontractors. PURCHASER shall immediately notify STATE of any release of Hazardous Substances and, as directed by STATE, shall promptly dispose of or otherwise remediate such spills or leaks to the satisfaction of STATE and proper regulatory agencies in a manner that complies with applicable federal, state, and local laws and regulations. Remediation shall be at no cost to STATE.

PURCHASER, at all times, shall:

(a) Properly handle, use, and dispose of all Hazardous Substances brought onto the Areas of Operations, in accordance with all applicable federal, state, or local statutes, rules, or ordinances;

(b) Be responsible for any spills, releases, discharges, or leaks of (or from) Hazardous Substances which PURCHASER has brought onto the Areas of Operations; and

(c) Promptly remediate, without cost to STATE, such spills, releases, discharges, or leaks to the STATE's satisfaction and in compliance with all applicable federal, state, or local statutes, rules or ordinances.

PURCHASER shall report all reportable quantity releases of Hazardous Substances and petroleum products to applicable federal, state, and local regulatory and emergency response agencies. Reportable quantities are found in 40 CFR, Part 302, Table 302.4 for Hazardous Substances and in OAR 340-108 for petroleum products.

Section 1350. Environmental Indemnification. PURCHASER shall indemnify and hold harmless the STATE from any claims resulting from the use, release or disposal of Hazardous Substances including their removal, encapsulation, transportation, handling, and other disposal, during the performance of this Contract, whether or not such use, release or disposal occurs within or outside the Timber Sale Area.

Section 1355. General Indemnification. PURCHASER shall indemnify, defend and hold harmless the State of Oregon, the Oregon Board of Forestry, the State Forester, their officers, agents, employees, and members ("Indemnified Parties"), from all claims, suits, actions, or liens of any nature resulting from or arising out of the activities of PURCHASER or its subcontractors, agents, or employees under this Contract, including any claim

based upon an alleged failure to obtain any necessary Permit, license, or approval, or any claim of liability for premiums, contributions, or taxes payable under any Workers' Compensation, Disability Benefits, Old Age Benefits, including FICA, or tax withholding laws; provided, however, the Oregon Attorney General must give written authorization to any legal counsel purporting to act in the name of, or represent the interests of, any of the Indemnified Parties prior to such action or representation. Further, STATE, acting by and through its Department of Justice, may assume its own defense, including that of its officers, employees and agents, at any time when in STATE's sole discretion it determines that (i) proposed counsel is prohibited from the particular representation contemplated; (ii) counsel is not adequately defending the interests of STATE; (iii) important governmental interests are at stake; or (iv) the best interests of STATE are served thereby. PURCHASER's obligation to pay for all costs and expenses shall include those incurred by STATE in assuming its own defense. All provisions of this Section shall survive the termination of this Agreement.

Section 1360. Severability. If any provision of this Contract is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.

Section 1365. Waiver. Failure of STATE to enforce any provision of this Contract shall not constitute a waiver or relinquishment by STATE of the right to such performance in the future, nor of the right to enforce any other provision of this Contract.

Section 1370. Choice of Law and Venue. This Contract shall be governed by and construed in accordance with the laws of the State of Oregon, as interpreted by the Oregon courts. Any litigation arising out of this Contract shall be conducted in Marion County, Oregon.

Section 1375. Notices. Any written notice to PURCHASER which may be required under this Contract to be served on PURCHASER by STATE may be served by personal delivery to PURCHASER or designated representative(s) by mailing the notice to the address of PURCHASER as is given in this Contract, or by leaving the notice at said address. Should PURCHASER be required to notify STATE concerning the progress of the Operations, or concerning any matter or complaint which PURCHASER may have regarding the Contract subject matter, or for any other reason, that notification is to be made in writing and delivered or mailed to the designated representative of STATE.

Section 1380. Entire Agreement; No Modification. This Contract consists of the entire written agreement between the parties, including but not limited to the Notice of Timber Sale, Invitation to Bid or Request for Proposal, Instructions to Bidders, specifications, terms, and conditions, Exhibits, Operations Plan, change notices, if any, and the accepted bid. No waiver, consent, modification, or change of terms of this Contract shall bind either party, unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made, shall be effective only for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Contract. PURCHASER, by the signature of its Authorized Representative in Section 1000, "Signatures of Contract Parties," hereby acknowledges that she/he has read this Contract, understands it, and agrees to be bound by its terms and conditions.

OWNERSHIP OF MATERIALS AND IMPROVEMENTS

Section 1410. Materials from State Property. PURCHASER shall not take, sell, use, remove, or otherwise dispose of any sand, gravel, rock, earth, or other material obtained or produced from within the limits of rights-of-way, gravel pits, rock quarries, or other property owned by or held by any agency of the State of Oregon, unless authorized by this Contract or separate written consent of STATE.

Section 1420. Materials and Improvements. Title to materials, Improvements, and other property the Contract requires PURCHASER to provide shall vest in and become the property of STATE at the time such are furnished by PURCHASER and accepted by STATE. All materials, Improvements, and property furnished by PURCHASER shall be free and clear of liens, claims, and encumbrances.

PURCHASER shall keep in good repair all Improvements located on State land and existing at the time of execution of the Contract and any Improvements placed on State land by PURCHASER which become the property of STATE under this Contract. PURCHASER shall promptly repair or replace, without cost to STATE, any Improvement injured, damaged, or removed from the Areas of Operations by PURCHASER or by Contractors of PURCHASER.

Section 1430. Removal of Equipment and Materials. Within thirty (30) days after completion, and as a condition of final acceptance of PURCHASER's Operations, PURCHASER shall remove from the Areas of Operations and other property owned or controlled by STATE, all equipment, materials, and other property PURCHASER has placed or caused to be placed thereon that is not to become the property of STATE. PURCHASER acknowledges and agrees that any such equipment, materials, and other property that is not removed within thirty (30) days shall become the property of STATE and may be used or otherwise disposed of by STATE without notice or obligation to PURCHASER or to any party to whom PURCHASER may transfer title. Nothing in this section shall be construed as relieving PURCHASER from an obligation to clean up and to burn, remove, or dispose of debris, waste materials, and such, in accordance with the provisions of this Contract and applicable law. PURCHASER shall indemnify STATE for any cost or expense incurred by STATE as a result of PURCHASER's failure to satisfy this obligation.

CONTRACT CHANGES: EXTENSIONS, MODIFICATIONS, SUSPENSIONS, CANCELLATIONS, DELAYS, AND DEFAULT

Section 1510. Causes Beyond Control. Neither party of this Contract shall be held responsible for delay or default caused by fire, riot, acts of God, sovereign, public enemy, and/or war which is beyond that party's control. STATE may terminate this Contract upon written notice after determining such delay or default will reasonably prevent successful performance of the Contract.

In the event a cause or causes beyond the control of PURCHASER impact PURCHASER's ability to continue to perform under this Contract, STATE may grant a reasonable extension of time but shall not additionally compensate PURCHASER.

Section 1520. Cooperation With Species Protection Efforts. STATE is engaged in an active threatened and endangered species (T&E) survey program. As part of the survey program, ODF surveys its lands on a continuing basis for land management, species protection, research and other reasons. Surveying efforts may take place in the Timber Sale Area any time during the term of the Contract. PURCHASER acknowledges that T&E survey work and/or the discovery of a threatened or endangered species within or in the vicinity of the Timber Sale Area may affect PURCHASER's Operations under the Contract, and PURCHASER agrees to cooperate with STATE's survey work and other activities designed to identify and protect threatened and endangered species. In the event a threatened or endangered species is found within or near the Area(s) of Operations, PURCHASER agrees that STATE may take steps necessary to protect the interests of the State, including restrictions on Operations due to T&E species considerations, Contract modification, suspension or termination. PURCHASER's agreement under this Section is in addition to and shall not relieve PURCHASER of its obligation to comply with all federal and state laws, including the Endangered Species Act, governing threatened and endangered species.

Section 1530. Extension of Time. STATE may extend the time for performance of this Contract upon written request from PURCHASER or at STATE's discretion. A request for extension:

- shall be accompanied by the written consent to an extension of the security by PURCHASER's surety;

- shall state the date to which the extension is desired, the Area of Operations to be affected, and the reason(s) for the extension; and
- must be received by STATE no later than thirty (30) days prior to the expiration date of this Contract unless the need for extension occurred within the thirty (30) days prior to the expiration date, in which case the request must be received prior to the expiration date.

Requests for extension will not be granted solely due to changes in timber market conditions. STATE shall grant a request for an extension only when it determines that extension would be in the best interests of STATE. In no event shall an extension exceed one year.

When STATE grants a request for extension, it may condition that grant upon any condition it determines is necessary to protect the interests of the STATE. Such conditions may include, but may not be limited to, the following:

(a) Payment at time of extension of the full amount of the unpaid balance of the Total Purchase Price. In the case of scale or weight sales, such payment shall be an advance deposit, based on remaining volume, as estimated by STATE.

(b) If PURCHASER is not otherwise in arrears in required payments, STATE may grant additional time for payment of the unpaid balance on the condition that PURCHASER make installment payments based on removal of Designated Timber as required by Section 1750, "Payment Schedule," of this Contract, plus interest on all payments received after the original expiration date.

(c) Completion of designated requirements of this Contract, such as fire trail construction, Snag felling, Slash preparation Operations on logged portions of the Timber Sale Area, and road construction or maintenance.

(d) Payment of an extension fee in an amount determined by STATE (not less than $50). Such fee shall be based upon the loss of production, extra reforestation costs, brush control costs, Slash disposal costs, or other costs which may be caused by the extension.

(e) Waiver of full payment or payment of interest on the unpaid balance of the Total Purchase Price, if STATE determines that extenuating circumstances warrant waiver or waiver is otherwise in the best interests of STATE.

