

ALASKA DEPARTMENT OF NATURAL RESOURCES
DIVISION OF FORESTRY AND FIRE PROTECTION
SOUTHEAST AREA

EL CAPITAN/ WHALE PASS TIMBER SALE
TIMBER SALE CONTRACT

SSE-1380 K/SSE-1378 K

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STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF FORESTRY AND FIRE PROTECTION
SOUTHEAST AREA, KETCHIKAN OFFICE
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EL CAPITAN/ WHALE PASS TIMBER SALE

TIMBER SALE CONTRACT

SSE-1381 K/ SSE-1378 K

The State of Alaska, represented by the Director, Division of Forestry and Fire Protection, 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, hereinafter called the STATE, does hereby agree to sell, and [REDACTED] 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 [REDACTED] ("Effective Date"). 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 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.

E. "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.

F. "MBF" means one thousand board feet, Scribner (long log) log scale rule.

G. “Merchantable Sawlog,” is a No. 3 or better sawlog according to the Official Rules of the Log Scaling & Grading Bureaus developed and authored by The Northwest Log Rules Advisory Group. The minimum gross merchantable sawlog length for the purpose of this contract is 12 feet long plus trim.

H. “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.

I. “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.

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

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

L. “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.

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

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

O. “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). A typical setting represents the area in which all merchantable timber can be logged to one landing or road by a single harvest system.

P. “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.

Q. “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.

R. “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.

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

T. "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.

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 reserves 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 15, 2028** 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 15, 2028** 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, and Utility (all species) and as described in Section 9 (Scaling and Log Accountability). Stumpage fees will be as follows, according to PURCHASER bid amounts for:

Species	Market Type	Rate per thousand board foot (MBF)	Scale Unit
Spruce Sawlog	Export	\$XXX.00	Net Scribner
	AK Domestic	\$XXX.00	Net Scribner
Hemlock Sawlog	Export	\$XXX.00	Net Scribner
	AK Domestic	\$XXX.00	Net Scribner
Yellow Cedar Sawlog	Export	\$XXX.00	Net Scribner
	AK Domestic	\$XXX.00	Net Scribner
Western Red Cedar Sawlog	Export	\$XXX.00	Net Scribner
	AK Domestic	\$XXX.00	Net Scribner
Utility	All	\$XXX.00	Net Scribner +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 log scaling and as long as the contract is effective. No log volume may be removed from the sale area until payment or a representative advance stumpage deposit made for log volume to the STATE.

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.
3. The PURCHASER requests to change the agreed upon market venue for the timber harvested from the sale as outlined in the PURCHASER's proposal sheet in **Exhibit D** (Operating Plans).

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.00** (US Dollars) submitted as part of the Request for Proposal 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 10% of the estimated total stumpage to the State at the execution of the contract. The amount of the stumpage deposit throughout the contract 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 two months, or 25% of the timber sale value, whichever is greater. If the level of productivity increases over the term of the contract, a corresponding increase to the stumpage deposit amount must occur. Adequate Stumpage Deposit shall be made to the STATE prior to timber falling operations.

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 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 rests 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.

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 Plan. 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 and a scale report shall be furnished for volume exported by shipload.

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 and Fire Protection. PURCHASER is responsible for registering such brands with the Division of Forestry and Fire Protection. PURCHASER shall also paint one end of each log before being removed from the Timber Sale Area with a color acceptable to the STATE if there are logs being scaled at the same location from other timber sales.

D. Truck Trip Tickets, Raft and Barge Summaries. Each load of logs removed from the sale area 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. Unscaled logs moved by raft or barge from the sale area shall be accounted for in a mutually agreed manner described in the purchaser operating plan.

10. TIMBER OPERATIONS

A. Operating Plan Requirements. Unless otherwise provided for, PURCHASER shall be responsible for performing timber operations based on existing road and unit layout and design. 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, on or before the execution of this contract, 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 and an approved logging plan is grounds for suspension. This plan must be updated annually and whenever there is a change in the PURCHASER'S operation such as but not limited to start or stop dates of activity on the sale, type of activity being conducted, and third party agreements.

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 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 utility decks obstruct the STATE's future use of the land. Log decks shall be stable and placed in suitable locations. Title remains with the State until logs are removed from 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 is responsible for all reforestation obligations 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 Alaska Forest Resources and Practices Act (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, 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.

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 establishes 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 and Fire Protection 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 FRPA 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. 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. The PURCHASER must pay the STATE stipulated damages of \$100.00 USD for each boundary tree and leave tree that is cut or damaged, as determined by the Forester-in-Charge. Assessed damages are not limited to the bond amount.

11. RISK MANAGEMENT

A. Indemnification. PURCHASER shall defend, indemnify, and hold the State 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 **one hundred thousand dollars (\$100,000.00 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. Within ten (10) days of STATE's said application, PURCHASER must deposit that sum of money necessary to maintain a Performance Bond of **one hundred thousand dollars (\$100,000.00 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 waste such as 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 clean up 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.

