

ALASKA DEPARTMENT OF NATURAL RESOURCES

DIVISION OF FORESTRY
SOUTHEAST AREA

VALLENAR BAY TIMBER SALE

STATE AND USFS GOOD NEIGHBOR AUTHORITY

TIMBER SALE CONTRACT

SSE-1345-K

TABLE OF CONTENTS

1. **DEFINITIONS**1

2. **SALE OF MERCHANTABLE TIMBER**3

3. **RESERVATIONS**3

4. **RIGHTS OF ENTRY AND USE**3

5. **TERM OF CONTRACT**4

6. **PAYMENTS**4

 A. TOTAL STUMPAGE PAYMENT4

 B. STUMPAGE PAYMENTS5

 C. REDETERMINATION OF PAYMENT5

 D. REDETERMINATION METHOD6

 E. INITIAL STUMPAGE FEE6

 F. STUMPAGE DEPOSIT6

7. **PASSAGE OF TITLE**6

8. **COMPLIANCE WITH LAWS AND OTHER REQUIREMENTS**6

 A. COMPLIANCE WITH LAWS6

 B. RESPONSIBILITY FOR ACQUISITION OF PERMITS, AUTHORIZATIONS AND APPROVALS6

 C. NOTIFICATION OF VIOLATION6

 D. FEDERAL PROVISIONS: R10-C6.9, 2400-6. C6.9 – RECORDS. (09/05)6

9. **SCALING AND LOG ACCOUNTABILITY**7

 A. SCALING7

 B. CHECK SCALE7

 C. BRANDING AND PAINTING LOGS7

 D. TRUCK TRIP TICKETS8

10. **TIMBER OPERATIONS**8

 A. OPERATING PLAN REQUIREMENTS8

 B. TIMBER UTILIZATION STANDARDS8

 C. SLASH DISPOSAL8

 D. REFORESTATION8

 E. ROADS9

 F. MAINTENANCE9

 G. FIRE9

 H. TIMBER TRESPASS10

 I. STATE INSPECTIONS10

 J. EMERGENCY REPAIRS BY THE STATE10

 K. FACILITIES CONSTRUCTION10

 L. USE OF TIMBER SALE AREA10

 M. FISH SPAWNING WATERS10

 N. ARCHEOLOGICAL SITES12

 O. MONUMENTS AND MARKERS12

11. **RISK MANAGEMENT**12

 A. INDEMNIFICATION12

 B. INSURANCE REQUIREMENTS12

 C. RISK OF LOSS12

 D. PERFORMANCE BOND12

12. **ENVIRONMENTAL COMPLIANCE, PROTECTION AND SAFETY**13

A.	<u>HAZARDOUS MATERIALS</u>	13
B.	<u>FUEL STORAGE, FUELING, MAINTENANCE AND SPILL PREVENTION</u>	13
C.	<u>SANITATION</u>	13
D.	<u>IMMEDIATE CLEANUP OF ENVIRONMENTAL CONTAMINATION</u>	13
13.	<u>DEFAULT BY PURCHASER</u>	14
A.	<u>EVENTS OF DEFAULT BY PURCHASER</u>	14
B.	<u>NOTICE OF DEFAULT/CURE/TERMINATION</u>	14
C.	<u>REMEDIES</u>	14
14.	<u>INTERIM AND FINAL ACCOUNTING</u>	14
15.	<u>RIGHTS AND OBLIGATIONS UPON EXPIRATION OR TERMINATION OF CONTRACT</u>	15
16.	<u>NOTICES AND PARTIES' REPRESENTATIVES</u>	16
17.	<u>ASSIGNMENT OF CONTRACT</u>	16
18.	<u>LIENS</u>	16
19.	<u>REPRESENTATIONS AND WARRANTIES</u>	17
A.	<u>STATE</u>	17
B.	<u>PURCHASER</u>	17
20.	<u>VALID EXISTING RIGHTS</u>	18
21.	<u>PRODUCTION REQUIREMENTS</u>	18
A.	<u>LOGGING PRODUCTION</u>	18
22.	<u>GENERAL PROVISIONS</u>	18
23.	<u>SIGNATURES</u>	19
EXHIBIT A	VALLENAR BAY TIMBER SALE AREA MAP	20
EXHIBIT B	LEGAL DESCRIPTION	21
EXHIBIT C	LOGGING REQUIREMENTS	22
EXHIBIT D	OPERATING PLAN REQUIREMENTS	25
EXHIBIT E	ROAD CONSTRUCTION, FACILITIES USE AND MAINTENANCE REQUIREMENTS 26	
EXHIBIT F	PROPOSED UNIT MAPS	28
EXHIBIT G	INSURANCE POLICIES	29
EXHIBIT H	APPROVED OPERATING PLAN	30

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF FORESTRY
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2417 TONGASS AVENUE, SUITE 213
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VALLENAR BAY TIMBER SALE
STATE AND USFS GOOD NEIGHBOR AUTHORITY

TIMBER SALE CONTRACT

SSE-1345-K

The State of Alaska, represented by the Director, Division of Forestry, Alaska Department of Natural Resources or his authorized representative under authority of Alaska Statutes, Title 38, Public Lands, Chapter 05, Alaska Land Act, Article 4, entitled "Disposal of Timber and Materials and under the authority of the Agricultural Act of 2014, Pub. L. 113-79, section 8206, 16 USC 2113A, (Good Neighbor Authority) and specified under the provisions of Master Good Neighbor Agreement #17-GN-11100100-004. (The CFDA for the agreement is 10.691) hereinafter called the STATE, does hereby agree to sell, and (to be named purchaser) hereinafter called the PURCHASER, does hereby agree to purchase timber as designated herein, subject to the following terms and conditions. This Contract is effective as of the date of the Commissioner's signature.

In consideration of the mutual covenants and agreements herein contained and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the STATE and PURCHASER hereby agree as follows:

1. DEFINITIONS

Definitions shall include all terms defined by 11 AAC 71.910 Definitions and the following. If there is a conflict of definition the regulations shall govern.

A. "Construction Materials" includes rock, sand, gravel and other construction materials located in the Timber Sale Area.

B. "Environmental Contamination" means pollution resulting from the "release" [as that term is defined in AS 46.03.826(9)] of a "Hazardous Material."

C. "Hazardous Material" means hazardous substances or materials as defined in Alaska Statutes 46.03.826 and 46.08.900, in 42 U.S.C. § 9601-9657 (CERCLA), in 42 U.S.C. § 9601 (RCRA) and in 40 C.F.R. U.S.C. § 302, as such statutes and regulations may be amended from time to time, and any hazardous and toxic substance, material or waste which is or becomes regulated by any governmental authority. Without limiting the forgoing, "Hazardous Material" includes hydrocarbon fuels such as diesel oil and gasoline, and lubricating oil.

D. "Forest Resources and Practices Act and Regulations" (FRPA) refers to AS 41.17 and 11 AAC95. It governs the management of all forest practices on public and private land in the State of Alaska with respect to protecting soil, water quality, and reforestation.

E. "Forest Land Use Plan" (FLUP) is a planning document prepared by the STATE prior to

the harvest of timber containing the specific details on the location, access, harvest methods, duration and proposed reforestation requirements for each sale of timber.

F. “federal land” means land owned by the federal government, and interests and resources in the land, including improvements to the land.

G. “Environmental Assessment” (EA) means the harvest plan to be implemented on federal land.

H. “Laws” mean all applicable federal, state or local statutes, regulations, rules, ordinances or permits, orders, directives, and amendments thereto, in effect during the Term of this Contract and as they legally change over time.

I. “Log Transfer Facility” (LTF) Means a facility which is constructed in whole or in part in waters of the United States and which is utilized for the purpose of transferring commercially harvested logs to or from a vessel or log raft, including the formation of a log raft.

J. “MBF” means one thousand board feet, Scribner (long log) log scale rule.

K. “Merchantable Sawlog,” is a No. 4 or better sawlog. The minimum merchantable sawlog dimensions for the purpose of this contract is 24 feet long plus trim, at least 6 inches in diameter inside the bark at the small end with at least 50% net scale according to the Official Rules of the Log Scaling & Grading Bureaus developed and authored by The Northwest Log Rules Advisory Group.

L. “Merchantable Timber” is all timber, harvested or unharvested, which contains at least one Merchantable Sawlog, all Utility Logs, or other sawlogs harvested or unharvested located within the Timber Sale Unit(s) designated by the State within the Timber Sale Area as depicted in Exhibit A that will be harvested in accordance with the approved Operating Plan. This excludes all timber in designated retention areas.

M. “Operating Plan” means the document developed by the PURCHASER and approved by the STATE in order to communicate the PURCHASER’S planned schedule for road construction and harvesting operations, referenced in Section 10 (Timber Operations) herein.

N. “PURCHASER” means the purchaser of timber, purchaser’s agent, employees, representatives, contractors, subcontractors or other individuals or entities operating on behalf of PURCHASER.

O. “Road Standards” means road and bridge construction, maintenance, and closeout standards required herein and by Law.

P. “Roads and Related Transportation Facilities” include all roads, bridges, landings, culverts, and any other transportation facility PURCHASER is authorized to use or to construct pursuant to this Timber Sale Contract.