(f) PURCHASER-funded T&E species surveys by STATE-approved surveyors. STATE may require that Operations on the Timber Sale Area be suspended during the survey season until the completion of surveys, in order to ensure a valid survey. The survey season begins March 15 and ends August 31, or upon completion of survey visits, annually.

Section 1540. Contract Modifications. PURCHASER and STATE acknowledge that changes are inherent in Operations of the type covered by this Contract. The number of changes, the scope of those changes, and the impact they have on the progress of the original Operations cannot be defined at the outset of the Contract. These changes may include, but are not limited to, changes in project specifications, project completion dates, Exhibit specifications, rock sources, excavator time requirements, seasonal restrictions, Timber Sale Area resource protection requirements, harvest methods, harvest completion dates, thinning prescriptions, tree harvest size limits, removal specifications, Reserved Timber specifications, haul route requirements, scaling requirements, and Timber Sale Area boundaries. PURCHASER acknowledges and agrees that PURCHASER is not entitled to any reduction in the Purchase Price or Total Purchase Price solely due to the number of changes required to be made in the Contract. Each change will be evaluated on its own merit to determine if an extension of the time for performance under the Contract or an increase or decrease in the Purchase Price or Total Purchase Price is warranted.

STATE reserves the right to make, at any time during the Contract, such modifications as is necessary or desirable; provided such modifications shall not change the character of the Operations to be done nor increase the cost to the PURCHASER of performing the Project Work, unless such change in the Operations or cost increase is approved in writing by PURCHASER. Any modifications so made shall not invalidate this Contract nor

release PURCHASER from its obligations under the performance bond and payment bond. PURCHASER agrees to complete the modified Operations as if they had been included in the original Contract.

If any change under this section causes an increase or decrease in PURCHASER's cost of performance or the time required for the performance of any part of the Operations for which PURCHASER wishes to claim a reduction in the Purchase Price or Total Purchase Price, PURCHASER must submit a written statement Setting forth the nature and specific extent of the claim. Such claim shall include all time and cost impacts against the Contract and must be submitted as soon as possible following the change, but in any event no later than thirty (30) days after receipt of any written notice of modification of the Contract.

If PURCHASER discovers site conditions which differ materially from what was represented in the Contract or from conditions that would normally be expected to exist and be inherent to the activities defined in the Contract, PURCHASER shall notify STATE's Authorized Representative immediately and before the area has been disturbed. STATE's Authorized Representative will investigate the area and make a determination as to whether or not the conditions differ materially from either the conditions stated in the Contract or those which could reasonably be expected in execution of this Contract. If it is determined that a differing site condition exists, any compensation or credit will be determined based on an analysis by STATE's Authorized Representative. If PURCHASER does not concur with the decision of STATE's Authorized Representative and/or believes that it is entitled to additional compensation, PURCHASER may proceed to file a claim.

Claims Review Process. All PURCHASER claims shall be referred to STATE's Authorized Representative for review. All claims shall be made in writing to STATE's Authorized Representative not more than ten (10) days from the date of the occurrence of the event which gives rise to the claim or not more than ten (10) days from the date that the PURCHASER knew or should have known of the problem. Any claim not submitted in accordance with these time requirements shall be waived.

All claims shall be submitted in writing and shall include a detailed, factual statement of the basis of the claim, pertinent dates, Contract provisions which support or allow the claim, reference to or copies of any documents which support the claim, the exact dollar value of the claim, and any specific time extension requested for the claim. If the claim involves Operations to be completed by subcontractors, PURCHASER shall analyze and evaluate the merits of the subcontractor's claim. PURCHASER shall forward the subcontractor's claim and PURCHASER's evaluation of such claim to STATE's Authorized Representative. STATE's Authorized Representative will not consider direct claims from subcontractors, suppliers, manufacturers, or others not a party to this Contract.

The decision of STATE shall be final and binding unless PURCHASER requests mediation within ten (10) days following notice of STATE's decision.

Section 1550. Adjustment of Contract. Notwithstanding any other provisions of this Contract, STATE may, pursuant to Oregon law, make adjustments in the Contract when Major Catastrophes or significant changes in state or federal law after the date of this Contract materially affect the volume and value of timber, or Project Work to be done, as specified in Section 2610, "Project Work," under the Contract. Major Catastrophes are defined as windstorms, floods, fire, landslides, or other acts of God, which are beyond the control of PURCHASER and in no way connected with negligent acts or omissions of PURCHASER, its officers, employees, agents, or subcontractors. Market conditions shall not be considered a reason for Contract adjustments. Adjustments made under this Section, if any, shall be for the sole purpose of placing the parties in their original status under the Contract insofar as possible; provided, however, that no adjustment shall be made in response to any loss or cost to PURCHASER that is recoverable from third parties by PURCHASER. PURCHASER shall make written application to STATE within 30 days after discovery of the damage done by the Major Catastrophe.

If, prior to completion of the Contract, a Major Catastrophe (as defined above) caused by a single event or significant changes in state or federal law results in additional Project Work for PURCHASER involving an additional estimated cost of more than: (1) $500 for sales less than one-half million board feet; (2) $1,000 for sales of one-half million to three million board feet; or (3) $3,000 for sales over three million board feet, STATE may adjust the Contract Project Work Credits by the amount listed, in which event STATE will assume responsibility for any additional cost to complete the Project Work which exceeds the above amount. Adjustments by STATE shall be based on advertised volumes and may be accomplished by adjusting stumpage prices or payment of such additional costs to PURCHASER or by STATE assuming responsibility for performing that

portion of the Project Work in excess of the amount listed above. The estimated cost of additional work shall be calculated by STATE.

If, prior to completion of the Contract, a change in state or federal law, or a Major Catastrophe (as defined above), materially affects the volume and value of timber, STATE may adjust the volume and value accordingly. STATE shall determine the adjustment volume by either an individual tree sample cruise, or a point sample cruise to a 5 percent sampling error of the volume. For purposes of this Contract, "materially affect" shall mean more than $5,000.

Value adjustment shall be calculated by multiplying the volume adjustment times the Purchase Price.

For each species sold on a recovery basis, the Purchase Price is defined as the price per MBF listed in Section 1740, "Log Prices." If species is not listed in Section 1740, "Log Prices," the highest price listed in Section 1740, "Log Prices," shall apply.

For species sold on a lump sum basis, the Purchase Price for each species shall be determined by using STATE's unamortized timber appraisal value, multiplied by the bid-up factor. Bid-up factor shall be calculated by STATE using the following calculation: Bid value of all species/appraised value of all species = bid-up factor.

Section 1560. Violations; Default; Remedies. Any failure by PURCHASER to comply with the terms and conditions of this Contract is a violation. If PURCHASER commits a violation, STATE may, after giving written notice, suspend any further Operations of PURCHASER under this Contract, except those Operations necessary to remedy any violations.
If PURCHASER fails to remedy a violation within the time allowed and as instructed by STATE, or if PURCHASER fails to complete work as required under any interim Contract completion date or the Contract expiration date, or if PURCHASER injures or severs any timber other than Designated Timber, STATE may declare PURCHASER to be in default by providing notice of the default as required under OAR 629-032-0030. If the default is due to failure of PURCHASER to correct a violation as previously instructed, STATE may terminate the Contract as of the date specified in the earlier instruction. If the default is due to failure by PURCHASER to complete work prior to the expiration date or any interim completion date required under the Contract, or if PURCHASER injures or severs timber that is not Designated Timber, STATE may terminate the Contract without providing PURCHASER an opportunity to cure the default.

As provided in OAR 629-032-0050, within fifteen (15) days following receipt of a notice of default, PURCHASER may request a hearing before the State Forester to determine whether a default has in fact occurred. Hearings shall be governed by ORS 183-413 to ORS 183.497.

The provisions of OAR 629-032-0000 through -0070, and any future amendments, are incorporated into this Contract and made a permanent part hereof by reference as though fully set forth herein. THE PROVISIONS OF OAR 629-032-0000 THROUGH -0070 ARE IN ADDITION TO, AND NOT IN LIEU OF, ANY OTHER REMEDIES STATE MAY HAVE FOR THE PURCHASER'S BREACH OF CONTRACT. In the event of a default STATE may pursue any and all remedies available to STATE. Such remedies include, but are not limited to: (1) making a claim on each bond provided by PURCHASER; (2) suing PURCHASER for all damages STATE incurs as a result of PURCHASER's breach; (3) suing PURCHASER for specific performance of the Contract; or (4) terminating the Contract and reselling the timber.

Section 1570. STATE's Right to Suspend Operations. STATE and/or STATE's Authorized Representative may suspend portions or all of the Operations due to causes including, but not limited to:

(a) Failure of the PURCHASER to correct unsafe conditions;

(b) Failure of the PURCHASER to carry out any provision of the Contract;

(c) Failure of the PURCHASER to carry out written instructions from STATE's Authorized Representative;

(d) Conditions which, in the opinion of STATE's Authorized Representative, are unsuitable for performing the Operations;

(e) Time required by STATE to investigate differing site conditions;

(f) STATE-ordered identification or protection of a state or federally listed threatened or endangered species; or

(g) Any reason considered by STATE to be in the public interest.

In the event a suspension of Operations under (d), (e), (f) or (g) above imposes additional costs on PURCHASER, PURCHASER may submit a request for a modification of the Contract under Section 1540, "Contract Modifications"; provided, however, that no claim for a reduction in the Purchase Price or Total Purchase Price will be allowed due to changes in market conditions or lost market opportunities occurring following any suspension of Operations. In addition, in no event shall STATE be liable for any costs incurred by PURCHASER by reason of delay or suspension under this section, including but not limited to costs of additional move-in/move-out of equipment and personnel, extra fire and equipment security, and insurance or bonding expenses.

Extension After Suspension. When a suspension occurs under (d), (e), (f) or (g) above, PURCHASER may request an extension of time for performance of this Contract, for a period not to exceed the period of time during which Operations were suspended. The request for extension must be in writing and:

(1) Shall be accompanied by the written consent to an extension of the security by PURCHASER's surety;

(2) Shall state the date to which the extension is desired and the Area(s) of Operations affected; and

(3) Shall be received by STATE no later than ten (10) days following notice to PURCHASER that Operations may recommence.

