

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANGEMENT

No.

**CONTRACT FOR THE SALE OF TIMBER  
LUMP SUM SALE**

THIS CONTRACT is made and entered into the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, under the authority of the Act of August 28, 1937, (50 Stat. 874), as amended, (43 U.S.C. 1181a-f), relating to the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands, or under the Act of July 31, 1947, (61 Stat. 681), as amended, (30 U.S.C. Secs. 601-604), relating to other lands under the jurisdiction of the Bureau of Land Management (BLM), and the regulations as set forth in 43 CFR Group 5400, between the UNITED STATES OF AMERICA, hereinafter called the Government, acting through the BLM, and

of

hereinafter called the Purchaser.

WITNESSETH, That the parties hereto do mutually agree as follows:

**Sec. 1. Timber Sold** - The Government hereby sells to the Purchaser and the Purchaser hereby buys from the Government, under the terms and conditions of this contract, all timber included in *Exhibit B*, which is attached hereto and made a part hereof, except that timber reserved to the Government under Sec. 41 of this contract, within the area designated by the Government, comprising contract area as shown on map marked *Exhibit A*, which is attached hereto and made a part hereof, and situated in the County of \_\_\_\_\_, State of \_\_\_\_\_, and described as follows:

TOWNSHIP	RANGE	SECTION	SUBDIVISION(S)

**Sec. 2. Total Purchase Price** - The Purchaser agrees to pay the Government, as the total purchase price for the timber sold hereunder, the sum of

dollars ( \_\_\_\_\_ ); *Provided, however*, that such total purchase price may be adjusted in accordance with Secs. 6, 7, 8, 9, 19, 20, or 42 of this contract.

**Sec. 3. Payment**

(a) Payment under this contract shall be made as set forth in this section. No timber may be cut or removed until the required payments have been made. Purchaser shall continue to make such payments until the total purchase price has been paid. The total purchase price shall be paid no later than the expiration of time for cutting and removal as set forth in Sec. 4.

(b) Unless total purchase price is paid on or before the date this

contract is signed by the Contracting Officer, payments shall be made in installments of not less than

dollars ( \_\_\_\_\_ ) as follows: (1) The first installment shall be paid on or before the date this contract is signed by the Contracting Officer, one-half of this first installment may be applied as payment on the total purchase price when (i) no less than 60 percent of the total purchase price has been paid or (ii) road construction required under the contract has been completed the value of which when combined with contract payments is equal to no less than 60 percent of the total purchase price, and one-half of this first installment shall be held to satisfy the final payment due under this contract; (2) *except* as provided by subsections (e) and (f) of this section, a second installment shall be paid prior to cutting or removal of any timber sold under this contract. Each subsequent installment shall be due and payable without notice when the value of the timber cut or removed equals the sum of all payments not including the first

installment or one-half of the first installment after one-half of the first installment has been released as provided in subsection (b)(1) of this section; (3) *Provided, however*, that in the case of all contracts with a nineteen (19) month or longer term, the Purchaser shall be required by the first anniversary date to either (i) pay no less than 20 percent of the total purchase price or (ii) complete road construction required under the contract the value of which when combined with contract payments is equal to no less than 20 percent of the total purchase price; (4) *Provided further*, that in the case of contracts with a twenty-seven (27) month or longer term, the Purchaser shall also be required by the second anniversary date to either (i) pay no less than 40 percent of the total purchase price or (ii) complete road construction required under the contract the value of which when combined with contract payments is equal to no less than 40 percent of the total purchase price.