Q. “Slash” means all woody debris resulting from PURCHASER’S Timber Operations or from construction of roads and related transportation facilities or other improvements.

R. “Timber” means all trees, living or dead, standing or down, located within the Timber Sale Area.

S. “Timber Harvest Settings” means the sub-units of Merchantable Timber located within

the Timber Sale Unit, as designated by PURCHASER in the approved Operating Plan (Exhibit C).

T. “Scaling Bureau” means a certified Log Scaling and Grading contractor acting as a third-party scaling organization for the purpose of scaling and grading logs according to the Official Log Grading and Scaling Rules developed and authored by the Northwest Log Rules Advisory Group.

U. “Timber Harvest Unit(s)” means the unit(s) of Merchantable Timber located within the Timber Sale Area, as designated by the State in Exhibits A and B.

V. “Timber Sale Area” means the real property upon which it is reasonably necessary for PURCHASER to conduct Timber Operations under this Contract as depicted on Exhibit A and described in Exhibit B. In the event of any conflict between Exhibit A and B, Exhibit B will control.

W. “STATE Land” means land owned by the State of Alaska, and interests and resources in the land, including improvements to the land.

X. “Utility Logs” are logs that do not meet the minimum requirements of a Merchantable Sawlog, but are suitable for the production of firm useable pulp chips to an amount of not less than 50% of the gross scale with a minimum gross diameter of 6 inches on the small end, minimum gross length of 12 feet, plus trim.

Y. United State Forest Service (USFS).

2. SALE OF MERCHANTABLE TIMBER

STATE sells to PURCHASER, and PURCHASER purchases from STATE, all of the Timber, whether standing or down, within the Timber Sale Area as depicted on Exhibit A and described in Exhibit B, at the price and upon the terms set forth herein, whether harvested or not, subject to the provisions under Section 11C (Risk of Loss).

3. RESERVATIONS

The STATE and the USFS reserve the right to permit other compatible uses of the lands in the contract area which do not unduly impair the PURCHASER'S operations under this contract, as determined by the STATE. The PURCHASER will avoid using the access roads when doing so could damage the roads. Use of access roads may be suspended during breakup or other wet weather conditions at the discretion of the State. The STATE hereby reserves the right to use any road constructed by the PURCHASER under this contract for any and all purposes in connection with the protection and administration of State lands. Roads constructed and/or used by the PURCHASER under this contract may be used by third parties in connection with the utilization of STATE or other resources adjacent to the road; provided, that on spur roads, such use shall not materially interfere with the operations of the PURCHASER.

4. RIGHTS OF ENTRY AND USE

During the Term of this Contract and to the extent it is legally authorized to do so, the STATE hereby grants to PURCHASER the non-exclusive right to enter upon and use the Timber Sale Area and associated access routes across STATE land solely in accordance with the terms of the approved Operating Plan and other applicable provisions of this Contract.

The granted rights include the right to construct Roads and Related Transportation Facilities to and within the Timber Sale Area and to use Construction Materials within the Timber Sale Area. Road construction will be as flagged and depicted on Exhibits A and F, unless otherwise specifically approved in writing by the STATE. Said rights will be exercised as reasonably necessary and at PURCHASER's cost in strict

accordance with the approved Operating Plan, applicable provisions of Law, and other applicable provisions of this Contract. Construction Material rights granted hereunder shall not be used to provide benefits to parties other than PURCHASER. The PURCHASER will compensate the STATE for any value lost through unauthorized use of Construction Material.

PURCHASER shall fell, yard, remove, scale, and pay the applicable stumpage fee for all Merchantable Timber harvested in association with the rights of entry and use granted herein.

5. TERM OF CONTRACT

The Term of this Contract shall commence upon the Effective Date and terminate on December 20, 2022 or the date that all obligations under this Contract have been completed, whichever is earlier. Notwithstanding the above, Timber Operations shall cease on or before _ December 20, 2022 except as provided otherwise herein.

If PURCHASER is prevented or delayed from performing any of its obligations under this Contract by reason of fire, strikes, riots and civil commotions, war and acts of public enemies, storms, floods, and other unusual climatic conditions, including droughts, and acts of God, and any other such cause which is similar in nature to the foregoing and which is beyond the control of PURCHASER (“Force Majeure”) the Term shall be automatically extended for the period that such Force Majeure continues in effect plus an additional reasonable period thereafter, to be mutually agreed upon in writing by the STATE and PURCHASER, to allow for harvest and removal of the Timber within the Timber Sale Area. All other terms and conditions of this Contract will remain in effect during periods of Force Majeure. Lack of funds on the part of PURCHASER, adverse market conditions, STATE approval or assistance delays, and/or similar conditions shall not constitute Force Majeure.

In the event that PURCHASER desires to extend the term of this Contract for reasons other than Force Majeure, such extension may be granted by the STATE, at the STATE’s sole discretion, in consideration for the advance payment of \$1,000.00 USD. The total extension time may not exceed one year. If the contract is extended, the State may enter into redetermination of the stumpage fees with the PURCHASER if it deems it in the State’s best interest.

6. PAYMENTS

A. Total Stumpage Payment. PURCHASER shall pay stumpage fee payments to the STATE as set forth below. The stumpage fee payments are due the STATE without regard to whether the harvest and marketing of the Merchantable Sawlogs and Utility Logs was or will be profitable for PURCHASER. The PURCHASER agrees to pay the STATE periodic stumpage fee payments based on log scale calculations for Sitka Spruce Sawlog, Western Hemlock Sawlog, Western Red Cedar Sawlog, Yellow Cedar Sawlog, Red Alder Sawlog and Utility (all species) and as described in Section 9 (Scaling and Log Accountability). Volume harvested from Units 2, 10, 11,12,14, and 15 are to be considered second growth; all other units are considered old growth units for accounting of the timber sale volume. Stumpage fees will be as follows, according to PURCHASER bid amounts for:

STATE Old Growth Species	Rate per thousand board foot (MBF)	Scale Unit
Spruce Sawlog		Net Scribner
Hemlock Sawlog		Net Scribner
Yellow Cedar Sawlog		Net Scribner
Western Red Cedar Sawlog		Net Scribner
Utility Logs		Net Utility

STATE Young Growth Species	Rate per thousand board foot (MBF)	Scale Unit
Spruce Sawlog		Net Scribner
Hemlock Sawlog		Net Scribner
Alder Sawlog		Net Scribner
Utility Logs		Net Utility

USFS Young Growth Species	Rate per thousand board foot (MBF)	Scale Unit
Spruce Sawlog		Net Scribner
Hemlock Sawlog		Net Scribner
Alder Sawlog		Net Scribner
Utility Logs		Net Utility

B. Stumpage Payments. Payments must be delivered to the State’s representative as listed in Section 16 (Notices). PURCHASER will prepare and submit to the STATE by the 10th day of each month, a report which provides volume produced in the previous month, from log scale, by species. The report will show volumes produced by species and total to date of volumes and stumpage paid. Stumpage Payments must be made to the STATE by the last day of the month period basis following monthly reporting of log scaling and as long as the contract is effective.

C. Redetermination of Payment. The State may redetermine the stumpage payment due the STATE in the following conditions:

1. Contract extension.
2. Work was or is to be performed by the PURCHASER at the State’s written request outside the scope of the original timber sale contract.

D. Redetermination Method. The State will redetermine the stumpage payment based on the existing conditions at the time that the redetermination occurs. Redetermination will not change the meaning or intent of the contract. The STATE and PURCHASER will negotiate to an agreement of redetermined payment in good faith. In the event that PURCHASER and the STATE cannot agree on the redetermined rates, the existing contract will govern all actions.

E. Initial Stumpage Fee. The initial stumpage fee of \$XXX,XXX (XXX Thousand Dollars) submitted as part of the bid process for the sale made payable to the STATE of Alaska in the form of cashier's check is considered applicable to the stumpage deposit.

F. Stumpage Deposit. The purchaser shall make an Initial Stumpage Deposit payment totaling 5% of the estimated total stumpage to the State at the execution of the contract. The amount of the stumpage deposit will be determined by the estimated level of productivity described in the Timber Sale Plan of Operations and will equal the projected value of the timber harvest for the next month of the timber sale value. If the level of productivity increases over the term of the contract, a corresponding increase to the stumpage deposit amount must occur. Adequate Stumpage fees shall be made to the STATE prior to timber falling operations.

G. Delivery of Payments. All payments must be delivered to the STATE or to PURCHASER respectively at the addresses set forth in the Section 16 (Notices and Parties' Representatives). PURCHASER shall not be entitled to any abatement, deductions or offsets of any amount due to STATE. All past due amounts owed to the STATE shall accrue interest at the interest rate of 10.5% per annum until payment is received by the STATE.