STATE normally will not withhold approval of reasonable extension requests made under this section.

PURCHASER's Responsibilities. For the duration of the suspension, PURCHASER is responsible to continue maintenance at the Area(s) of Operations just as if Operations were in progress. This includes, but is not limited to, protection of completed Operations, maintenance of access, protection of stored materials, temporary facilities, and clean-up.

When Operations re-commence after the suspension, PURCHASER shall replace or renew any Operations damaged during the suspension, remove any materials or facilities used as part of temporary maintenance, and complete Operations in every respect as though prosecution had been continuous and without suspension.

PURCHASER shall not cut or remove any timber under this Contract during any period of suspension. Any such cutting or removing shall be considered a willful trespass and shall render PURCHASER liable for triple damages in accordance with Section 1580, "Trespass."

Section 1580. Trespass. PURCHASER shall be exclusively responsible for any damage or removal of other than Designated Timber, and for damage to or removal of timber or other property beyond the boundaries of the Areas of Operations resulting from any activities of PURCHASER. Any such activity resulting from the activities of PURCHASER shall constitute a trespass, and a violation of the Contract. In addition to, and without limiting in any way any other remedies that may be available to STATE, PURCHASER shall pay to STATE damages for any trespass as follows:

(a) For each species involved in the trespass, triple the Purchase Price if PURCHASER’s action is willful or intentional; or

(b) For each species involved in the trespass, double the Purchase Price if PURCHASER’s action is not willful or intentional.

As used in this section, the term "willful" or "intentional" includes, but is not limited to: any voluntary or deliberate activity by PURCHASER, its employees, Contractors, subcontractors, or agents which results in the removal or damage to any timber not described under Section 2210, "Designated Timber," including removal or damage arising from a mistake of law or fact concerning the Designated Timber.

COMPLIANCE WITH LAWS AND REGULATIONS

Section 1610. Permits; Licenses; Safety. PURCHASER shall procure all Permits and licenses, pay all charges and fees, and give all notices necessary and incident to the due and lawful prosecution of the Operations, and shall maintain and keep such Permits and licenses current throughout the term of the Contract.

STATE may at any time require PURCHASER to satisfy STATE that Operations under this Contract comply with state, federal, and local laws, codes, regulations, and ordinances. STATE may require PURCHASER to obtain a Permit, license, or approval from the governmental body or agency responsible for administering applicable laws before PURCHASER may begin or continue Operations under this Contract.

In the performance of the Operations, PURCHASER shall use every reasonable and practicable means to avoid damage to property and injury to persons. The responsibility of PURCHASER stated herein shall cease upon the Operations being accepted as complete by STATE.

PURCHASER shall take all necessary precautions for the safety of all personnel in the Areas of Operations, and shall comply with the Contract and all applicable provisions of federal, state, and municipal safety laws or regulations designed to prevent accidents or injury to persons on, about, or adjacent to the Areas of Operations. PURCHASER shall erect and properly maintain at all times, as required by the conditions and progress of PURCHASER's Operations, all necessary safeguards for protection of workers and the public against any hazards created by the Operations. The STATE's Authorized Representative has no responsibility for safety in the Areas of Operations. Safety in the Areas of Operations is the sole responsibility of PURCHASER.

Section 1620. Workers' Compensation Insurance (ORS 279.320). PURCHASER shall perform the Operations in accordance with the requirements of the Workers' Compensation Law of the State of Oregon during the term of this Contract. In addition, PURCHASER, its subcontractors, if any, and all employers providing work, labor, or materials under this Contract are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017 and 656.029, which requires them to provide workers' compensation coverage that satisfies Oregon law for all their subject workers, unless such employers are exempt under ORS 656.126.

Section 1630. Threatened and Endangered Species. PURCHASER shall at all times observe and comply with all federal and state laws, including the Endangered Species Act of 1973, as amended (16 U.S.C. 1531-1536, 1538-1540), ORS 496.172 to 496.192 (Threatened and Endangered Wildlife Species), and ORS 564.100 to 564.135 (Threatened and Endangered Plants), and lawful regulations issued thereunder, and local bylaws, ordinances, and regulations, which relate to threatened or endangered plant or animal species while performing Operations under this Contract.

Section 1640. Identification and Protection of Cultural Resources. PURCHASER acknowledges that Archeological or Historical Resources may exist within the Timber Sale Area, including within an Area of Operations, and that the existence and location of such Resources may be unknown at the time this Contract is executed. PURCHASER shall exercise due care in its Operations to ensure that in the event any such Resources are discovered in the course of or as a result of PURCHASER's Operations such Resources may be preserved in accordance with the requirements of ORS Chapter 358. Upon discovery of any material suspected to be of Archeological or Historical significance within an Area of Operations, PURCHASER shall immediately halt Operations and shall notify STATE of the potential existence of such material. PURCHASER shall not remove or disturb the material, or resume Operations in the vicinity of the material, until instructed by STATE to do so.

Section 1650. Protection of Soil, Air, and Water Resources. PURCHASER shall comply with Oregon law, including the Oregon Forest Practices Act and rules promulgated thereunder, and with rules and regulations of the, Oregon State Board of Health, the Environmental Quality Commission and other agencies relating to the protection of soil, air, and water resources.

Section 1660. Tax Liability. STATE makes no representations concerning tax liability or consequences arising from this sale of State timber. It is PURCHASER's sole responsibility to determine what tax liability may be incurred as a result of purchasing State timber, regardless of whether the State timber is growing or located on State-owned land or elsewhere. PURCHASER shall be responsible for paying all applicable timber harvest or severance taxes and shall indemnify and hold harmless the STATE against any tax claims arising from the purchase of State timber.

Section 1670. Compliance with Tax Laws. By execution of this Contract, the person signing this Contract on behalf of PURCHASER certifies, under penalty of perjury, that to the best of his or her knowledge, PURCHASER is not in violation of any Oregon tax laws. For purposes of this section, "Oregon tax laws" means those programs listed in ORS 305.380(4). Examples include the state inheritance tax, personal income tax, withholding tax, corporation income and excise taxes, amusement device tax, timber taxes, cigarette tax, other tobacco tax, 9-1-1 emergency communications tax, the elderly rental assistance program and local taxes administered by the Department of Revenue (Lane Transit District Self-Employment Tax, Lane District Employer Payroll Tax, Tri-Metropolitan Transit District Employer Payroll Tax, and Tri-Metropolitan Transit District Self-Employment Tax).

PAYMENTS

Section 1740. Log Prices. The following price schedule shall be designated as the "Purchase Price" and shall apply to all logs removed from Designated Timber. Payment shall be for net log scale, unless noted.

Log prices shall be:

Conifer Logs	Price per MBF
Western hemlock	$
Douglas-fir	$335.03
Sitka spruce and other conifers	$203.08
Western redcedar and other cedars	$625.74
Sawmill grade logs under 20 board feet	At price above
Utility logs, adjusted gross scale	At price above
Peelable cull logs, adjusted gross scale	At price above

At Price Above means material will be charged at the highest rate for that species.

Hardwood Logs	Price per MBF
Red alder and other hardwoods	$351.52
Sawmill grade logs under 30 board feet	$ 35.00
Utility pulp logs, adjusted gross scale	$ 35.00

Contingent Price Adjustment. As provided in Section 1020, "Sale of Timber," it is the policy of the State of Oregon, in accordance with the terms of current federal law and the Constitution and the laws of the State of Oregon, that unprocessed timber shall not be exported from lands owned or managed by the State or any of its political subdivisions or agencies. PURCHASER specifically agrees that Section 1020, "Sale of Timber," is a material term of this Contract and is part of the consideration offered to STATE in return for STATE's performance. In the event that any federal law or state constitutional provision or law or any provision of this Contract concerning export of unprocessed timber is declared invalid by any court or administrative tribunal, PURCHASER agrees to pay to STATE, in addition to the Purchase Price, an incremental amount equal to the

difference between the Purchase Price set forth in this section and any higher price obtained by PURCHASER for the exported unprocessed timber.

The default provisions of OAR 629-032-0000 through 629-032-0070 shall not apply to exported unprocessed timber. In the event that timber made available under this Contract is exported in violation of this Contract, PURCHASER shall be in material breach of the Contract. In such event, STATE shall be entitled to cease performance of the Contract and bar PURCHASER from the Timber Sale Area, and shall recover, in addition to the Purchase Price and additional increment set out above, a further sum estimated by STATE to compensate for administrative expense and the economic impact of the violation upon the State and its citizens. In no case shall this additional amount be less than $10,000 per incident.

Section 1750. Payment Schedule. The Total Purchase Price for timber sold under this Contract shall be paid in advance as follows:

The first payment shall be paid within 30 days of the notice of intent to award or before beginning Operations, whichever occurs first. The first payment shall be 10 percent of the total estimated bid value. The total estimated bid value shall be the sum obtained by multiplying the estimated timber volumes by the Purchase Prices given in Section 1740, "Log Prices," less the value of the Project Work. Cash bid deposits shall be applied to the initial payment.

Subsequent payments shall be made in advance of timber removal when log hauling begins. Each payment shall be made before the value of timber removed equals one-half of an advance payment or within the time period stated on the billing if PURCHASER is more than one-half of a payment in advance. The amount of each advance payment shall be calculated by dividing the total estimated bid value less the initial payment by 9; with the total estimated bid value being the sum obtained by multiplying the estimated timber volumes by the Purchase Prices given in Section 1740, "Log Prices," less the value of the Project Work.

STATE may accept partial payment, upon written request, if logging is inactive. However, the full amount of advance payment must be paid before Operations resume. Partial payment must be sufficient to maintain a payment deposit equal to one-half of a regular advance payment.