(c) Notwithstanding the provisions of subsection (b)(1) of this section, the amount of the first installment may be reduced by the Government when the Contracting Officer requests the Purchaser to interrupt or delay operations for a period expected to last more than thirty (30) days during the operating season. Such interruption or delay must be beyond the Purchaser's control. The first installment may be reduced to 5 percent of the installment amount specified in subsection (b) of this section, during the delay period. The Purchaser must request such a reduction in writing. When the Contracting Officer notifies the Purchaser that operations may proceed, the Purchaser shall have fifteen (15) days after such notification to restore the first installment to the value specified in subsection (b) of this section. Failure to restore the first installment within the allotted time will be considered a material breach of contract. No timber shall be cut or removed from the contract area until the first installment is restored.

(d) Notwithstanding the provisions of subsections (b)(3) and (b)(4) of this section, adjustments in the due dates for anniversary payments may be made by the Government if the Contracting Officer interrupts or delays contract operations for a period expected to last at least thirty (30) days, and the interruption or delay is beyond the Purchaser's control. Any adjustment made to the due dates for anniversary payments will be commensurate with the extension of operating time granted in accordance with Sec. 9. The Purchaser shall request such adjustment in writing before the due date for an anniversary payment contained in subsections (b)(3) and (b)(4) of this section.

(e) If Purchaser increases the performance bond as permitted by Sec. 39(b), cutting of timber of a value not in excess of the increase in value of such bond may be permitted prior to the payment of the second installment or subsequent installments; *Provided, however*, that no timber may be skidded, yarded, or otherwise transported to a loading point or removed from the contract area prior to payment of any installment which, but for provisions of this subsection, would otherwise be due under the provisions of Sec. 3(b).

(f) If Purchaser provides a payment bond, as permitted by Sec. 39(d), cutting and/or removal of timber of a value not in excess of the penal sum of such bond may be permitted prior to the payment of the second installment or subsequent installments. Unless a shorter period is agreed to by Purchaser and Government, Government shall bill Purchaser monthly for timber skidded, yarded, or otherwise transported to a loading point or removed from the contract area. Such billing shall include any amount due for related road maintenance fees and other charges required under this contract. Purchaser shall make payment within fifteen (15) days of the billing date shown on the billing form.

(g) For the purpose of determining (1) when payments are due or (2) the value of timber subject to any special bonding provisions, Government shall calculate the value of timber in accordance with the provisions of *Exhibit B*.

(h) Notwithstanding Sec. 3(a), if the time specified for cutting and

removal expires or the contract is cancelled, credit against the total purchase price will be determined pursuant to Sec. 11. The Government will then bill the Purchaser for the amount due, payable within fifteen (15) days of the demand for damages.

(i) Purchaser shall make all payments at a depository as designated by the Contracting Officer in cash or by money order, check, credit card, or electronic transfer made payable to the Department of the Interior, Bureau of Land Management.

(j) For any payments or other charges not paid when due, interest shall accrue on the amount due at the Department of Treasury's Current Value of Funds rate published in the Federal Register, beginning thirty (30) calendar days after the billing date shown on the billing form. For every demand letter issued, an administrative charge will be assessed. If payment has not been received within ninety (90) calendar days after the billing date shown on the billing form, administrative penalties will be assessed at a rate of 6 percent per annum on any outstanding principal balance. All fees are assessed in accordance with the Debt Collection Improvement Act of 1996 (110 Stat. 1321) or any amendment thereof.

**Sec. 4. Time for Cutting and Removal** - Except as otherwise provided in this contract, Purchaser may begin cutting and removing timber sold under this contract on the date this contract is signed by the Contracting Officer. Purchaser's right to cut and remove such timber shall expire ( ) months after such date; *Provided, however*, extensions of time may be granted as provided in Sec. 9.

#### **Sec. 5. Definitions**

(a) *Contracting Officer* - the Bureau of Land Management official who would have authority to execute this contract and delegate authority to take action in connection with this contract.

(b) *Authorized Officer* - any employee of the Bureau of Land Management who has been delegated, by the Contracting Officer, the authority to take action in connection with this contract.

(c) *Timber* - standing trees, downed trees or logs, or portions thereof, which are capable of being measured in board feet.