7. PASSAGE OF TITLE

A. Subject to Section 11 (Risk Management) herein, title to the Merchantable Timber within the Timber Sale Area shall pass from the STATE or the USFS as applicable by land ownership to PURCHASER upon scaling and payment for logs as documented on Certified Scaling Certificates produced by the Scaling Bureau approved by the STATE. The risk of loss or damage to the Merchantable Timber shall be allocated as provided in Section 11 herein.

8. COMPLIANCE WITH LAWS AND OTHER REQUIREMENTS

A. Compliance with Laws. PURCHASER must carry out all Operations, in compliance with the Law. Responsibility for operating in compliance with Laws and rectifying any instances of non-compliance rest solely with PURCHASER. The PURCHASER must also comply with the specific requirements of applicable laws specified in this contract that apply to this timber sale.

B. Responsibility for Acquisition of Permits, Authorizations and Approvals. PURCHASER is responsible for the acquisition of necessary permits, licenses, fees and other regulatory approvals at its cost.

C. Notification of Violation. Within twenty-four (24) hours of PURCHASER's knowledge, PURCHASER must notify the STATE and applicable regulating agencies of any regulatory or permit violations that have occurred as a result of actions by PURCHASER, or PURCHASER's agent, representatives, contractors, subcontractors, or other individuals or entities operating on behalf of PURCHASER.

D. FEDERAL PROVISIONS: R10-C6.9, 2400-6. C6.9 – RECORDS. (09/05)

In addition to the requirements of B6.9 - Records, upon request by the Forest Service, PURCHASER shall provide quarterly product sales information and terms of product sales applicable to appraising timber obtained from Federal sources in the Alaska Region. Product sales information shall include revenues by species-product and volumes of species-product from

all sources and ownerships. Quarterly sales data is defined by the date of the forest product sales in a calendar quarter.

Annual and quarterly sales and cost collections data must also include all sources and ownerships.

In addition to the requirements of B6.9 and C6.84, PURCHASER agrees to record the cutting unit number on all load receipts and on stubs (inside ticket book). PURCHASER will store all returned load receipts for two years or until the Regional Office cost collection team has reviewed and recorded all necessary information from the load receipts.

9. SCALING AND LOG ACCOUNTABILITY

A. Scaling.

(1) Scaling Point. All logs produced from the Timber Sale Area shall, unless otherwise agreed in writing, be scaled at a site designated in the approved Operating Plans. PURCHASER shall use its best efforts to ensure that logs are scaled within thirty (30) days of harvest. If deductions are made for rot, check or other defects resulting from PURCHASER delays in scaling exceeding ninety (90) days, Stumpage Fees shall be paid to the STATE as if the rot, check or other defect was not present.

(2) Scaling Rules. Scaling will be performed using the Scribner Log Rule in accordance with the "Official Log Scaling and Grading Rules" of the Log Scaling and Grading Bureaus as developed and authored by the Northwest Log Rules Advisory Group, and by a recognized third party scaling and grading bureau, or methodology agreed to by the PURCHASER and the STATE. PURCHASER shall contract for and provide the STATE with written evidence of such scaling arrangements before any Merchantable Timber is felled within the Timber Sale Area and a copy of the contract shall be provided to the STATE prior to commencement of Timber Operations.

(3) Cost of Scaling and Delivery of Scale Documents. PURCHASER shall pay the cost of scaling, and instruct the third-party scaler to provide copies of the daily scale tickets that identify individual loads of logs and weekly scale summary sheets to the STATE and PURCHASER within one (1) week after scaling. PURCHASER shall also instruct the third-party scaler to provide copies of scale summary sheets for every four (4) week period on a calendar month basis to the STATE and PURCHASER within ten (10) business days of the end of each calendar month. Summary scale sheets shall include gross and net volumes by species, sort and grade, subtotaled for each Timber Harvest Unit within the Timber Sale Area. Within thirty (30) days of completion of scaling for a calendar year, PURCHASER shall deliver to the STATE a certified annual scaling summary of the total gross and net Sawlog and Utility Log volumes by species, sort and grade, by Timber Harvest Unit.

B. Check Scale. Upon the request of the STATE or PURCHASER, a check scale may be made to determine the accuracy of the original scale. PURCHASER agrees to make logs available for check scaling at reasonable locations designated by the STATE. The STATE agrees to carry out check scaling promptly so as not to unreasonably delay log transfer, rafting, towing, and loading operations. If the difference in scale is less than five percent (5%), then the cost of rescale shall be paid by the STATE. If the check scale exceeds the original scale by five percent (5%), the original scaled volume shall be adjusted by the difference between the check scale and original scale, and the cost of the check scale shall be paid by the PURCHASER.

C. Branding and Painting Logs. Before being removed from the Timber Sale Area, all logs shall be hammer branded on one end with a log brand registered with the State of Alaska Department of Natural Resources, Division of Forestry. PURCHASER is responsible for registering such brands with

the Division of Forestry. PURCHASER shall also paint one end of each log with a color designated by the STATE, if there are logs being scaled at the same location from property not owned by the STATE.

D. Truck Trip Tickets. Each load of logs shall be identified by a unique three (3) part truck trip ticket, one part affixed to the load, one part to the STATE (to be attached to the scale ticket and delivered to the STATE on a weekly basis), and one remaining in the book. Unless requested by the STATE, truck trip ticket books shall be retained by PURCHASER for the Term of this Contract. Truck trip tickets shall include date, logger's name, truck driver's name, Timber Harvest Unit, brand, destination and log or piece count by species. Truck trip tickets shall be numbered sequentially and numbers shall not be duplicated. PURCHASER shall provide the STATE with the series of book and ticket numbers assigned to this Contract, and shall account for any gaps in the series of numbers when the truck trip tickets are provided to the STATE.

E. Barge and Raft Tickets. In the event that the logs are not scaled on Gravina Island, the PURCHASER shall submit and conform to a STATE approved marine transportation accountability plan.

10. TIMBER OPERATIONS

A. Operating Plan Requirements. Unless otherwise provided for, PURCHASER shall be responsible for performing based on existing road and unit layout and design as depicted in the FLUP and on the USFS Unit Maps. PURCHASER must do so in strict compliance with applicable Laws, the FLUP and the approved Timber Sale Operating Plan. The PURCHASER must prepare and submit to the STATE prior to the start of operations, a written Timber Sale Operating Plan meeting the requirements of Exhibit C and providing for the orderly and progressive development of all operations necessary to complete this contract. The Timber Sale Operating Plan is ineffective until it is APPROVED by the STATE, which must occur prior to the start of operations. Operating without a designated representative on site, or an approved logging plan is grounds for suspension. This plan must be updated whenever there is a significant change in the PURCHASER'S operation. Significant is defined as a change to an item required in the operating plan as portrayed by the requirements listed in Exhibit D.

B. Timber Utilization Standards. Unless otherwise mutually agreed upon by the STATE and PURCHASER, PURCHASER must conduct its Timber Operations in accordance with the following Utilization Standards:

- (1) PURCHASER must harvest Timber in such a manner as will ensure that all the Merchantable Timber designated for harvest within the Timber Sale Area is utilized;
- (2) Except as otherwise set forth below, PURCHASER must ensure that stumps left after logging are cut as low to the ground as practicable, and in any event are not higher than eighteen (18) inches above the ground on the side of the stump where the elevation of the ground is the highest unless determined as unsafe to workers or otherwise directed by the STATE. High stumps must be paid for by the PURCHASER at the rate of \$5.00 per stump, which sum shall be regarded as fixed, agreed, and liquidated damages;
- (3) PURCHASER must vary log lengths to provide for as complete a utilization of all the Merchantable Timber in the Timber Sale Area as is practicable; and
- (4) The STATE shall have the right to require PURCHASER to remove unyarded Merchantable Timber that has been left on the ground from the Timber Sale Area;
- (5) The PURCHASER shall have the option to leave red alder saw logs and utility logs decked at the landings on this sale or remove them from the sale area at the PURCHASER's discretion during the time of this Contract. At no time may these saw logs or utility decks obstruct the STATE's future use of the land. Under no circumstances may a log deck be left for any significant time or at the end of sale so as to obstruct or hinder water quality. Title remains with the State or the USFS until logs are removed from respective lands in the Sale Area.

C. Slash Disposal. PURCHASER must comply with all applicable Laws relating to the disposal or accumulation of slash and with the conditions set forth in Exhibit C.

D. Reforestation. The parties anticipate that reforestation requirements will be met through natural regeneration. Except as provided in Exhibit C (Logging Requirements), the STATE and the

USFS are responsible for all reforestation obligations on their lands required under applicable Laws. PURCHASER must take reasonable actions to facilitate natural regeneration, as described in the approved Operating Plan. Notwithstanding any of the above, PURCHASER is responsible for reforestation of areas where PURCHASER's Timber Operations have materially damaged or impeded an area's ability to naturally regenerate.