The Total Purchase Price shall be calculated after all log scale is reported by multiplying prices in Section 1740, "Log Prices," by the scaled volume. STATE shall refund any advance payment in excess of the Total Purchase Price, or PURCHASER shall pay any deficit within thirty (30) days of notice. PURCHASER's Deposit Account shall not accrue interest payable to PURCHASER.

Section 1760. Payments and Interest. Payments required of PURCHASER by this Contract or modifications of this Contract must be received by STATE within the time period stated on the instrument requesting payment from PURCHASER.

Payments received after the due date stated on the billing instrument may be subject to an interest charge. The interest rate shall not be less than the established minimum state rate on delinquent accounts. The interest rate applied to overdue payments shall be in accordance with ORS 82.010. ORS 82.010 mandates the collection of interest at the annualized rate of 9 percent. Interest shall be calculated from the date of the original billing to the date payment is received by the State Forester.

PART II: SPECIFICATIONS

ACCOUNTABILITY

Section 2015. Log Accountability and Log Load Receipts.

Load Receipt Books. STATE shall issue to PURCHASER sufficient books of serially numbered Log Load Receipts to cover up to 30 days of operation, as determined by STATE. PURCHASER shall sign a receipt for each book of receipts and be fully accountable for all serially numbered Woods Receipt and Scaler Receipt tickets. PURCHASER shall retain all Woods Receipts in each book and return the book to STATE as soon as all receipts in each book have been used. Unused books or portions of books shall be returned to STATE during periods of inactivity lasting over 30 days, and at the completion of timber removal from the Timber Sale Area.

Completion of Load Receipts. PURCHASER shall completely and accurately fill out all portions of the Log Load Receipt before each truck leaves the Landing area. PURCHASER shall require the truck driver of each load of logs to sign the Woods Receipt. PURCHASER shall staple the Load Receipt and Scaler Receipt parts to the load as instructed on the Log Load Receipt directions and as directed by STATE before each truck leaves the Landing area. PURCHASER shall require the scaler to record the Log Load Receipt number on the scale ticket that is signed by the scaler, attach the Scaler Receipt part to a copy of the scale ticket, and mail the scale ticket with attached receipt to STATE on the date scaled.

PURCHASER shall account for each and every serially numbered Log Load Receipt , and shall pay damages to STATE for all Log Load Receipts not accounted for by proof of scaling. Damages may consist of full stumpage rate for each missing receipt, on the basis of average volume of the 10 largest loads of logs scaled from the Timber Sale Area, charged at the highest species rate, or a species rate in the Contract as determined by STATE.

PURCHASER shall not intermingle state timber or logs designated by this Contract with any other timber or logs before log scaling occurs, unless otherwise approved by STATE.

Notification of Delivery Destination. Prior to and as a condition of STATE's final acceptance of PURCHASER's performance of all Contract requirements, PURCHASER shall notify STATE, in a form and manner prescribed by STATE, of the delivery destination of all timber purchased under this Contract. STATE may hold PURCHASER's performance bond until satisfactory delivery destination information has been received.

Notice of Transfer of State Timber. Prior to selling, trading, exchanging, or otherwise conveying unprocessed timber sold under this Contract to any other person, PURCHASER must first obtain a certification of the buyer's eligibility to purchase unprocessed State timber and their intent to comply with the terms and conditions contained in OAR 629-031-0005 through 629-031-0045. The certification shall be made in a form and manner prescribed by STATE and shall be forwarded to STATE upon completion of the transaction. Obtaining the certification shall not relieve PURCHASER of the responsibility to provide STATE with an accounting of the delivery destination of all timber purchased under the Contract.

Section 2020. Log Measurement.

Scaling Locations, Rules, and Organizations. All logs from timber sold under this Contract shall be: (1) scaled at a location approved in writing by STATE; (2) scaled by a third-party scaling organization that is a party to a current agreement with STATE; and (3) scaled using the Official Log Scaling and Grading Rules (as adopted by the Northwest Log Rules Advisory Group) and state special service scaling instructions in effect at the time the logs are scaled. Utilization scale shall be handled in accordance with Section 2055, "Utilization Scale."

Upon loading at the Timber Sale Area, a log load shall be directly hauled to an approved scaling location, if required to be scaled. Log loads shall not be stored for late delivery without written approval from STATE.

PURCHASER shall enter into a written agreement with a third-party scaling organization for the scaling of logs removed from the Timber Sale Area (the “Scaling Agreement”). PURCHASER shall furnish STATE with a copy of the Scaling Agreement upon request. If logs are delivered when a TPSO scaler is not present, PURCHASER must provide STATE with a method to assure protection and accountability.

Unless other arrangements have been made through a Log Yard Agreement between PURCHASER and STATE, PURCHASER shall provide STATE with remote check scaling opportunities for logs scaled under this Contract. The last two loads at each delivery point shall be continuously available for checking. They shall remain available for a minimum of 48 hours unless replaced by other state loads. They shall be available as originally presented for scaling; i.e., if truck scaled, they shall be presented in bunks.

In the event scaling is suspended for any reason, hauling Operations shall be immediately suspended until approved alternate scaling services are provided, or service by the scaling organization is resumed.

Accountability Violations - Remote Scaling Requirement. If PURCHASER violates any of the log accountability requirements of this Contract, STATE may require all logs from timber sold under this Contract to be scaled at a ramp provided by PURCHASER, in a location designated by STATE. All costs associated with this additional scaling requirement shall be paid by PURCHASER.

Cost of Scaling. All costs of scaling and weighing and all costs in connection with reports furnished to STATE shall be paid by PURCHASER.

The Scaling Agreement shall provide, and PURCHASER shall require, that the scaling organization furnish copies each week to STATE, of all scaled certificates showing gross and net volumes, by species and grade, of all logs scaled during the week. Upon request by STATE, PURCHASER shall also require the scaling organization to furnish and attach a log detail listing to each weekly scale certificate showing all state logs included on the certificate.

Scaling Instructions. The Scaling Agreement shall authorize STATE to provide instructions to the approved third-party scaling organization for the scaling practices to be used for timber removed from the Timber Sale Area. Instructions shall conform to the terms of this Contract, including special scales as necessary. PURCHASER shall acknowledge and sign such instructions and shall be provided a copy.

Minimum Products Specifications and Special Scale information are shown on Exhibit C.

Logs Damaged During Handling. Mechanical damage to logs shall be prevented during log handling. Deductions for handling damage shall not be allowed.

Add-Back Volume. Scaling deduction for deterioration due to delay in removal of logs from the Timber Sale Area shall not be allowed in determining net volume. Volume of material deteriorated due to delay in removal shall be reported to STATE and paid for at the Purchase Price. Any cost for separate reports shall be paid by PURCHASER.

Special Scaling Instructions. Segment scaling or grading of logs in excess of 40 feet in gross scaling length shall use actual taper. Procedures are set forth in "Segment Scaling and Grading of Long Logs - All Species - State Forestry Department Scaling Instructions" (Westside).

Section 2030. Log Branding and Painting. Unless prevented by the size or condition of the wood and approved in writing in advance by STATE, at least one end of every log removed from the Timber Sale Area shall be both clearly hammer branded and painted with a minimum 2-inch diameter spot of orange paint. PURCHASER shall use only those brands issued by STATE for use on timber sold under this Contract. Only those brands issued by STATE for use on timber sold under this Contract shall be allowed on the Areas of Operations at any time.

In addition, PURCHASER shall brand and paint all logs left singly or in decks along rights-of-way, and shall brand and paint one end of all logs yarded and left on Landings after termination of Operations each day.PURCHASER shall make every effort to remove logs from roads or Landings within a reasonable period of time, and agrees to

notify STATE in advance if it intends to leave logs decked along roads or on Landings for more than 96 hours. STATE may scale such decked logs, and PURCHASER shall be responsible for the costs of such scaling and for any loss due to theft or deterioration.

STATE may issue PURCHASER one or more branding hammers registered to STATE. PURCHASER shall sign a receipt for all branding hammers registered to STATE and issued to PURCHASER, and will return them in good condition within 14 calendar days following completion of log hauling. PURCHASER shall pay a fee of $100 to STATE for each branding hammer returned to STATE in damaged and unusable condition, or $200 for each branding hammer not returned within the time specified by STATE. PURCHASER may replace damaged branding hammer handles, but only with 24" wooden handles, or with handles approved by STATE.

If properly marked timber is subdivided into smaller pieces for any other purpose than immediate processing, each piece shall be branded with a state brand specifically used for this purpose, signifying the logs are State timber and ineligible for export. Additional branding hammers registered to STATE, to be used for this purpose, may be obtained from STATE upon request, at cost.

Section 2035. Hauling and Operating Time Restrictions. PURCHASER shall not haul logs from the Timber Sale Area on weekends, the following State-observed holidays: New Year's Day, Independence Day, Thanksgiving Day, and Christmas Day, or outside the hours of 3:00 a.m. to 6:00 p.m. daily without notification to and prior approval by STATE.

Vibratory roller use shall not be allowed from April 1 through August 5, and from August 6 through September 15 between two hours before sunset and two hours after sunrise within the two seasonally restricted areas shown on the Exhibit "A" on Road Segment I3 to I4 (Section 2610).

Section 2045. Log Removal. All logs defined below, except those specified in Sections 2220 through 2250, "Reserved Timber," shall be removed as Designated Timber under this Contract, at prices given in Section 1740, "Log Prices":

(a) Any conifer log that conforms with grading rules for peeler or sawmill grades and meets or exceeds both of the following minimum requirements: 6 inches in gross scaling diameter, containing 20 board feet (net).

(b) Any hardwood log that conforms with grading rules for No. 4 Alder log grade or better and meets or exceeds both of the following minimum requirements: 6 inches in gross scaling diameter, containing 20 board feet (net).

For purposes of log removal requirements, minimum net log volume shall be determined by the net volume of the full log length rather than the volume of individual segments.