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.

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, or not have an approved operating plan on file with the STATE that reflects the actions of the Purchaser or have a designated representative on site of the timber operations, 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 and Fire Protection
2417 Tongass Avenue, Suite 213
Ketchikan, AK 99901

Phone No.: (907) 225-3070

Fax No. *N/A*

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. Offer For In State Use. This Contract was negotiated in good faith and on the basis that the PURCHASER would produce Value Added and High Value Added products in the State of Alaska from this timber sale as represented in the formal RFP process submitted on **November XX, 2023**. The PURCHASER's proposal is attached as part of **Exhibit H** (Operating Plan). The PURCHASER must establish an accounting system and inventory system approved by the STATE prior to operations that will at minimum document the actual timber utilized and correlate it with the products produced. The inventory system must follow industry standards for log accountability and products must be specified to written standards approved by the STATE prior to the harvest of the timber. Upon reasonable demand the purchaser must report the timber scale removed from the sale area and the products produced with that timber to date. The report must show the quantity and type of products produced by the PURCHASER. The report is due by the 15th of the month following the request. Failure to submit a report shall be considered a breach of contract. Failure to produce the products proposed in Exhibit H will, in the STATE's discretion, be dealt with in accordance with any legal remedy.

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.

B. 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.

EXHIBIT A EL CAPITAN/ WHALE PASS Timber Sale Area Maps

See Forest Land Use Area Maps A1 (2 pages).

EXHIBIT B**LEGAL DESCRIPTION****EL CAPITAN/ WHALE PASS TIMBER SALE SSE-1380 K/ SSE-1378 K**

Property Description:

The El Capitan and Whale Pass Timber Sale is composed of 15 units. The sale area is on the northern end of Prince of Wales Island.

Whale Pass

There are six units near the community of Whale Pass. The timber sale area is found within Sections 13, 23, 24, 25, 26, and 27, Township 66 South, Range 79 East, Copper River Meridian (CRM).

El Capitan

There are nine units near the junction of the FDR 2000 and FDR 2700. The timber sale area is found within Sections 1, 12, and 13, Township 66 South, Range 78 East, and Sections 6, 7, 8 and 18, Township 66 South, Range 79 East, Copper River Meridian (CRM).

The sale is designated for the harvest of approximately 14.4 million board feet of timber, more or less, within the harvest area shown on the attached Timber Sale Area Maps in Exhibit A, which is made a part hereof.

The harvest of timber under this contract will occur only in the "Harvest Unit" as designed and marked on the ground and contained in the Forest Land Use Plans created for this sale. The roads designed for the sale in the Forest Land Use Plans shall be constructed and applied substantially as depicted in Exhibit E herein.

EXHIBIT C

Logging Requirements

EL CAPITAN/ WHALE PASS TIMBER SALE SSE-1380 K/ SSE-1378 K

Harvest Prescription:

The predominant harvest method will be clear-cut.

A seven-acre wildlife corridor is flagged in Whale Pass Unit 2. Fifty percent of the basal area shall be retained in this area. The DOF will work with the purchaser to mark these trees prior to harvest.

The harvest methods are 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 and sites are identified that will be limited to either cable or ground based (shovel logging) operations. The PURCHASER may refine the harvest methods proscribed in the FLUP with written approval of the DOF as represented 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 Alaska Forest Practices Act and Regulations (FRPA) for public lands and the Forest Land Use Plan (FLUP) for the timber sale.

1. Leave tree designations for standing cull and utility.
 - A. Obvious cull trees with clear presence of conks (fungus fruiting bodies indicating the presence of significant wood defect) along the bole of the tree may be left standing for the purpose of this contract;
 - B. Timber deemed non merchantable (or cull) are trees containing log lengths that fail to meet the minimum requirements for the lowest sawmill grade and will not meet the minimum net/gross ratio of 33 1/3% sound wood when scaling bureau rules apply. [These trees may be left standing?]
2. Landings must be located, constructed, and operated so that they:
 - A. avoid surface and standing waters;
 - B. minimize the use of marshes and non-forested muskegs;
 - C. prevent logs and vegetative debris from entering surface and standing waters; and
 - D. minimize 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.

- G. No-excavated material from the construction of a landing may 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 division 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.
 - 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:
 - A. use puncheon where significant ground disturbances may contribute to sedimentation of surface water;
 - B. locate skid trails to minimize degradation of surface water quality;
 - C. use water bars or other appropriate techniques as necessary to prevent or minimize sedimentation;
 - D. keep skid trails to the minimum feasible width; and
 - E. 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 at the landing must be piled or dispersed and meet the State's approval.
19. Prompt attention to water quality and flow management will be exercised when surface waters are present or predicted precipitation events are likely to concentrate flows or on streams with downstream residential water use. Logs harvested as part of this contract shall not significantly obstruct surface water other than for specific short duration stream crossings unless otherwise approved by the DOF. Long butts, utility logs, debris, and slash shall be managed and removed in a timely manner in and adjacent to surface waters on landings and roads to avoid the degradation of water quality or the loss soil or road integrity.
20. Signs, lookouts or flaggers will be used in the proximity of operations as warranted by the activity and terrain to warn the public. The communication will specifically make owners aware of active cutting, logging operations and blasting within 500 feet of private property.
21. The PURCHASER shall take all feasible actions to manage noise from the timber sale. Within a one quarter mile of residential areas, the PURCHASER's operations shall restrict heavy equipment, blasting, cutting and hauling operations to 07:00 – 20:00.