E. Roads. PURCHASER must, at its cost, construct, reconstruct, and improve roads in accordance with applicable laws, the FLUP, the approved Operating Plan and the Road Construction and Maintenance Requirements in Exhibit E. It is the responsibility of the PURCHASER to enter into agreements with adjoining land owners as to any shared use maintenance requirements, or fees, paid by PURCHASER on roads owned or maintained by other entities, including, but not limited to private, federal, state and local landowners or administrators. PURCHASER must obtain all necessary road use permits, agreements and approvals prior to commencing operations. All borrow and waste areas utilized in the construction or maintenance of the roads and facilities by the PURCHASER require the submittal of development plans and approval by the State prior to development. The location and construction of all landings must be submitted to and approved by the State prior to use and construction by the PURCHASER unless they are already identified on the approved timber sale unit maps. The PURCHASER is responsible for all repairs and mitigation deemed necessary by the State due to unauthorized roads and landings. PURCHASER must additionally pay stipulated damages of \$1,000.00 USD for each unauthorized construction development. This provision does not supersede any applicable penalties under the FRPA (AS 41.17, 11 AAC 95).

F. Maintenance. During the Term of this Contract, PURCHASER, at its cost, must maintain the Timber Sale Area, Roads and Related Transportation Facilities, Sortyards, LTFs and all other improvements used by PURCHASER in connection with this Contract, in a clean, sanitary and safe condition and in accordance with applicable Laws, the approved Operating Plan, and the provisions of this Contract. PURCHASER may share maintenance obligations with other Authorized Users of the Timber Sale Area, subject to the terms and conditions of joint use agreements that are approved in writing by the STATE. Cleanup measures and other maintenance must be kept reasonably current with timber harvest operations.

The purchaser will be responsible to comply with any road use agreements between the various parties which own or manage roads that are required to be used to access this sale. The purchaser will be responsible for a minimum commensurate maintenance associated with hauling during the term of this sale.

G. Fire. The PURCHASER must take all necessary precautions for the prevention of forest fires and shall be responsible for the suppression costs of any and all destructive or uncontrolled fires occurring within or without the contract area resulting from any and all operations involved in the removal of the timber under the provisions of this contract. AS 41.15.050 established the fire season from April 1 - September 30, inclusive, during each year. AS 41.15.080 requires every person owning or operating a sawmill or logging camp or other commercial plant or operation on forested lands to post and keep displayed at all times in a conspicuous place upon the building or ground of the milling, logging, or commercial operation a copy of AS 41.15.050-080 and AS 41.15.140.

(1) Prevention and Suppression. During the Term of this Contract, PURCHASER must make every effort to prevent and suppress fires within the Timber Sale Area. Unless otherwise required herein, or prevented by circumstances, over which PURCHASER has no control, PURCHASER must place its equipment, employees, contractors, and employees of contractors at the disposal of any authorized government employee for the purpose of fighting forest fires within or near the Timber Sale Area.

(2) Presence of Fire Equipment. PURCHASER must ensure that both the road building crew and logging crews have adequate firefighting equipment and training for use on site when operating in the Timber Sale Area, pursuant to the approved Operating Plan. In the event of "extreme fire danger," PURCHASER must maintain a fire watch at the active

Timber Operation areas for a minimum of one hour after work has stopped for the day, unless the STATE suspends Timber Operations until the fire danger is reduced.

(3) Reporting. PURCHASER must report all fires to the United States Forest Service and the Alaska Division of Forestry in Ketchikan at (907) 225-3070 immediately after becoming aware of a fire or imminent threat of fire.

H. Timber Trespass. Unless otherwise agreed, PURCHASER may not fell or damage any tree not within the boundary of the Timber Sale Area. PURCHASER shall be liable for all trespass damages and must properly locate its operations within the Timber Sale Area. In the event of trespass damage to State timber outside of the Timber Sale Area, the STATE will appraise the damage and assess PURCHASER the cost of such appraisal plus treble damages (triple stumpage), at the sole discretion of the STATE. This provision does not supersede any applicable penalties associated with the Alaska Forest Resources and Practices Act (AFR&PA) under AS 41.17, 11 AAC 95, nor does it supersede any remedies other landowners may have under applicable laws.

I. STATE Inspections. The STATE and its representatives, shall at all times have access to observe and inspect the Timber Operations of PURCHASER and must be furnished such information, documentation and assistance by PURCHASER as may be reasonably requested by the STATE for the purpose of ensuring compliance with this Contract and applicable Laws. PURCHASER must complete additional work as requested by the STATE, consistent with the approved Operating Plan and requirements of this Contract.

J. Emergency Repairs by the STATE. In the event PURCHASER refuses to make a repair of an emergency nature to improvements or structures in the Timber Sale Area after requested to do so by the STATE or regulatory agency, except when these emergency repairs result from the gross negligence of STATE, the STATE shall be entitled to make the repairs and bill PURCHASER for the actual cost of making such repairs. Emergency repair of improvements or the sale area necessary to keep the PURCHASER in compliance with federal, State, and local laws and regulations is the PURCHASER'S responsibility. If the emergency repairs are not required by law or in this contract, the State will reimburse the purchaser for the cost of repairs. All emergency work covered by this contract must be authorized in writing by the STATE prior to commencing unless prevailing conditions will cause imminent and significant irreparable damage to the State's resources.

K. Facilities Construction. Any improvements or transportation facilities, including sawmills, buildings, bridges, roads, etc., constructed by the PURCHASER in connection with this sale and within the sale area or on other State land leased for the purpose, must be done in accordance with standard or special plans approved by the STATE. Bonding may be required on each improvement. The STATE neither expressly nor implicitly warrants its improvement estimates. Estimates will be made for the sole purpose of establishing the minimum bid, and are not to be used for other purposes.

L. Use of Timber Sale Area. The PURCHASER may only use the Timber Sale Area for actions related to the harvest of Merchantable Timber. The Timber Sale Area may not be used for any other commercial purpose. Existing facilities owned by the STATE in the sale area, including but not limited to roads, bridges, gates, culverts, and signs may be used by the PURCHASER in connection with this sale without further approval unless such use is limited or prevented elsewhere in this contract. Existing improvements used by the PURCHASER must be kept in good repair by the PURCHASER.

M. Fish Spawning Waters. All operations in connection with this contract adjacent to lakes, streams, or important fish waters must be conducted so as to avoid stream silting and must not interfere with the passage of fish or injure the spawning grounds, in accordance with AS 41.14.

N. USFS Streamcourse Protection. Streamcourses which are subject to this provision include 3 categories:

1. Class I streams and Class II streams which flow directly into Class I streams.
2. Class II streams which do not flow directly into Class I streams, and Class III streams having characteristics of instability and sediment production.
3. Other Streams and V notches designated for soil and water quality protection.

Streamcourses that are in the categories of a, b, and c are designated by Forest Service, shown on Sale Area Map and marked on the ground in conjunction with marking of units and related roads.

Purchaser's operations shall be conducted according to Best Management Practices as shown in Forest Service Handbook 2509.22. The following measures shall be observed to protect Streamcourses.

a. Class I streams and Class II streams that flow directly into a Class I streams are marked with blue and white striped flagging and will be protected in the following manner: Timber harvest units shall not be within a minimum buffer zone of 100 feet (30 meters) on either side of Class I streams and Class II stream which flow directly into Class I streams.

Prior to any operations within a buffer zone of 100 feet (30 meters), a Streamcourse Protection Plan will be developed for that buffer zone. This plan will specify which timber, if any, may be removed within the buffer zone and become Included Timber.

Except as provided in the Streamcourse Protection Plan developed herein there will be no yarding corridors, tailholds, temporary road crossings or logging activity within the buffer designated on either side of a Streamcourse.

b. Class II streams which do not flow directly into Class I streams, and Class III streams having characteristics of instability and sediment production are marked with orange and white striped flagging and will be protected in the following manner unless agreed otherwise in writing:

Trees shall be felled in such a manner so that the direction of fall is away from Streamcourses. These trees may be wedged, jacked, lined, or otherwise pulled when necessary to meet this requirement. Unless the STATE provides a written waiver, felled trees that inadvertently enter or cross Streamcourses shall not be bucked or limbed until clear of Streamcourses unless limbing or bucking would reduce damage to the riparian vegetation or stream banks. Trees or products shall not be hauled or yarded across Streamcourses unless fully suspended. Debris in Streamcourses resulting from falling or yarding Included Timber shall be removed immediately to a stable location above high water mark. Existing natural stable debris shall be left undisturbed. The State may require individual felled, or portions of felled trees that have entered Streamcourses to be left unyarded. Trees or portions of trees to be left shall be clearly marked by the Forest Service prior to yarding.

c. Other Streams and V notches designated for soil and water quality protection are marked with green and white striped flagging and will be protected in the following manner unless agreed otherwise in writing:

In so far as practical, trees shall be felled and yarded away from Streamcourses. The trees that cannot be felled away from Streamcourses shall be felled to bridge the stream providing these trees will be yarded during the same operating season. Trees felled to bridge Streamcourses shall be bucked, limbed, and topped clear of Streamcourse and its banks. Debris consisting of large unmerchantable pieces, root wads, or large accumulations of slash resulting from falling or yarding Included Timber, which restrict natural water flow, adversely affect water quality or have potential for debris flow, shall be removed to a stable location above high water mark before the yarder leaves the unit or upon completion of seasonal logging activities in the unit, whichever comes first.