Other logs may be removed from Designated Timber under this Contract at prices given in Section 1740, "Log Prices."

Log grades are defined in the Official Log Scaling and Grading Rules published by the Northwest Log Rules Advisory Group in effect at the time logs are scaled.

PURCHASER shall not deliberately buck logs to reduce log sizes to less than minimum requirements for log removal, and shall take reasonable precautions to prevent breakage losses in felling and Yarding.

Section 2050. Route of Haul. PURCHASER shall furnish to STATE, at the time of making request for scaling approval, a map showing the scaling location and the precise route which shall be used to haul logs from the Timber Sale Area to the scaling location. Such route shall be the most direct haul route between the two points, unless another route is approved by STATE. The route of haul may be changed only with advance written notice to, and prior approval by, STATE.

Section 2055. Utilization Scale. STATE shall scale logs or portions of logs that are broken, wasted, or not removed by PURCHASER due to: (1) improper felling or bucking of the logs; (2) failure to remove the logs prior to deterioration; and (3) logs remaining on the Timber Sale Area after completion of logging, provided the logs were merchantable prior to breakage or wastage. Material used to meet down material requirements in Sections 2220 through 2250, "Reserved Timber," shall not be considered for Utilization Scale. PURCHASER shall pay for the logs at the Purchase Price designated in Section 1740, "Log Prices." STATE shall notify PURCHASER of the volume of logs so scaled. Payment shall be considered due on such volume as if the logs were removed on the date of said notification.

In the event PURCHASER disagrees with the findings made by STATE under this section, PURCHASER may furnish scaling by a third-party scaling organization acceptable to STATE. Costs and expenses of such third party shall be paid for by PURCHASER, and the findings of the third party shall be final.

Section 2060. Special Products. "Special products" are any products not in log form manufactured from material having a price, or listed as "No Charge," under the Contract. PURCHASER shall not sell special products from the Timber Sale Area, or allow firewood, shake, or post cutting, or any other special product manufacturing on the Timber Sale Area without prior written approval of STATE.

ACCESS AND ROAD MAINTENANCE

Section 2120. Access. PURCHASER shall use the roads shown on Exhibit A for access to the Timber Sale Area and Project Locations. If gate keys are required to access the Timber Sale Area, they can be obtained at the ODF District Office by a designated PURCHASER's Authorized Representative. Any keys not returned at the completion of all operations under this contract shall be subject to a fee of $100 per key not returned. If PURCHASER desires to use an alternative route, it shall be PURCHASER's responsibility to secure that access and obtain STATE approval for the route. The use of access roads shall be limited to that necessary to carry out the terms and provisions of this Contract. Except as otherwise provided for in this Contract, PURCHASER shall have the right of access over, in, and through the Timber Sale Area for the purpose of cutting and removing timber or performing other Operations. PURCHASER, in so using, improving, or constructing roads, shall at no time have an interest in the land, other than the temporary right of access during the term of the Contract.

PURCHASER shall comply with all applicable terms and conditions, including payment of any fees, of any access documents set forth in the provisions of this Contract, which are by this reference made a part of this Contract. The following access documents pertain to this Contract.

Access Easement. PURCHASER's use of any road listed below is subject to an easement by and between the parties named below; which may include requirements to furnish evidence of insurance coverage, performance bond, entering into a third-party agreement, maintenance, or other actions. STATE shall provide copies of easements or agreements when this Contract is executed.

Cougar Mountain Road. Easement (#311.04464) dated June 11, 1981, by and between the State of Oregon, Board of Forestry and Crown Zellerbach Corp. requiring insurance, road maintenance, and 15-day notification prior to use. Current landowner: Longview Timberlands LLC.

Cougar Mountain Road. Easement (#311.04461) dated July 7, 1981, by and between the State of Oregon, Board of Forestry, State Land Board, and Longview Fibre Co , requiring insurance, road maintenance, and 15-day notification prior to use. Current landowner: Longview Timberlands LLC.

Cougar Mountain Road. Easement (#311.04360) dated May 7, 1971, by and between the State of Oregon, Board of Forestry and Boise Cascade Corp., requiring road maintenance and insurance. Current landowner: Longview Timberlands LLC.

North Fork Nehalem Road. Easement (#311.04143) dated September 29, 1976, by and between the State of Oregon, Board of Forestry and Waterhouse Trust,, requiring insurance and road maintenance. Current landowner: John McCracken/McCracken Woodlands, LLC.

Section 2130. Road Maintenance. PURCHASER is responsible for normal road maintenance on roads used for any activity under this Contract. Normal road maintenance shall provide for safe forest driving conditions, continuous access and road use, protection of roads from damage, water quality, and compliance with all applicable laws.

PURCHASER's responsibility for normal road maintenance commences with PURCHASER's first use of a road for any activity under the Contract period and shall continue until final acceptance of the maintenance is made by STATE. In addition, PURCHASER is responsible for normal road maintenance needs that are caused by public use of the roads.

If other parties are authorized under Section 1330, "Conditions of Areas of Operations," to use roads in the Timber Sale Area, PURCHASER and each party so authorized shall be responsible for a proportionate share of normal maintenance, based upon the ratio of each party's use to total road use, as determined by STATE.

STATE will determine when maintenance is needed and will issue instructions to PURCHASER specifying work to be done and the date by which it must be completed.

"Normal road maintenance" shall include any action needed to prevent and protect the road from soil contamination, seasonal weather damage, protect water quality, repair damage caused by road use, and restore the road to at least the road condition at commencement of use, including, but not limited to:

(a) Cut Banks and Fill Slopes.

(1) Remove Slash created by Operations.

(2) Remove obstructions and fallen timber.

(3) Restore stability impacted by Operations.

(4) All cut bank and fill slope maintenance work shall be performed in such a manner that soil and vegetative material does not contaminate the road surface.

(b) Ditches.

(1) Remove bank slough, minor slides, and obstructions.

(2) Remove Slash created by Operations.

(3) Restore to functional drainage.

(4) Minimize erosion and/or sediment delivery by placement and maintenance of filtering systems.

(5) Soil and vegetative material shall not be pulled across the road surface.

(c) Drainage Systems.

(1) Clear all culverts, including inlets, outlets, half rounds, and sediment catching basins.

(2) Maintain waterbars, drainage dips, and other water diversion measures.

(3) During active use, patrol and maintain functional drainage.

(4) Repair damaged culvert ends.

(d) Road Surfaces.

(1) Grade, shape, crown, and/or outslope surface and shoulders at such time that the moisture content will bind the rock surfacing. Rip potholes prior to grading, then compact in accordance with Exhibit D, "Compaction and Processing Requirements".

(2) Provide leveling, patching, and/or reinforcement rock for restoring purposes.

(3) Prevent contamination of road surface materials with soil and vegetative material.

(4) Prevent road surface materials from being bladed off the road.

(5) Temporarily cease road use to prevent and/or protect the road during adverse weather conditions. Examples of adverse weather conditions are freezing and thawing cycles, high soil moisture caused by rainfall events, and accumulation of snow that requires removal to continue hauling activity.

At the conclusion of Project Work as well as log hauling Operations, PURCHASER shall process and compact crushed rock surfacing on all roads used for hauling under this Contract

Processing and compaction shall be done in accordance with Exhibit D, “Compaction and Processing Requirements.” Application of water may be required to achieve optimum conditions for rock processing and compaction.

For maintenance on state roads, PURCHASER may use rock obtained from stockpile locations as determined by STATE. They are the Hamlet Stockpile, the Sweethome Stockpile, the Fall Creek Stockpile, and/or the Cougar Mountain Stockpile as directed by STATE. Prior to any rock spreading, PURCHASER shall obtain approval from STATE.

Log hauling on unsurfaced roads, Sweethome Road, and North Fork Nehalem Road shall not be allowed from November 1 through April 30, unless otherwise approved in writing by STATE.

Vibratory roller use shall not be allowed from April 1 through August 5, and from August 6 through September 15 between two hours before sunset and two hours after sunrise within the two seasonally restricted areas shown on the Exhibit “A” on Road Segment I3 to I4 (Section 2610).

“Extraordinary maintenance” is defined as major repair work and/or damage caused by acts of God or causes beyond the control of PURCHASER, as defined in Section 1550, "Adjustment of Contract." STATE may require PURCHASER to perform extraordinary maintenance in addition to normal road maintenance. STATE shall describe the amount and specifications of work to be done in writing, and make adjustments in the Contract in accordance with Section 1550, "Adjustment of Contract."

TIMBER SALE AREA

Section 2210. Designated Timber. The timber is located on the Timber Sale Area designated on Exhibit A.

In accordance with Section 1020, "Sale of Timber," the following is Designated Timber, except as excluded by Sections 2220 through 2250, “Reserved Timber,” and may be removed by PURCHASER in accordance with the terms and conditions of this Contract:

(a) All unmarked trees within Areas 1 and 2.

(b) All timber within Area 3 R/W.

Boundary markings are as follows:

(1) Area 1 is posted along the east and south boundaries with "Timber Sale Boundary" signs, and pink “Timber Harvest Boundary” flagging. The north boundary of Area 1 is posted with "Timber Sale Boundary" signs, pink “Timber Harvest Boundary” flagging, and blue paint. The west boundary of Area 1 is the forest type change boundary (Reforestation Area) and is non-posted.

(2) Area 2 is posted along the west, east and south boundaries with "Timber Sale Boundary" signs, and pink “Timber Harvest Boundary” flagging. The northwest boundary of Area 2 is posted with "Timber Sale Boundary" signs, pink “Timber Harvest Boundary” flagging, and blue paint. The northeast boundary of Area 2 is the forest type change boundary (Reforestation Area) and is non-posted.

(3) Area 3 R/W is posted with "Right-of-Way Boundary" signs.

(4) The Stream Buffers are posted with “Buffer Zone” signs and pink “Timber Harvest Boundary” flagging.

PURCHASER shall not use or possess any blue paint on the Timber Sale Area.