(d) *Loading Point* - any landing or other area in which logs are capable of being loaded for transportation out of the contract area; *Provided, however*, that right-of-way timber which has been cut shall not be considered to be at a loading point until such time as the logs from any source are actually transported from that portion of the right-of-way.

(e) *Operating Season* - the time of year in which operations of the type allowed or required are normally conducted and not specifically restricted under this contract.

#### **Sec. 6. Inspection of Timber and Disclaimer of Warranty**

(a) Purchaser warrants that this contract is accepted and executed on the basis of its examination and inspection of the timber sold under this contract and its opinion of the value thereof.

(b) Government expressly disclaims any warranty of fitness of the timber for any purpose; all timber sold hereunder is accepted *As Is* without any warranty of merchantability by Government. Any warranty as to the quantity or quality of the timber sold hereunder is expressly disclaimed by Government. Refund to or recovery by Purchaser for failure of title to any timber sold hereunder shall not exceed the value of such timber computed at unit prices per species or for all species included as set forth in *Exhibit B*.

**Sec. 7. Passage of Title and Risk of Loss** - Title to timber sold under this contract shall remain in Government and shall not pass to Purchaser until such timber has been paid for and removed from the contract area. Unless cut timber is sold under this contract, risk of loss shall be borne by Purchaser after the timber is cut;

*Provided, however,* that if loss results from a fire which was not caused by Purchaser, Purchaser's contractors, subcontractors, or the employees of any of them, the risk of loss shall be borne by the party holding title. If cut timber is sold under this contract, risk of loss shall be borne by the party holding title. Risk of loss to Government shall not exceed the value of such timber computed at the unit prices per species or for all species included as set forth in *Exhibit B*. Nothing herein shall be construed to relieve either party from liability for any breach of contract or any wrongful or negligent act. As used in this section, the term *cut timber* refers only to timber which has been felled, bucked, piled at a loading point, or otherwise severed by direct human activity prior to the date this contract was entered into.

**Sec. 8. Sales of Additional Timber** - If the Authorized Officer and Purchaser agree that additional timber should be removed and the Contracting Officer determines that the sale will not be detrimental to the interests of Government and is within the provisions of 43 CFR 5402.0-6, the Contracting Officer, or Authorized Officer if designated, shall grant written permission to Purchaser to cut and remove such timber. If permission is granted, Purchaser shall pay for such timber at a price determined by the Authorized Officer in accordance with BLM-prescribed procedures. The value of such timber shall be added to total purchase price in Sec. 2. Payment for such timber shall be made in accordance with Sec. 3(b) or 3(f), *except that*, if all contract payments required by Sec. 3(b) or 3(f) have been made, payment for such timber shall be made in advance as a condition of granting such permission.

**Sec. 9. Extension of Time and Reappraisal** - If Purchaser shows that delay in cutting and removal was due to causes beyond their control and without their fault or negligence, the Contracting Officer may grant an extension of time, not to exceed one (1) year, upon written request of Purchaser. Any such extension shall provide the Purchaser with an equal amount of operating time as would have been available without the delay. Such written request shall be filed with the Contracting Officer prior to the expiration of the time for cutting and removal expressed in Sec. 4. If an extension of time is granted, except as provided by 43 CFR 5473.4, timber remaining on contract area shall be reappraised by the Authorized Officer using BLM-prescribed procedures, and the total purchase price and *Exhibit B* adjusted accordingly; *Provided, however,* no adjustment shall be made by reason of timber being enhanced in value by Purchaser, nor shall the reappraised total purchase price be less than the total purchase price in effect during the original time for cutting and removal or the last extension. The Contracting Officer may require that the reappraised total purchase price shall be paid in advance as a condition of granting an extension. Market fluctuations shall not be cause for consideration of contract extensions.