In addition, the following measures shall be observed to protect Streamcourses, unless otherwise agreed in writing:

Purchaser's operations shall be conducted to prevent debris from entering Streamcourses, except as authorized under this provision. When removing debris Purchaser shall remove such debris in an agreed manner that will cause the least disturbance to Streamcourses.

Culverts or bridges shall be required on Temporary Roads at all points where it is necessary to cross Streamcourses. Such facilities shall be of sufficient size and design and installed in a manner to provide unobstructed flow of water and to minimize damage to Streamcourses.

Wheeled or track-laying equipment shall not be operated in Streamcourses unless approved by STATE except at crossing designated by STATE, or as essential to construction or removal of culverts and bridges.

Flow in Streamcourses may be temporarily diverted only if such diversion is necessary for Purchaser's planned construction and Forest Service gives written authorization. Such flow shall be restored to natural course as soon as practicable and in any event prior to a major storm runoff period or runoff season

N. Archeological Sites. If, during the course of operations, any physical remains of historic, archaeological, or paleontological nature are discovered, work in that immediate vicinity must cease and the State must be notified. The Alaskan Historic Preservation Act prohibits the appropriation, excavation, removal, injury, or destruction of any historic, prehistoric or archaeological resources of the State.

O. Monuments and Markers. The PURCHASER must protect all known land survey monuments and witness trees and markers from damage or obliteration. If monuments or markers are destroyed, the PURCHASER must pay the costs of restoration. No painted, blazed or tagged tree which marks the boundary of the sale area or cutting units may be cut unless approved in writing by the State.

11. RISK MANAGEMENT

A. Indemnification. PURCHASER shall defend, indemnify, and hold the State and the federal government harmless from any and all claims, demands, suits, loss, liability and expense, for injury to, or death of persons and damage to, or loss of property arising out of, or connected with the exercise of the privileges granted the PURCHASER by this contract.

B. Insurance Requirements. PURCHASER, its contractors and subcontractors must purchase, at its own expense, and maintain in force at all time during the Term of this Contract the policies of insurance specified in Exhibit G from an insurer qualified to do business in Alaska. Where specific limits are shown, it is understood that they are the minimum acceptable limits, and if the policies contain higher limits, the STATE and the additional insured hereunder shall be entitled to those higher limits. The policies must each name the STATE as an additional insured. The STATE must be provided with certificates of insurance and copies of the policies, a minimum of fifteen (15) days prior to commencing Timber Operations. The policies must provide that coverage shall not be canceled, limited, or allowed to expire until after thirty (30) days written notice has been given to the STATE. The STATE shall have the right, at its option, to pay any delinquent premium on any of the policies if necessary to prevent a cancellation, non-renewal or material alteration thereof; and PURCHASER must within five (5) business days, reimburse the STATE'S expenditure. In the event that any insurance policy is canceled or the policy is materially changed, PURCHASER must immediately notify the STATE and cease Timber Operations until certificates of insurance are delivered to and approved in writing by the STATE. The STATE reserves the right to reasonably increase the required insurance coverage limits to be in accordance with the current industry standards by giving 30 days written notice to PURCHASER.

C. Risk of Loss. The risk of loss by fire, windstorm, or other cause of any standing, decked or down Merchantable Timber within the Timber Sale Area shall be borne by the holder of title to the timber or logs. The State is not obligated to supply, nor is the PURCHASER obligated to accept and pay for, other timber in place of the destroyed or damaged timber. The loss or damage to timber removed from the sale area under the contract is borne by the PURCHASER. This section alone does not relieve either party of liability for negligence.

D. Performance Bond. At the time of executing this contract, PURCHASER shall deposit with the STATE Forty thousand dollars (\$160,000.00 USD) in the form of a cashier's check, money order, time certificate of deposit (with automatic renewal) in the State's name in trust for the purchaser, or surety made payable to the STATE. Bonding must conform to 11 AAC 71.095. If cash is used for the Performance Bond it will be placed by the State in a separate state account and all interest on the Performance Deposit shall accrue to the benefit of STATE. If PURCHASER is in default under this Contract and has received notice of such default from the STATE, but has failed to cure such default, the STATE may apply said

Performance Bond to pay for the performance of the default obligation and any of the STATE's expenses or damages incurred as a result of PURCHASER's default. PURCHASER shall remain liable for any deficiency that remains after application of the Performance Bond to any amount owed and within ten (10) days of STATE's said application, PURCHASER must deposit that sum of money necessary to maintain a Performance Bond of Forty thousand dollars (\$40,000.00 USD).

12. ENVIRONMENTAL COMPLIANCE, PROTECTION AND SAFETY

A. Hazardous Materials. PURCHASER must not cause or permit to be brought upon, stored or used in or about the Timber Sale Area, or the Roads and Related Transportation Facilities by PURCHASER, its agents, employees, contractors, or invitees, any Hazardous Materials without the prior written consent of the STATE, which will not be unreasonably withheld by the STATE so long as PURCHASER demonstrates to the STATE's satisfaction that such Hazardous Materials are reasonably necessary to PURCHASER's Timber Operations and will be used, kept, and stored in a manner that complies with all Laws regulating any such Hazardous Materials.

B. Fuel Storage, Fueling, Maintenance and Spill Prevention. The STATE hereby consents that PURCHASER may bring upon, and use necessary fuel, lubricating oil, hydraulic fluids, explosives and anti-freeze substances in the Timber Sale Area, and the Roads and Related Transportation Facilities, during the Term of this Contract only to the extent such items are transported, used, and disposed of in a manner that complies with all Laws and the terms of this Contract. PURCHASER must maintain and use mobile fuel storage, refueling and maintenance facilities (including facilities for the collection of waste oil) and must do so in accordance with all Laws. No fixed tank storage is allowed on the sale area. The PURCHASER must have adequate absorbent and cleanup materials on site and in all vehicles and machinery used in the Timber Sale Area to contain spills related to fueling, maintenance and repair operations and damage likely to be sustained in the course of operations. *Mobile fuel storage facilities must not be parked within 100 feet of water bodies. Refueling of equipment must not occur on the active flood plain of a water body or within 300 feet of an anadromous fish stream.* Vehicle maintenance, campsites, and/or storage and stockpiling of material on the surface ice of lakes, ponds or rivers are prohibited.

C. Sanitation. The sale area must be maintained in a clean and sanitary condition during the operations of the PURCHASER. Any foreign materials or wastes such as cable, cans, bottles, barrels, garbage, equipment, equipment parts, or other debris resulting from this operation must be removed from the sale area as they are used and at the latest, upon completion of operations on any cutting unit.

D. Immediate Cleanup of Environmental Contamination. In the event PURCHASER becomes aware of any Environmental Contamination within the Timber Sale Area, PURCHASER must immediately notify the STATE and the Alaska Department of Environmental Conservation of any such Environmental Contamination and (unless provided for otherwise in a STATE-approved joint use Contract between PURCHASER and other Authorized Users of the Timber Sale Area) must immediately take all actions at its sole expense as are necessary to contain and cleanup Environmental Contamination in a manner consistent with the requirements of Law. Without limiting PURCHASER's containment and cleanup obligations herein, to the extent that it is economically reasonable to do so, PURCHASER must return the affected area to the condition existing prior to the introduction of any such Hazardous Materials.

E. Site Specific Special Protection Measures. Special protection measures needed to protect known areas identified on Sale Area Map or on the ground include:

- (1) Cultural Resource Protection Measures: None known at this time.
- (2) Wildlife and Botanical Protection Measures: Retention of leave areas.
- (3) Cave Resource Protection Measures: Not applicable.

13. DEFAULT BY PURCHASER

A. Events of Default by PURCHASER. Any of the following shall be deemed an event of default by PURCHASER (“Event of Default”):

- (1) Any representation or warranty made by PURCHASER that proves to be false in any material respect;
- (2) PURCHASER’s failure or refusal to perform, fulfill, or observe any provision in this Contract or Laws , or PURCHASER’s breach of any covenant in this Contract; or
- (3) If PURCHASER has a receiver appointed for all or any significant part of its assets, becomes insolvent, files a petition in bankruptcy or for reorganization, liquidation, or relief under any bankruptcy, insolvency, or debtor laws, or makes an assignment for the benefit of creditors, or if a petition is filed against it in bankruptcy or under insolvency or debtor laws.
- (4) The State under this contract cannot do business with a corporation or their principals that have been convicted of a felony criminal violation under any Federal law within the preceding 24 months and or have unpaid Federal tax liability. Corporations or their principals subject to this requirement shall provide the appropriate certifications.