Section 2220. Reserved Timber. Reserved Timber is that timber, including trees, Snags, and logs, on the Timber Sale Area which is not sold to PURCHASER. Reserved Timber shall not be damaged, cut, or removed by PURCHASER, unless otherwise approved in writing by STATE. Failure to leave the required Reserved Timber shall be handled as described in Section 2260, “Reserved Timber - Damages.”

Section 2230. Reserved Timber - Down Material.

(a) Down trees and logs, except those not meeting the removal requirements in Section 2045, “Log Removal”.

(b) In Areas 1 and 2, an average of 600 cubic feet of conifer logs per acre. Logs shall contain a minimum of 10 cubic feet of volume, and be no shorter than 6 feet in length, to be selected by PURCHASER. Two logs per acre shall be at least 24 inches in diameter, at the large end where available. Conifer logs must be in Decay Class 1 or 2 condition as indicated by intact bark and original wood color. Trees and/or logs shall be well distributed across the Timber Sale Area(s).

Section 2240. Reserved Timber - Trees and Snags.

(a) All Snags unless determined to be a safety hazard. Felled Snags shall not be yarded or removed.

(b) Conifers with crooks, breaks, missing tops, multiple tops, or other severe defects which have less than 20 net board feet may be left.

(c) Trees less than 8 inches DBH within Areas 1 and 2.

(e) Unmarked trees within posted Stream Buffers.

(f) Trees and Snags within the Green Tree Retention Area shown on Exhibit A.

(g) Trees and Snags marked "W" with blue paint.

(h) All cedar shall be reserved from cutting unless determined to be a safety hazard by STATE, except those within rights-of-way, skid trails and roads, skyline cable corridors, and Landings.

(i) As directed by STATE, PURCHASER shall leave acceptable substitute trees or Snags for trees or Snags which must be cut. Substitution of trees or Snags without approval by STATE is prohibited.

Section 2250. Reserved Timber - Boundary Trees.

(a) Trees posted with "Timber Sale Boundary" signs are reserved from cutting.

(b) Trees posted with "Right-of-Way Boundary" signs within the Timber Sale Area shall not be cut until road subgrade construction is accepted by STATE.

Section 2260. Reserved Timber - Damages.

PURCHASER shall be exclusively responsible for any damage to, or removal of, Reserved Timber. If damage to Reserved Timber occurs and is determined unavoidable by STATE, no charge will be made for damage.

If PURCHASER's activities result in avoidable damage to Reserved Timber as determined by STATE, PURCHASER shall pay for such damage at the following rates:

(a) The Purchase Price shall be paid when:

(1) "Minor damage" to Reserved Timber occurs during the course of normal logging. Minor damage is defined as bark removed down to the cambium layer of a tree, such removal affecting at least 24 square inches, but less than damage defined as "major damage."

(2) Trees must be cut in order to facilitate Operations, or for safety around Landings, as approved in writing by STATE.

(b) Double the Purchase Price or $50, whichever is greater, shall be paid when:

(1) "Major damage" to Reserved Timber is caused by Operations of PURCHASER. Major damage is defined as follows:

(A) Bark removed down to the cambium layer over an area of the bole which has one dimension greater than the diameter of the tree, or any visible bark removal on the tree roots.

(2) More than 50 percent of live crown is removed.

(3) Tree is knocked down, or leaning more than 10 degrees from vertical.

(c) Triple the Purchase Price or $100, whichever is greater, shall be paid when:

(1) Reserved Timber is intentionally cut or removed.

(2) Reserved Timber is intentionally damaged.

(3) Repeated major damage occurs to Reserved Timber.

(4) Any intentional "notching" or undercutting of Reserved Timber with an axe or saw occurs.

STATE may direct damaged timber to be left. In that case, payment for damage shall be reduced by the Purchase Price of such timber.

Payment for damage to or removal of Reserved Timber shall not release PURCHASER from liability for other damage to property of STATE.

HARVESTING OPERATIONS

Section 2310. Felling. PURCHASER shall comply with the following requirements for felling:

(a) A feller-buncher with a lateral reaching boom is required for all mechanical felling.

(b) Fell all trees and Snags on Area 3 R/W.

(c) Bearing witness trees in Areas 1 and 2 shall be cut above any scribing or as marked.

(d) Prior to felling in Areas 1 and 2, PURCHASER shall arrange to have all the fallers who will work in the Timber Sale Area meet with STATE to review the requirements specified in Section 2310, "Felling" and Sections 2220 through 2250, "Reserved Timber." PURCHASER shall give STATE 48 hours' advance notice before starting a new faller on the Timber Sale Area to allow STATE the opportunity to brief the faller on these sections.

(e) Cedar trees shall not be felled without prior approval from STATE, except in rights-of-way, skid roads, cable corridors, and Landings.

(f) Snags shall not be felled without prior approval from STATE, except in rights-of-way, skid roads, cable corridors, and Landings.

STATE may require certain trees or Snags, described by the preceding specifications, to be left standing if they are needed for wildlife habitat, or if the Snags do not constitute a safety hazard. STATE shall designate such trees or Snags at the time of timber felling.

Trees shall not be felled across Timber Sale Area boundaries, unless authorized in writing by STATE. Any trees that fall across Timber Sale Area boundaries shall be yarded back into the Timber Sale Area prior to limbing or topping.

PURCHASER shall employ the following timber cutting practices on the Timber Sale Areas, unless otherwise approved by STATE:

(1) Trees shall be felled to the longest lay, using the necessary means (wedging, jacking, etc.), favoring a quartering uphill lead.

(2) Trees shall not be felled across draws, over ridges, or across previously felled trees.

(3) Trees that cannot be controlled into desired felling patterns (Snags, rotten-butted trees, heavy leaners, etc.) shall be felled first, and the direction of subsequently felled timber corrected accordingly.

(4) Maximum stump height shall be 12 inches (or 60 percent of stump diameter, whichever is greater, unless otherwise approved by STATE. Heights shall be measured on the uphill side.

Section 2330. Controlled Felling Area. In addition to the felling requirements in Section 2310, "Felling," PURCHASER shall use controlled felling in the "Controlled Felling Area" shown on Exhibit A. Controlled felling may include line felling, tree jacking with hydraulic rams, or any other method approved by STATE. High stumps shall be left where necessary to prevent logs from entering streams or Stream Buffers. PURCHASER shall notify STATE at least 48 hours prior to the beginning of the felling Operations adjacent to the Stream Buffer.

Section 2345. Substitution of Trees. PURCHASER shall leave acceptable substitute trees as approved by STATE for any conifer Reserved Timber which must be cut to facilitate logging (i.e., cable corridors, Landings, or skid trails) or to resolve safety problems pursuant to Section 1610, "Permits; Licenses; Safety" (i.e., danger trees, Guyline trees, hang-ups).

STATE reserves the right to require PURCHASER to:

(a) Leave substitute trees of a different species; and

(b) Leave substitute trees for reserved Snags that must be cut.

Substitution of trees without approval of STATE is prohibited. Any Reserved Timber cut without approval by STATE shall be paid for in accordance with Sections 2220 through 2250, "Reserved Timber."

Section 2350. Cable Yarding Specifications. Yarding systems shall be designed to minimize soil disturbance and damage to Reserved Timber. PURCHASER shall use cable Yarding, except as approved by STATE in the Operations Plan. PURCHASER shall comply with the following when Yarding Areas 1 and 2, except as approved by STATE in the Operations Plan:

(a) Logs shall have at least one end suspended when Yarding.

(b) When cables pass through or over streams shown on Exhibit A, all necessary precautions shall be taken to protect all Stream Buffer components.

Necessary measures include, but are not limited to, the following:

(1) Pull cables out of the Reserved Timber prior to rigging the next Yarding road.

(2) Yarding roads shall be at least 100 feet apart where they extend over or through the buffer.

(c) Soil gouging shall be limited to a depth of one foot.

(d) If Tailhold or Guyline trees outside of the Timber Sale Area are necessary to facilitate Yarding Operations, PURCHASER shall acquire written approval from STATE prior to their use. Upon approval, PURCHASER shall clearly mark each tree and take precautions to prevent damage to said trees including, but not limited to:

(1) Using trees near the timber sale boundary that can be felled and yarded without causing damage to Reserved Timber.

(2) Using tree plates, tires, or other suitable materials between cable straps and the tree to prevent scarring the tree.

(3) Limiting notching of the tree - to prevent strap slippage - to less than 25 percent of the circumference of the tree, unless the tree has been approved to be cut and removed.

If the above precautions are followed, payment for such tree shall not be required, except for trees removed per Item (1) above, which shall be paid for at single the Purchase Price, as specified in Sections 2220 through 2250, "Reserved Timber."

If the above precautions are not followed and activities result in damaging 50 percent or more of the circumference of such trees, damage shall be considered avoidable. Payment shall be at the rate of triple the Purchase Price, as specified in Sections 2220 through 2250, "Reserved Timber."

If tailholds are required within the seasonally restricted area as shown on Exhibit A, STATE shall be notified prior to any operations for approval of each tailhold and corridor.

Section 2355. Ground-Based Operations. Timber Sale Areas, or portions thereof, where ground Yarding has been approved in the Operations Plan are subject to the following restrictions, unless otherwise approved in writing by STATE:

(a) PURCHASER shall limit skid roads and trails, and all other locations where soil is compacted or displaced, to less than 10 percent of the ground yarded area.

(b) Preexisting skid roads and trails shall be used whenever possible, and soil disturbance or construction of new skid roads and trails shall be limited to that necessary to log the area.

(c) Operations shall not be conducted under conditions where soils are rutted or excavated to a depth of 12 inches or more.

(d) Equipment shall not operate on slopes greater than 30 percent. Written approval may be granted for short distances on slopes exceeding 30 percent when, in the opinion of STATE, it would be unreasonable to yard by pulling line.