**Sec. 10. Violations, Suspension, and Cancellation**

(a) If Purchaser violates any provision of this contract, the Contracting Officer may, by written notice, suspend any further operations of Purchaser under this contract, except such operations as may be necessary to remedy the violation. If Purchaser fails to remedy the violation within thirty (30) days after receipt of a suspension notice, the Contracting Officer may, by written notice, cancel the rights of the Purchaser under this contract and take appropriate action to recover all damages suffered by Government by reason of such violation, including application toward payment of such damages of any advance payments and any performance bonds or, where applicable, any payment bonds; *Provided, however,* that if the violation involves nonpayment of amounts due for timber cut and/or removed under a payment bond of a corporate surety, the Contracting Officer must, in addition to the above requirements, allow sixty (60) days after making demand upon surety for any payment due before cancelling the rights of Purchaser.

(b) If Purchaser cuts or removes any timber sold under this contract during any period of suspension, such cutting or removal shall be considered a willful trespass and render Purchaser liable for

damages under applicable law. For purposes of determining damages under this section, the value of the trespass timber shall be based upon the fair market value of the particular timber cut or removed at the time of trespass. Any payment made for purchase price of timber cut or removed in trespass shall be deducted to the extent of single damages or the value of timber under this contract, whichever is lesser, from amount due because of trespass.

(c) If Purchaser's operations are suspended because of Purchaser's failure to make an installment payment when due, the Contracting Officer may require Purchaser to *pay the entire remaining balance* of the total purchase price or any portion thereof as a condition of terminating the suspension.

(d) In the event timber is entirely removed or the time for cutting and removal has passed, the suspension notice otherwise required in this section need not be issued prior to the notice of cancellation.

(e) If Purchaser, Purchaser's contractors, subcontractors, or the employees of any of them, cuts, injures, or removes any Government timber reserved under this contract, they shall fully cooperate, upon request of the Authorized Officer, in the investigation of such acts. If in the opinion of the Contracting Officer, full cooperation is not received or will not be forthcoming, said official may suspend that portion of Purchaser's operations necessary to preserve evidence pending investigation or permit safe investigation of such acts.

**Sec. 11. Credit Against Purchase Price** - If the time specified for cutting and removal of timber has expired or the rights of Purchaser have been cancelled, Purchaser shall be entitled to a credit against any amount which is due and owing Government for timber remaining on the contract area. The Contracting Officer shall determine the credit value of the remaining timber as soon as possible after the date of expiration or cancellation. Credit value of the remaining timber shall be total market value as established by the Contracting Officer by reappraisal or resale, or total value based upon contract unit prices as shown on *Exhibit B*, whichever is less. There shall be deducted from credit value such amounts as the Contracting Officer determines adequate to cover costs to Government resulting from Purchaser's failure to perform, including but not limited to costs of appraising and administering any resale of timber.

**Sec. 12. Hold Harmless and Responsibility for Damages to the Government** - Purchaser agrees to hold the Government harmless from any claim for damage or loss of property, personal injury, or death and to be liable for any damage suffered, cost or expense incurred by the Government which claim, damage, cost, or expense arise out of any operations under this contract and result from any breach of contract or wrongful or negligent act or omission of Purchaser, Purchaser's contractors, subcontractors, or employees of any of them. Purchaser shall pay Government for such damages after written demand therefore by the Contracting Officer.

**Sec. 13. Timber Trespass** - If in connection with operations hereunder Purchaser, Purchaser's contractors, subcontractors, or the employees of any of them, cuts, injures, or removes any Government timber, other than timber sold under this contract, Purchaser shall be liable for damages under applicable law. Purchaser shall pay Government for such damages after written demand therefore by the Contracting Officer.

**Sec. 14. Protection of Roads, Utilities, and Improvements** - Existing telephone lines, transmission lines, fences, ditches, roads, trails, and other improvements shall be protected as far as practicable in all phases of Purchaser's operations. All such roads and ditches shall be kept free of logs, slash, and debris resulting from Purchaser's operations. Damage to roads, utilities, and improvements shall be promptly paid for or repaired to a condition which, in the opinion of the Authorized Officer, is at least as good as the condition just prior to such damage.