B. Notice of Default/Cure/Termination. In the event of default under Section 13.A. (Events of Default by PURCHASER) above, the STATE will serve written notice on PURCHASER that states the ground or grounds upon which default is alleged and demand a cure. In the event of a default by PURCHASER for failure to make payments of Stumpage Fees, or Performance Bond, or for failure to obtain or maintain insurance as required herein, Timber Operations must cease immediately upon PURCHASER’s knowledge of the default or upon notice from the STATE, whichever is earlier. If the default is not cured within thirty (30) business days of written notice to PURCHASER, the STATE may suspend or terminate this Contract by serving written notice on the PURCHASER stating that this Contract is suspended or terminated. If an Event of Default is of any nature other than the defaults identified in the previous sentence and if (i) the default is not cured, or (ii) reasonable steps are not taken to diligently execute a cure within thirty (30) business days of notice, or within 48 hours in the case of obligations which the STATE or an authorized regulatory agency has declared to be of an emergency nature, the STATE may suspend or terminate this Contract by serving written notice on PURCHASER stating that the Contract is suspended or terminated. Failure of the STATE to strictly enforce at any time any of the provisions of this Contract shall not be construed to be a waiver or affect the right of the STATE to thereafter strictly enforce such provision.

C. Remedies. In addition to the above, if an Event of a Default by PURCHASER occurs under this Contract through no fault of the STATE, the STATE, at its election, shall be entitled, after written notice to PURCHASER and the cure periods set forth above have expired: (i) to suspend the operations under this Contract until the breach is cured; (ii) to terminate this Contract and recover any and all damages including incidental and consequential damages; (iii) to terminate this Contract and retain the Bid Deposit, any Stumpage Payments, the Performance Deposit and all other fees and deposits paid by PURCHASER, plus all interest accrued thereon, as liquidated damages and not as a penalty; (iv) to seek specific performance of this Contract; and (v) to pursue any and all remedies in addition to or by way of alternative to the foregoing available at law or in equity.

14. INTERIM AND FINAL ACCOUNTING

Upon the expiration of this Contract or within ten (10) business days of the completion of all remaining obligations of PURCHASER, whichever is earlier, there must be a final accounting between the parties. The following amounts must be computed by both parties: any unpaid completion costs; amounts due to STATE under Section 10.J. (Emergency Repairs) of this Contract; and any other amount due the STATE or PURCHASER pursuant to this Contract. Within thirty (30) days after all calculations have been made and approved by both parties, and final accounting inspections have been completed by STATE and applicable regulatory agencies, the party indebted to the other must pay the outstanding balance owed to the other party, at which time any remaining Performance Deposit shall be released or refunded.

Upon completion of all PURCHASER obligations under this Contract, the STATE will execute a written release, releasing PURCHASER from any further obligations under this Contract, except those that specifically survive termination of this Contract.

15. RIGHTS AND OBLIGATIONS UPON EXPIRATION OR TERMINATION OF CONTRACT

A. Rights in Timber Sale Area. Upon the termination or expiration of this Contract, any claim or right PURCHASER may have in and to the Timber Sale Area, to any Merchantable Timber or logs remaining in the Timber Sale Area or to the Roads and Related Facilities and the Timber Sale Areas shall terminate.

B. Obligation to Remove. Within thirty (30) days of completion or termination of PURCHASER's Timber Operations, whichever is earlier, PURCHASER must remove from the Timber Sale Area and the Roads and Related Transportation Facilities, all equipment, materials, chemicals, goods, supplies, machinery, cable, wastes, buildings, structures, and any other items or improvements placed thereon by PURCHASER. The Timber Sale Area and the Roads and Related Transportation Facilities must be left free of all litter, debris, and all foreign materials generated by PURCHASER's operations. PURCHASER's removal thereof must be made in a manner that does not leave the Timber Sale Area in a dangerous or unsafe condition and allows for reasonable concurrent uses during the removal period. If the above items are not so removed, they may either be removed from the Timber Sale Area at PURCHASER's expense or shall become property of the STATE if the STATE so elects.

16. NOTICES AND PARTIES' REPRESENTATIVES

All notices, requests, elections, consents or other communications that may be or are required to be given pursuant to this Contract to either of the Parties are effective only if given in writing and sent by certified mail, return receipt requested, by personal delivery to the other Party or by verbally confirmed facsimile copy, and shall be deemed received on the earlier of actual receipt or five (5) days after being deposited in the mail, postage prepaid, addressed to the STATE or PURCHASER at the following addresses:

To the STATE:

Area Forester
Southeast Area
Department of Natural Resources, Division of Forestry
2417 Tongass Avenue, Suite 213
Ketchikan, AK 99901

Phone No.: (907) 225-3070

Fax No. (907) 247-3070

PURCHASER:

PURCHASER Field Representative:

To:

To: (Defined in the Operating Plan)

Name:

Address:

City, State, Zip:

Phone No.:

Fax No.:

Attention:

Either party may change its representative or its field representative and its address for the purposes of this Section 16 (Notices and Parties' Representatives) by giving notice of such change to the other party in the manner provided in this Section 16 (Notices and Parties' Representatives).

17. ASSIGNMENT OF CONTRACT

This contract may not be assigned by the PURCHASER without written consent to such assignment first having been obtained from the STATE and the necessary amendment made to the contract.

18. LIENS

PURCHASER must pay or cause to be paid promptly when due any claim, debt or charge against PURCHASER, which might become a lien against any of the STATE's assets associated with this Contract. PURCHASER must not suffer or permit any such lien or encumbrances of any kind to be filed against or upon any equipment, improvements, logs, the Timber or the property from which the same are cut, or from the proceeds thereof, regardless of whether the basis of such lien is a claim against PURCHASER or against an employee, agent, supplier, or subcontractor of PURCHASER. PURCHASER must keep the Timber Sale Area and Timber free and clear of any and all mechanics, loggers, labor or materialmen's liens arising from the performance of labor upon or the furnishing of materials to the Timber Sale Area. PURCHASER may contest the validity of any such lien that may be filed by providing reasonable security to the STATE. PURCHASER must post notices of the STATE's non-responsibility pursuant to AS 34.35.065 and AS 34.35.150.

19. REPRESENTATIONS AND WARRANTIES

A. STATE. As additional consideration for this sale, the STATE hereby represents, warrants, and disclaims warranties, as follows, which representations, warranties and disclaimers shall survive the expiration of this Contract:

- (1) It is duly authorized to enter into this Contract;
- (2) It makes no warranties, express or implied, as to the access, availability, operability, value, total volume that may be cut in the Timber Sale Area, type, species distribution, grade, quantity, quality, merchantability or fitness for a particular use concerning the Timber and the Timber Sale Area.
- (3) Its approval of the Operating Plan is not a warranty that the plan is economic, safe, or meets the requirements of Laws;
- (4) It does not warrant the accuracy of any title, appraisals, timber cruises, investigations or other presale documents or evaluation the STATE has prepared;
- (5) It does not warrant any risk associated with previous mining activity on the land; and
- (6) It does not warrant any other item that extends beyond the written contents of this Contract.

B. PURCHASER. As additional consideration for this purchase, PURCHASER hereby represents and warrants as follows, which representations and warranties shall survive the expiration of this Contract:

- (1) It has read the above STATE warranty section with care and in its entirety and understands it completely;
- (2) It has had an unrestricted opportunity to review documents received from the STATE related to this timber sale which are not subject to the attorney-client privilege and has carefully inspected the Timber Sale Area and all Timber on the Timber Sale Area, and except for the STATE's Representations and Warranties set forth in Section 19.A. (STATE Representations and Warranties) above, PURCHASER is purchasing the Merchantable Timber and accepting the Timber Sale Area "AS IS;"
- (3) It has independently considered and made its own determination concerning the physical, legal and economic facts related to the access to and operations within the Timber Sale Area, barging and towing, log transport, log storage and transfer, raft delivery conditions, fuel transport and storage, availability of camps and sort yards, matters of title, government regulation, the construction of the required Roads and Related Transportation Facilities, the harvest of the Timber (and the ease or difficulty in harvesting it), the value, volume, grade, species distribution, type, quality and merchantability of the Timber and the economic feasibility and operability of the Timber and PURCHASER's ability to harvest the Timber, and all other matters related to the harvest and sale of the Timber. PURCHASER assumes each, every and all risks related to the Merchantable Timber and the Timber Sale Area;
- (4) It further assumes all risks related to the quantity or quality of rock, sand, gravel, stone or other construction materials in the Timber Sale Area;
- (5) It is in good standing in accordance with the Laws of the State of Alaska;
- (6) It is qualified to do business in the State of Alaska;
- (7) It is duly authorized to enter into this Contract and all agreements and documents contemplated hereby, and to make the representations and warranties set forth herein. When executed and delivered by PURCHASER, this Contract shall constitute a legal, valid and binding obligation of PURCHASER that the person executing this Contract for and on behalf of PURCHASER is duly authorized to do so, and that neither the execution of this Contract nor its performance by PURCHASER will conflict with or result in the breach of any other instrument, covenant or undertaking of PURCHASER;
- (8) All submissions to the STATE made in relation to this Contract are true and correct;

- (9) It is entering into this Contract based upon its own knowledge and information of the Timber, of the Timber Sale Area and of the timber business, and not because of any inducement or representation of the STATE, or any representative of the STATE;
- (10) It is experienced in the logging industry, has independently reviewed all Laws and has a sufficient working familiarity with such Laws to enable it to obtain necessary permits and comply with same; and
- (11) It has consulted with an attorney of PURCHASER's own choosing concerning the contents of this Contract.