(e) Yarding shall not be permitted on rocked roads.

(f) Ground-based Operations shall not be allowed from November 1 through April 30.

(g) Ground Yarding equipment shall not be operated within 50 feet of streams.

(h) PURCHASER shall suspend ground Yarding during periods of high soil moisture as determined by STATE.

(i) Operations shall be designed to minimize soil disturbance and damage to Reserved Timber.

If the above conditions are not met by PURCHASER, STATE at its option, may require PURCHASER to suspend Yarding activities until corrective measures have been agreed upon by STATE and PURCHASER.

Time lost while STATE exercises any of the above options shall not constitute grounds for Contract extension.

Section 2360. Non-Project Roads and Landings. Improvement or construction of roads or Landings not required in Section 2610, "Project Work," but approved in the Operations Plan, shall be subject to the following requirements, unless otherwise approved in writing by STATE:

(a) Prior to felling, PURCHASER shall mark Right-of-Way clearing limits and obtain STATE approval.

(b) Subgrade shall not exceed 14 feet in width.

(c) Landings shall be constructed no more than 50 feet wide. The surface shall be crowned for drainage.

(d) Operations shall not be allowed from October 1 through April 30.

(e) Roads shall be waterbarred according to the specifications in Exhibit J and blocked to vehicular traffic as directed by STATE by October 1 or upon completion of use, whichever occurs first.

Section 2365. Progressive Operations. PURCHASER shall complete the following requirements on each Setting prior to moving to a new Setting, unless otherwise approved in writing by STATE:

(a) Construct cross-drainage ditches or waterbars as specified in Exhibit J and as directed by STATE.

(b) In Areas 1 and 2 PURCHASER shall place debris from Yarding (tops, limbs, cull logs, etc.) in a stable location approved by STATE. All Landing Slash shall be piled in the center of the Landing, as directed by STATE, prior to moving to another Landing area. Debris shall be piled in a manner suitable for burning. The lower one third (or three to four feet from the base) of piles shall be covered to prevent water from reaching Slash. PURCHASER shall supply the materials used for covering the Slash. Additional Slash shall be piled on top of the covered piles to complete the piling as directed by STATE. Debris shall not be left lodged against standing trees. Material suitable for firewood cutting shall be piled separately from other Slash and staged in an accessible area for firewood cutting on all settings accessed by surfaced roads, as directed by STATE.

(c) Logs shall be removed from each Landing before moving to the next Landing. This may require “bumping” logs forward to the next Landing on a truck or with the log loader, unless otherwise approved by STATE.

In addition, PURCHASER shall complete the following requirements within the following time frames, on an Area basis, unless otherwise approved in writing by STATE:

(1) Complete all felling requirements as required by Section 2310, "Felling," within 14 calendar days after completion of Yarding activities.

(2) Remove all trash from the Timber Sale Area within 14 calendar days after completion of log hauling activities.

(3) Remove all equipment and materials from the Timber Sale Area, as required by Section 1430, "Removal of Equipment and Materials," within 30 calendar days after completion of log hauling activities.

(4) Begin Slash piling within 14 calendar days after completion of Yarding Operations on a Timber Sale Area.

(5) Complete road maintenance requirements of Section 2120, "Access," and Section 2130, "Road Maintenance," within 30 calendar days after completion of log hauling activities.

(6) Remove Right-of-Way logs from a road segment prior to requesting subgrade approval by STATE.

PROTECTION DURING OPERATIONS

Section 2410. Damage to Reforested Areas. PURCHASER shall take all necessary precautions to avoid damage to reforested areas adjacent to, within, or near the Timber Sale Area. If PURCHASER's Operations damage reforestation areas shown on Exhibit A, STATE shall determine the extent of the damage and PURCHASER shall reimburse STATE at double the calculated value of the damaged reforestation as determined by STATE.

Section 2415. Protection of Watershed. PURCHASER shall take all necessary precautions to prevent damage to stream banks, any stream course, lake, reservoir, or forested wetland within or adjacent to the Timber Sale Area. Definitions of Type F, Type D, and Type N streams contained in the Forest Practices Act apply to this Contract.

STATE has on file at the Astoria District, Oregon Department of Forestry Office, the required Road Water Registration permit (RW-86342) for water use at designated diversion points as shown on Exhibit A, for the purpose of road maintenance, construction, and reconstruction associated with this timber sale. In order for PURCHASER to meet work requirements of Section 2130, “Road Maintenance,” and Section 2610, “Project Work,” that require the diversion and use of water, while still meeting the requirements of Section 1610, “Permits; Licenses; Safety” and Section 1650, “Protection of Soil, Air, and Water Resources,” the following conditions must be adhered to:

(a) The Watermaster shall be notified by fax (503-842-3680) 10 days prior to use of any point of diversion, and also by phone message/contact (503-842-2413, ext. 119) on the day diversion (pod) will take place. The fax should include the anticipated amount of water to be diverted and an Oregon Department of Fish and Wildlife Small Pump Screen Self Certification form.

(b) If multiple projects will be going at the same time, the Watermaster notification can include those projects in one notification.

(c) The Watermaster may restrict the pod’s that can be used as streamflow falls during the season.

(d) Use shall not exceed 30,000 gallons from a single source during any 24-hour period.

(e) No dam, reservoir, or other impoundment facility may be constructed within a designated scenic waterway.

(f) Under no circumstances may the water course be dewatered to a degree that the live continuous flow is obstructed.

(g) A pump screen that complies with Oregon Department of Fish and Wildlife Small Pump Screen Self Certification form, which is on file at the Astoria District, Oregon Department of Forestry Office, shall be used at all times during water diversion.

(h) Only registered diversion points on ODF managed lands as shown on Exhibit A or other Registered Water Use Sites as approved by STATE shall be used.

Activity in "Live" Streams shall not be allowed from September 1 through June 30, unless otherwise approved in writing by STATE.

In addition, PURCHASER shall perform all measures necessary to protect the stream banks, streambed, and vegetation within the Stream Buffers shown on Exhibit A. The Stream Buffers are as follows:

All perennial Type N streams in Areas 1 and 2 are posted with “Buffer Zone” signs and pink “Timber Harvest Boundary” ribbon. These posted stream buffers are shaded in grey on Exhibit “A” maps.

No ground yarding equipment is allowed to operate within 50 feet of the streams in Areas 1 and 2.

Necessary measures include, but are not limited to, the following, unless otherwise approved in writing by STATE:

(a) Fell adjacent trees and Snags away from or parallel to the buffer to prevent them from entering the buffer.

(b) Do not operate ground-based equipment within the buffer.

(c) Do not fell trees within the buffer.

(d) Cable Yarding over or within the buffer shall be done in accordance with the requirements of Section 2350, "Cable Yarding Specifications."

(e) Trees that fall or slide into the Type F streams shall not be removed without prior approval from STATE.

PURCHASER shall comply with the following instructions for removal of debris that enters streams as a result of PURCHASER's Operations:

Logs and debris entering Type F or D streams shall be removed by the end of Operations each day, unless a plan for an alternate practice is approved in advance by STATE.

In addition to other protective measures required, PURCHASER shall discontinue all or part of its Operations under this Contract upon notice from STATE that Operations will cause excessive damage to the watershed.

Section 2416. Protection from Invasive Plants and Noxious Weeds. PURCHASER shall ensure all ground-based yarding, earth disturbing, road constructing, and road maintenance equipment moved onto State Forest Land or between State Forest Land sites is free of soil, seeds, vegetative matter, or other debris that could contain, or hold, seeds. PURCHASER shall employ cleaning methods necessary to ensure compliance with the terms of this section. PURCHASER shall notify STATE’s Authorized Representative at least 24 hours prior to moving each piece of equipment onto State Forest Land or between State Forest Land sites unless otherwise agreed in writing. Notification shall include identification of the equipment’s most recent operation.

Upon request by STATE, arrangements shall be made for STATE inspection of each piece of equipment prior to entry upon State Forest Land or movement between State Forest Land sites.

This section does not apply to log trucks, service trucks, water trucks, pickup trucks, cars, and other passenger vehicles, used in the daily transport of personnel.

Section 2420. Protection of Utility Lines. In accordance with OAR 952-001-0020: *“ATTENTION: Oregon law requires you to follow rules adopted by the Oregon Utility Notification Center. Those rules are set forth in OAR*

952-001-0010 through OAR 952-001-0090. You may obtain copies of the rules by calling the center." (Note: The telephone number for the Oregon Utility Notification Center is (503) 232-1987/1-800-332-2344.)

Section 2430. Protection of Markings and Monuments. PURCHASER shall not remove, alter, damage, or destroy any signs, posters, markings, land survey markers and corners, witness trees, seed trees, or corner reference tags pertaining to the timber sale or land survey. Should such damage or disturbance occur, PURCHASER shall report it to STATE within 24 hours of the incident, and shall prevent any further damage or disturbance from occurring. PURCHASER shall, in a manner or method as directed by STATE, re-establish legal subdivision markers or monuments damaged by PURCHASER's activities. STATE may re-establish such markers or monuments and bill PURCHASER for the expense incurred.

In the event it is necessary to disturb any legal land survey corner in order to conduct any activity under this Contract, PURCHASER shall notify STATE. PURCHASER shall not disturb any corner until STATE has referenced or otherwise preserved the corner.

Section 2435. Protection of Cultural Resources. PURCHASER shall not remove any historic artifact, including old logging equipment or camp refuse, or other Cultural Resources from the Timber Sale Area. If any such items are discovered PURCHASER shall notify the STATE's Authorized Representative.

Section 2440. Warning Signs. PURCHASER shall post and maintain signs adequately warning forest users of active felling, Yarding, and hauling Operations. PURCHASER shall post signs at locations designated by STATE and at other locations determined by PURCHASER.

Section 2455. Seasonal Restrictions. PURCHASER shall adhere to the following restrictions, unless otherwise approved in writing by STATE:

(a) The following road segments shall be closed prior to October 1, annually. Road 2E to 2F. This road segment may be reopened after May 1 upon written approval by STATE (Section 2130).