EXHIBIT D**OPERATING PLAN REQUIREMENTS**

EL CAPITAN/ WHALE PASS TIMBER SALE SSE-1380 K/ SSE-1378 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 information required in the “Operating Plan” must provide the STATE with the following information:

1. Name, address, and phone number for the purchaser’s field representative.
2. 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.
3. Locations of log scaling areas, log transfer facilities, camp facilities and/or local operations office.
4. Copies of any required land use contracts, driveway or access road permits, road use and maintenance agreements.
5. Fire planning, including an area-wide action plan and list of adequate equipment maintained in the Timber Sale Area to suppress fires.
6. An area-wide control plan for Pollution and Hazardous Substances.
7. A Communication Plan.
8. Safety. Purchaser’s outreach methods for communicating directly with the public and property owners adjacent to active operations ahead of and during operations.
9. Method and schedule of timber harvest by settings for the operational period or calendar 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. Start and stop dates for operations such as cutting, road building, hauling, logging, scaling and any periods without operations longer than 60 days. The PURCHASER shall use good faith in identifying and developing timely solutions mutually agreeable to the State for areas of concern identified including any potential conflicts the FRPA.
10. 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.
11. Specific pit and waste areas plans as they are known and prior to use shall be incorporated in the operating plan. Site specific review and approval by the STATE is required of all pit and waste areas prior to development by the PURCHASER.
12. Closeout plans, including roads and related transportation facilities and other pertinent issues. The plan must provide for putting roads to bed and other cleanup tasks to meet the intent of the FRPA and the FLUP.
13. The final agreed to quantities of High Value, Value Added Products and Export logs to be produced by the Purchaser and the log accountability plan. Details of products to be produced and PURCHASER’s reporting plan as detailed in Paragraph 22B (Appendix C of the Request for Proposal).

EXHIBIT E ROAD CONSTRUCTION, MAINTENANCE AND MANAGEMENT

EL CAPITAN/ WHALE PASS TIMBER SALE SSE-1380 K/ SSE-1378 K

1. FOLLOW THE ADOPTED FOREST LAND USE PLANs (FLUP) FOR THIS SALE AREA.
2. DOF STANDARD ROAD AND BRIDGE SPECIFICATIONS APPLY TO THIS CONTRACT for the road and bridge types specified in the FLUP. These standards shall apply unless site specific design and approval has been required or authorized by the STATE. Available for download at: <http://forestry.alaska.gov/resources>.
 - a. Bridge(s) are designated to be constructed to access this sale. Basic span information has been specified in the FLUP for the crossings and is the minimum span required. If a log stringer bridge is constructed as part of this sale, it shall meet the current United States Forest Service design requirements for typical long-term log stringer bridges.
 - b. Where documented fish-bearing streams are crossed, the PURCHASER is responsible for facilitating final site-specific design and permitting. Design and installation will meet DOF and ADFG-Habitat approval.
 - c. All rock developed or imported to the sale area requires preapproval of the State. Pit plans shall be approved by the STATE prior to development.
 - d. At a minimum, reflective warning signage (“trucks entering highway” and “active logging road”) shall be posted at all active access points to the sale area. Appropriate sign placement and maintenance shall be used to provide adequate warning to drivers in all conditions.
 - e. Warning signs shall be posted if falling operations are occurring adjacent to roads
3. The sale area is adjacent to a residential area. All operations associated with the timber sale shall respect the existing uses of the area. The purchaser shall:
 - a. Provide and implement a communication plan (meeting the approval of the DOF) to keep local residents and travelers 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 local residents and travelers.
 - c. Keep dust proximate to Whale Pass minimized during hauling operations by using surface watering or other effective means approved by the road manager.
 - d. Use speeds appropriate for operating conditions.
 - e. Hauling of timber on roads in residential areas shall consider to the extent feasible other existing use patterns. Hauling timber on the existing FDR 2500 (Neck Lake Road) is not authorized in this contract.

EXHIBIT F

PROPOSED LAYOUT MAPS

EL CAPITAN/ WHALE PASS TIMBER SALE SSE-1380 K/ SSE-1378 K

Reserved for FLUP maps.

EXHIBIT G**INSURANCE POLICIES**

EL CAPITAN/ WHALE PASS TIMBER SALE SSE-1380 K/ SSE-1378 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 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

EL CAPITAN/ WHALE PASS TIMBER SALE SSE-1380 K/ SSE-1378 K

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