20. VALID EXISTING RIGHTS

The rights granted to PURCHASER under this Contract are subject to all valid existing rights in existence on the Effective Date whether or not made of record, including without limitation, easements, rights-of-way, reservations or other interests in land.

21. PRODUCTION REQUIREMENTS

A. Logging Production. Commencing from the date of execution of this contract, the PURCHASER, must indicate within its Plan of Operations a logical and realistic ability to harvest and remove from the sale the entire volume within the contract period.

22. GENERAL PROVISIONS

A. Contractors. All Contractors and subcontractors engaged by PURCHASER to perform Timber Operations relating to this Contract, must be approved in advance by STATE; however, STATE shall not unreasonably withhold its approval. PURCHASER must require, by contract, all such contractors and subcontractors to abide by the terms and conditions of this Contract, and PURCHASER must provide them with relevant provisions of this Contract.

EXHIBIT A

VALLENAR BAY Timber Sale Area Map

See VALLENAR BAY Area Map.

EXHIBIT B**LEGAL DESCRIPTION****VALLENAR BAY TIMBER SALE SSE-1345-K**

Property Description:

The project area is on the north end of Gravina Island. Vallenar Bay is approximately five miles west of the Ketchikan International Airport and is viewable on USGS quadrangle Ketchikan B-6. The road corridor and timber sale encompasses State, federal and Ketchikan Gateway Borough land in Sections 5, 6 and 8 of T75S, R90E; Sections 35 and 36 of T74S, R89 E; Sections 1, 2, 11, 12, 13, 14, 19, 23, 24 and 30 of T75S, R89E all within Copper River Meridian (CRM).

The Timber Sale Area includes only the area described above and as depicted in Exhibit A: Vallenar Bay Timber Sale Area Map.

Timber Harvest Unit Description:

In this Timber Sale Area ten “harvest area” units have been identified comprising approximately 481 acres. The sale is designated for the harvest of approximately 16,450 million net board feet of timber plus net utility, more or less, within the “harvest area” shown on the attached Timber Sale Area Map in Exhibit A, which is made a part hereof.

The harvest of timber under this contract will occur only in the “Harvest Units” as designed and marked on the ground and contained in the units represented in the adopted FLUP and the Unit Cards created for this sale on USFS land. The units are marked with pink “Timber Harvest” ribbon on all ownerships. The State units additionally have trees designated for optional harvest approximately within one tree length of the pink “harvest unit” with “blue glow flagging”.

The USFS units are painted on trees facing the unit in orange and tagged with square orange markers. The USFS marked trees are not to be cut.

The road designed for the sale in the Forest Land Use Plan and on the USFS Unit Maps shall be constructed and managed as depicted in Exhibit E herein unless authorized otherwise in writing by the STATE. The centerline of the new and reconstructed authorized roads are marked with orange “Truck Road” ribbon.

EXHIBIT C

Logging Requirements

VALLENAR BAY TIMBER SALE SSE-1345-K

Harvest Prescription:

The harvest method will be clear-cut on State land. On federal land, the harvest method is predominantly clear-cut; Units 10 and 12 are clear cut units with leave trees marked within the units next to the Type III streams. Trees designated for retention are painted with an orange band.

The harvest methods will be partially based on the operators' ability to yard timber with either ground based or cable systems. Site specific characteristics such as terrain, soils, and water bodies are addressed in the Forest Land Use Plan identifying sites that will require either cable or ground based operations. Areas within harvest units without specific designations of harvest method in the FLUP will mutually be agreed upon and identified per harvest methods by the purchaser and the STATE in the Timber Sale Operations Plan.

The PURCHASER's operations on the TIMBER SALE must at all times comply with the Best Management Practices as outlined in the FRPA for public lands and the FLUP for the timber sale.

1. Leave Tree designations for Standing Cull and Utility.
 - A. None
2. Landings must be located, constructed, and operated in a manner that
 - A. avoids surface and standing waters;
 - B. minimizes the use of marshes and non-forested muskegs;
 - C. prevents logs and vegetative debris from entering surface and standing waters; and
 - D. minimizes the sedimentation of surface and standing waters.
3. An operator must locate and construct a landing according to the following standards:
 - A. when choosing the site of a landing, an operator must consider the effects of the landing location and provide for a logging layout that will reduce the overall adverse effects on the operation;
 - B. the design of a landing must minimize the need for side casting or fill;
 - C. a landing must be no larger than necessary for safe operation of the equipment and decking of logs;
 - D. where slopes have a grade greater than 67 percent, are unstable, or are in a slide-prone area, fill material used in construction of a landing must be free from loose stumps and excessive accumulations of slash, and must be mechanically compacted in layers if necessary to prevent soil erosion and mass wasting;
 - E. a truck road, a skid trail, or a fire trail must be out sloped or cross drained uphill of the landing and the water diverted onto the forest floor away from the toe of any landing fill;
 - F. a landing must be sloped, water barred, ditched or otherwise constructed and maintained to minimize accumulation of water on the landing; and
 - G. any excavated material from the construction of a landing may not be placed where it is likely to result in degradation of surface water quality.
4. To maintain bank integrity, an operator must minimize disturbance of residual trees, brush, and similar understory vegetation adjacent to surface and standing waters. An operator must also, where feasible, avoid disturbing roots, stumps, and deadfalls embedded in the bed or bank of surface waters, and standing waters larger than one-half acre.

5. In a riparian area, an operator must, where feasible and necessary, leave high stumps to prevent felled and bucked timber from entering surface waters.
6. The STATE will, in its discretion, require stabilization, to the extent feasible, of disturbed banks to prevent soil erosion and degradation of water quality.
7. If a tree is felled into nonfish-bearing surface or standing waters, the operator must remove the tree and its debris at the earliest feasible time, to the extent necessary to avoid degradation of water quality.
8. An operator may not buck or limb a tree or any portion of a tree lying between the banks of surface waters, except as necessary to remove the bole, limbs, or small debris from the water as required by 11 AAC 95.290(e) or this section.
9. If feasible, an operator
 - A. may not fell trees into a riparian timber retention area; and
 - B. must fell each tree in a direction that minimizes damage to trees retained in a partial cut.
10. During yarding, an operator must keep all logs fully suspended above or yarded away from surface waters where feasible, in light of the necessary equipment being reasonably available to the operator and the importance of the surface water to fish habitat and water quality, unless full suspension or split yarding would likely cause greater degradation of surface water quality or impact to fish habitat than cross-stream yarding.
11. The following standards apply to cable yarding operations:
 - A. when feasible, an operator must use maximum available deflection;
 - B. where feasible, an operator must use uphill yarding techniques;
 - C. where downhill yarding is used, an operator must use deflection to lift the leading end of the log and minimize downhill movement of slash and soils;
 - D. when yarding parallel to surface waters, and when in or near a riparian area, an operator must make an effort to minimize soil disturbance and to prevent logs from rolling into surface waters or the riparian area; and
 - E. when yarding across marshes and non-forested muskegs, an operator must make an effort to minimize damage to vegetative cover.
12. The PURCHASER may utilize only logging systems detailed in the Operating Plan. The number of skidding routes through an area must be minimized.
13. An operator may not use a tracked skidder, a wheeled skidder, or a logging shovel during saturated soil conditions if degradation of surface and standing water quality is likely to result.
14. An operator must minimize damage from skidding to the stems and root systems of retained timber. The PURCHASER must protect residual trees and seedlings during harvest operations. No more than 25 percent of the residual stand may be damaged. Residual trees or existing spruce regeneration that in the judgment of the STATE are unnecessarily damaged during felling and/or skidding operations must be paid for by the PURCHASER in accordance with the following: Liquidated damages for residual trees greater than 4 ½ feet tall is set at the rate of \$50 (fifty dollars) per tree. The PURCHASER must fell, skid or slash all damaged residual stems after the main harvest operations for that unit has been completed, as directed by the STATE. Damaged stems are defined as stems with broken tops, stems that are leaning more than 30 degrees off vertical, and stems that have more than one-third of the cambial surface (circumference) exposed from skidding scars.

15. When using tracked and wheeled vehicles, an operator must:
 - F. use puncheon where significant ground disturbances may contribute to sedimentation of surface water;
 - G. locate skid trails to minimize degradation of surface water quality;
 - H. use water bars or other appropriate techniques as necessary to prevent or minimize sedimentation;
 - I. keep skid trails to the minimum feasible width; and
 - J. outslope skid trails where feasible, unless an inslope is necessary to prevent logs from sliding or rolling downhill off the skid trail.
16. Upon the completion of operations at a site, a skid trail must be water-barred according to the standards set out in 11 AAC 95.315 or otherwise stabilized to prevent erosion from entering surface waters.
17. An operator may not use a tracked or wheeled skidder on a slope where this method of operations is likely to cause degradation of surface and standing water quality.
18. The tops of all trees felled, and not yarded to the landing, must be scattered in such a manner as to lay away from residual trees. Non-merchantable trees cut for skid roads, landings, etc., are to be treated as slash unless otherwise directed by the STATE. Slash must be treated so that the slash height does not exceed two feet above the ground. All heavy accumulations of slash occurring road side, and at landings must be scattered, or piled, or treated in a manner approved by the STATE.