(b) Log hauling on the North fork and Sweethome Creek Roads shall not be allowed from November 1 through April 30 (Section 2130).

(c) Ground-based Operations shall not be allowed from November 1 through April 30 (Section 2355).

(d) Operations on non-project roads and Landings shall not be allowed from October 1 through April 30 (Section 2360).

(e) Non-project roads shall be waterbarred according to the specifications in Exhibit J and blocked to vehicular traffic as directed by STATE by October 1 or upon completion of use, whichever occurs first (Section 2360).

(f) Slash piling shall not be allowed from November 1 through April 30 (Section 2560).

(g) Road construction shall not be allowed from November 1 through April 30 (Section 2610).

(h) Seeding shall be performed only from March 1 through June 15 and August 15 through October 31 (Exhibit K).

(i) Vibratory roller use shall not be allowed from April 1 through August 5, and from August 6 through September 15 between two hours before sunset and two hours after sunrise within the two seasonally restricted areas shown on the Exhibit "A" on Road Segment I3 to I4 (Section 2610).

(j) Blasting on road segment 2C to 2D shall not be allowed from April 1 through September 15.

(k) Tailhold use shall not be allowed from April 1 through August 5, and from August 6 through September 15 between two hours before sunset and two hours after sunrise within the seasonally restricted area southeast of Area 2 as shown on the Exhibit "A".

Section 2460. Repair of Injury or Damage. Prior to the completion and as a condition of final acceptance by STATE of PURCHASER's Operations, PURCHASER shall repair or correct any injury or damage to the Areas of Operations or any part of the Timber Sale Area arising from PURCHASER's Operations, unless adjustment is made pursuant to Section 1550, "Adjustment of Contract."

PROTECTION FROM FIRE

Section 2510. Precautions Against Fire. PURCHASER acknowledges that their Operations under this Contract may cause extraordinary fire risk in the Areas of Operations. PURCHASER covenants and agrees that it will use the highest degree of care to prevent forest fires from starting on or from spreading to or from the Areas of Operations. PURCHASER shall require its employees and Contractors and the employees of such Contractors to employ a similar degree of care. STATE may, at any time during the term of the Contract, require PURCHASER to prepare and submit to STATE for approval a Fire Plan for the Areas of Operations. The plan shall set forth the resources and required actions to be taken by PURCHASER and Contractors of PURCHASER for the prevention and suppression of fire in the Areas of Operations. The plan must meet with the approval of STATE and STATE reserves the right to require revisions to the plan as STATE, in its sole discretion, may determine to be necessary.

Section 2520. Efforts on Fire. If a fire occurs in any part of the Areas of Operations, notwithstanding the origin, PURCHASER shall require its employees and Contractors and the employees of such Contractors to immediately proceed to extinguish the fire. PURCHASER acknowledges and agrees that the provisions of this section may impose obligations on PURCHASER that are separate from or in addition to any duty or responsibility required by law. However, in no event shall the requirements of this section be construed as relieving PURCHASER of the duty and responsibility under Oregon law to fight, control, and suppress fire on forestland.

Section 2530. Indemnification. In addition to the general indemnification contained in Section 1355, "General Indemnification," PURCHASER shall indemnify, defend and hold STATE harmless from any and all loss, costs, damage, and expense that STATE may incur as a result of any fire caused by the Operations of PURCHASER, employees and Contractors of PURCHASER, and employees of such Contractors.

Section 2555. STATE to Assume Additional Fire Hazard Obligations. If, following completion of harvesting operations on any area of the timber sale, a determination is made under ORS 477.580, that an additional fire hazard has been created, then, upon completion of all provisions of this Contract, STATE shall assume all obligations for the disposal or reduction of any additional fire hazard determined to exist, and issue a release pursuant to ORS 477.580 (6) relieving PURCHASER of such obligations.

Section 2560. Slash Disposal. PURCHASER shall comply with the following requirements for slash piling in Areas 1 and 2 or portions thereof, where ground Yarding has been approved in the Operations Plan, unless otherwise approved in writing by STATE:

(a) Slash piling shall not be allowed from November 1 through April 30, unless otherwise approved in writing by STATE.

(b) All Slash near openings and Landings shall be piled no closer than 75 feet to any Residual Trees.

(c) If openings less than 75 feet do not exist slash shall be scattered to a depth not to exceed 1½ feet, as determined by STATE.

(d) Piles shall be located at least 75 feet apart and shall be no more than 75 feet long. Piles shall be located inside the project area designated for piling. Piles shall be built to a height of 3 to 4 feet and then covered a minimum of a 12-foot square area to prevent water from reaching the Slash. Additional woody debris shall be piled on top of the covered piles to complete the piling, as directed by STATE.

(e) PURCHASER shall supply covering for Slash piling as specified 4MIL Clear Polyethylene Plastic.

(f) Firewood logs and chunks which are suitable for firewood shall be piled separately from Slash, near surfaced roads and landings and alongside the road in locations designated by STATE.

(g) Leave down material scattered throughout sale areas as specified in Section 2230, "Reserved Timber – Down Material."

(h) Trees and Snags as specified in Section 2240, "Reserved Timber – Trees and Snags," shall be protected during slash disposal operations.

(i) Skid trails shall be ripped to a depth of 12 inches.

(j) Work Scheduling - work shall be accomplished only during dry weather conditions, and started within 14 calendar days after completion of yarding activities. Operations shall provide for continual operation until contract work is completed.

PROJECTS

Section 2610. Project Work. PURCHASER shall complete the following Projects in accordance with the specifications provided in Exhibits D, E, F, G, H, I, J, K, and L and written instructions from STATE. Project locations are shown on Exhibit A unless otherwise described. PURCHASER shall furnish all material unless otherwise specified.

Project Period. Project work shall not be allowed during the following periods, unless otherwise approved in writing by STATE.

(a) Work on Project Nos. 1, 2, and 3 shall not be allowed from November 1 through April 30, unless otherwise approved in writing by STATE.

(b) Vibratory roller use shall not be allowed from April 1 through August 5, and from August 6 through September 15 between two hours before sunset and two hours after sunrise within the two seasonally restricted areas shown on the Exhibit “A” on Road Segment I3 to I4 (Section 2610).

Rock Source. The road rock may be obtained from the following locations shown as "Rock Quarry" and "Stockpile Site" on Exhibit A, or from other locations acceptable to STATE, as follows:

Project Nos. 1, 2 and 3:

Cougar Mountain Quarry - NW ¼ Section 14, T4N, R8W, W.M.
The required 6”-0” Pit-Run shall be produced with Project No. 3.

Fall Creek Quarry – NE ¼ Section 20, T4N, R8W, W.M.
The required 24”-6” riprap rock shall be developed.

Sweethome Stockpile Site - NE¼, SW¼, Section 20, T4N, R8W, W.M.
The required 1 ½” -0” crushed rock required for Road Segments 2C to 2D, I2 to I3 (Station 12+00 to 62+10), I3 to I4, and I5 to I6 shall be obtained at this location.

Cougar Mountain Stockpile Site - NW 1/4 Section 14, T4N, R8W, W.M.
The required 3/4” -0” crushed rock required for Road Segments I1 to I2 and I2 to I3 (Station 0+00 to 12+00) shall be obtained at this location.

Right-of-Way Hauling. Prior to approval to rock constructed roads, PURCHASER shall haul all right-of-way logs on those portions of road to be rocked, unless otherwise approved in writing by STATE.

Project No. 1. Sale Access Road Construction and Landing Construction. Construct roads and landings at or between the following road points according to the specifications in Exhibits D, E, G, I, J, and K.

Construct: 1A to 1B, 2A to 2B, 2C to 2D, and 2E to 2F.

Landings: 1B, 2B, 2D, 2F, Station 9+00 on Road 2C to 2D, and Stations 26+70, 59+60, and I6 on Road Segment I5 to I6.

Project No. 2. Sale Access Road Improvement: Improve roads and construct landings at or between the following road points according to the specifications in Exhibits D, E, G, H, I, and K.

Improve: I1 to I2, I2 to I3, I3 to I4, I5 to I6 and I7 to I8.

Project No. 3. Quarry Development and Rock Screening. Develop and screen the following quantities of rock according to the specifications in Exhibit F and G:

(a) Sufficient quantities of 6”-0” Pit Run and 24”-6” Riprap rock to meet the requirements of Project Nos. 1 and 2.

(b) Screen and remove excess fines from the 1½”-0” crushed rock located at the Sweethome Stockpile Site.

Section 2620. Completion of Projects. PURCHASER shall complete the Project Work in the preceding section as follows:

Project Nos. 1, 2, and 3 – Prior to October 31, 2012.

Complete all Projects on a road section prior to log hauling on that section.

If the logging operation will cause damage to a project, STATE may waive the completion date requirement until logging in that area is completed. Right-of-Way logs shall be removed from the road section prior to the rocking of subgrades.

Section 2630. Credit for Project Work. In order to compensate PURCHASER for Project Work that PURCHASER agrees to complete under Section 2610, "Project Work," of this Contract, STATE agrees to credit PURCHASER's timber account in the sum of $185,083 upon completion of and STATE's acceptance of all work, unless otherwise approved in writing by STATE.

PURCHASER may request partial credit for the Project Work when PURCHASER has completed and STATE has accepted the Project Work, in accordance with the following credit schedule:

Partial credit amount of $37,016 (20% Project Work completion)
Partial credit amount of $37,016 (40% Project Work completion)
Partial credit amount of $37,016 (60% Project Work completion)
Partial credit amount of $37,016 (80% Project Work completion)
Partial credit amount of $37,019 (100% Project Work completion)

Requests for partial credit shall be made by PURCHASER in writing and submitted to the Astoria District Office of the Department of Forestry at 92219 Highway 202, Astoria, OR 97103.