EXHIBIT D

OPERATING PLAN REQUIREMENTS

VALLENAR BAY TIMBER SALE SSE-1345-K

The Operating Plan must comply with the requirements of the Alaska Forest Resources and Practices Act (FRPA) under AS 41.17, the Alaska Land Act under AS 38.05, and 11 AAC 71.300. The Operating Plan must provide the STATE with sufficient information to allow the STATE to understand the Timber Operations, as they will occur in the field. The Operating Plan must include areas of concern identified by the PURCHASER, including any potential conflicts with FRPA, the FLUP or the EA. The information required in the "Operating Plan" must also provide the STATE with the following information:

- A. Overall Description of Operating Plan.
 - (1) Timber Harvest schedule. Specific start and stop dates for operations such as cutting, road building, hauling, logging, scaling and any periods without operations longer than 60 days;
 - (2) Fire planning, including an area-wide action plan and list of adequate equipment maintained in the Timber Sale Area to suppress fires;
 - (3) An area-wide control plan for Pollution and Hazardous Substances; and

- B. Details of Operating Plan.
 - (1) Method and schedule of timber harvest by settings for the plan year, and the estimated volume by month to be harvested during the plan year. This must be identified on the unit maps and in writing.
 - (2) Details of road construction and maintenance, including a summary of areas of concern and actions to be taken to manage the concern due to slope or other considerations along with specific pit and waste areas plans (shall be submitted for approval prior to development).
 - (4) Details of the seasonal closeout plan, including roads, sortyard, LTF, and related transportation facilities and other pertinent information. The plan under this Contract must provide for closeout activities, including putting roads to bed and full clean-up.
 - (5) Locations of log scaling areas, log transfer facilities, camp facilities or local operations office; and copies of any LTF, sortyard, driveway, and access road permits or leases, and road use and maintenance agreements.
 - (6) Names, addresses, business licenses, proof of insurance and contact persons for all contractors. The plan must state the task and percentage of the work that each contractor will perform for the PURCHASER.
 - (7) Name, address, and phone number for the purchaser's field representative.
 - (8) Communication Plan as described in Exhibit E.

EXHIBIT E ROAD CONSTRUCTION, FACILITIES USE AND MAINTENANCE REQUIREMENTS

VALLENAR BAY TIMBER SALE SSE-1345-K

1. FOLLOW THE ADOPTED FLUP, and USFS EA AND UNIT MAPS FOR THIS SALE AREA.
2. DOF STANDARD ROAD AND BRIDGE SPECIFICATIONS APPLY TO THIS CONTRACT for the road type specified in the FLUP. Available for download at: <http://forestry.alaska.gov/resources>.
 - a. All rock used, developed or imported in the sale area requires preapproval of the State. Pit plans are required to be approved by the STATE prior to development.
 - b. At a minimum, reflective warning signage (trucks entering highway and active logging road) shall be posted at all public access points to the sale area during active operations. Appropriate sign placement and maintenance shall be used to provide adequate warning to drivers in all conditions.
 - c. Warning signs shall be posted if falling or yarding operations are occurring adjacent to roads
3. Access to the sale area is adjacent to numerous private properties. All operations associated with the timber sale shall respect the existing uses in the area and accommodate incidental traffic when not at risk by the direct actions associated with the timber harvest. Public traffic may be discouraged by the PURCHASER from using the road during active hauling of equipment, rock, and logs. Traffic may only be discouraged on portions of the road directly affected by active operations. The purchaser shall:
 - a. Provide and implement a communication plan (meeting the approval of the DOF) to keep users aware of timber sale activity. The plan shall be updated by the purchaser throughout the term of the timber sale to reflect present conditions or as deemed necessary by the DOF.
 - b. Manage all operations to avoid, minimize, and mitigate operational hazards that conflict with users.
 - c. Use speeds appropriate for operating conditions.
4. Road use agreements required by the USFS and the Ketchikan Gateway Borough (KGB) have been satisfied by the State. All other agreements that may be required are the responsibility of the Purchaser.
5. The use of the Gravina Island Industrial Complex and the Lewis Reef Road is subject to the control of the Airport Manager as authorized by the Airport Master Agreement and the Ketchikan Gateway Borough Assembly (KGB). The PURCHASER is required to enter into a written use agreement with the KGB if the GIIC and the associated LTF are used for any activity associated with this timber harvest contract.
6. The Lewis Reef Road on Gravina Island is not a maintained roadway. The Borough is not be responsible for maintaining the roads on Gravina Island, and disclaims any and all liability that may arise from any use of the roads. Both the Lewis Reef Road and the Gravina Island Industrial Complex are accepted by PURCHASER and/or contractors on an as is where is basis, without any warranties of any kind as to condition or suitability. Purchaser and/or contractors shall defend and indemnify the DOF, the USFS and the Borough from any claims or liability, including costs and attorneys fees, arising from the PURCHASER or a contractor's choice to use of the Lewis Reef Road and transfer area. PURCHASER shall maintain the Lewis Reef Road and Transfer Area commensurate with

its use by the PURCHASER and leave the Lewis Reef Road and Transfer Area in as good a condition as they found it.

7. The use of facilities outside USFS, State forest land or the state road easement on Ketchikan Gateway Borough lands associated with this sale requires a signed use agreement, or permit, or lease as is appropriate by the authority prior to the DOF review of the operating plan and start of operations. Purchaser shall adhere to all stipulations contained within all state and Federal permits for the facility(s) and roads, provide the DOF with copies of all pertinent information necessary for required permit reporting, and cover the cost of all permit(s) related fees and expenses.
8. At the Purchaser's discretion, the PURCHASER may utilize used State culvert stockpiled in the last pit on the Bostwick Road. The use of the used culvert does not imply suitability for the purpose, adequate supply of materials or wave performance requirements for the installation of the culvert as described in the DOF Road Standards. To use the pipes in the stockpile, the Purchaser may need to supply pipe bands compatible with the style of pipe to meet the manufacture's requirements for typical installation. If the culvert pipe is deemed unsound or of inadequate quantity for installation by the STATE or the Purchaser, the Purchaser shall install new smooth interior double wall corrugated plastic culvert meeting AASHTO M 294, Type S or Type D at the Purchaser's expense. In addition to the culverts specified in the FLUP and on the USFS Unit Cards, this sale has been appraised for the installation of an additional 160 lineal feet of 18" corrugated plastic culvert for ditch relief pipes to be installed per the direction of the STATE at the Purchaser's expense. State stockpiled culvert is only to be used for this contract.

EXHIBIT F PROPOSED UNIT MAPS

VALLENAR BAY TIMBER SALE SSE-1345-K

Reserved for FLUP maps and USFS Unit Maps.

EXHIBIT G INSURANCE POLICIES

VALLENAR BAY TIMBER SALE SSE-1345-K

All of the insurance policies required by this Contract shall be endorsed to provide that such insurance shall apply as primary insurance and that any insurance or self-insurance carried by the STATE or permitting agencies will be excess only and will not contribute to the insurance required by this Contract; shall be endorsed to name the STATE as additional insureds; and shall provide for a waiver of subrogation in favor of the STATE. All endorsements shall refer to this Contract. All insurance shall be on an occurrence and not a “claims made” basis. PURCHASER shall provide and maintain the following:

1. Workers’ compensation, industrial accident and/or USL&H insurance for all its employees engaged in work under this Contract, including subcontractors’ Workers' Compensation Insurance, Industrial Accident and/or USL&H, including Employer's Liability Insurance in accordance with the Laws of the State of Alaska. The Contractor’s policy shall have a waiver of subrogation against the state by the purchaser and all subcontractors associated with the timber sale. The policy will have Employer's Liability Protection at \$500,000 each accident/each employee and \$500,000 policy limit with “Other States” endorsement if the purchaser or subcontractor directly utilizes labor that are residents from outside of the State of Alaska. United States Longshore and Harbor Workers’ Act Endorsement, whenever the work involves activity over or about navigable water; and Maritime Employer’s Liability (Jones Act) Endorsement with a minimum limit of \$1,000,000 whenever the work involves activity from or on a vessel on navigable water.
2. Commercial general liability insurance, including contractual coverage. With coverage limits not less than one million dollars (\$1,000,000) combined single limit per occurrence and annual aggregate coverage of two million dollars (\$2,000,000) where generally applicable including premises-operations, independent contractors, product/completed operations, broad form property damage, blanket contractual, and personal injury endorsements.
3. Logger’s property damage liability, broad form with a limit per occurrence of at least one million dollars (\$1,000,000).
4. Comprehensive automobile and aircraft liability insurance. Covering all owned, hired, and non-owned vehicles and aircraft with coverage limits not less than one million dollars (\$1,000,000) combined single limit per occurrence bodily injury and property damage.

EXHIBIT H APPROVED OPERATING PLAN

VALLENAR BAY TIMBER SALE SSE-1345-K

To be submitted by PURCHASER, approved by STATE and attached hereto.