**Sec. 15. Fire Prevention and Slash Disposal** - Purchaser shall take such measures for prevention and suppression of fire on the contract area and other adjacent Government lands used or traversed by Purchaser in connection with operations as are required by applicable laws and regulations. *However*, when in the opinion of the Authorized Officer, weather and other conditions affecting fire incidence and control make special precautions necessary to protect the contract area and said Government lands, Purchaser shall take such additional or other fire prevention and control measures as may be required by the Authorized Officer. Disposal of slash shall be done in accordance with a plan approved by the Authorized Officer or as provided in Sec. 42.

**Sec. 16. Construction, Use, and Maintenance of Roads and Facilities**

(a) Subject to the written approval of and regulation by the Contracting Officer, Purchaser may: (1) construct and use any new roads and facilities not otherwise provided for in this contract, and (2) use any existing roads and facilities not otherwise provided for in this contract.

(b) Except as provided in Sec. 12, Purchaser shall perform or pay for repair and maintenance of any road or facility used under the terms of this contract in accordance with the requirements of Sec. 42; *Provided, however*, that Purchaser shall not be responsible for maintenance or repair of wear or damage caused by third parties, or maintenance or repair which exceeds the standards of required maintenance shown in Sec. 42; and *Provided, further*, that Purchaser's responsibility under this provision shall not commence prior to the date on which Purchaser first begins operations and shall cease upon completion and written acceptance of all contract requirements other than slash disposal, except for maintenance and repair of damages resulting from Purchaser's slash disposal activities.

**Sec. 17. Limitations of Road Use**

(a) Purchaser's right under this contract to use existing Government roads described herein, or roads to be constructed, is limited to removal of timber sold and the transport of mineral materials under this contract; *Provided, however*, that this provision shall not limit any right to use Government roads or rights-of-way which have been granted to Purchaser pursuant to 43 CFR Group 2800.

(b) For the purpose of protecting roads described herein, Purchaser shall immediately discontinue use of said roads upon receipt of written notice that the Authorized Officer has determined that continued use will cause excessive damage to said roads.

**Sec. 18. Acceptance of Road Construction**

(a) Whenever Purchaser shall deliver to the Contracting Officer a written statement that the road construction is complete, pursuant to the contract terms, the Authorized Officer shall promptly inspect such road. If the contract road construction requirements have been completed to the satisfaction of the Contracting Officer, Purchaser will be given written notice of acceptance, and, except as provided in Sec. 12, be released from further liability or duty for construction or reconstruction of such road.

(b) Notwithstanding acceptance of any road under this section, Purchaser shall remain liable for maintenance and repair of any such road in accordance with the provisions of Sec. 16.

**Sec. 19. Cost Adjustment for Physical Changes** - If, prior to acceptance of a road under Sec. 18, a major physical change, caused by a single event, and not due to negligence of Purchaser, Purchaser's contractors, subcontractors, or the employees of any of them, results in additional construction work by Purchaser involving an additional estimated cost of more than: (1) \$1,000 for sales under one million board feet; (2) \$1.00 per thousand board feet for sale of one to three million board feet; or (3) \$3,000 for sales over three million board

feet, Government shall become responsible for any estimated cost which exceeds the above amounts. Government may elect to meet its share by reducing the total purchase price or by payment of such cost to Purchaser or by performing the Purchaser's share of the necessary work. Where the Contracting Officer determines that the damages caused by such major physical change are so great that restoration, reconstruction, or construction is not practical under the cost-sharing arrangement, the Contracting Officer may cancel the timber sale contract notwithstanding any provisions thereof. The estimated cost of additional work shall be calculated by the Authorized Officer using BLM-prescribed appraisal procedures. Such cost shall include the cumulative estimated costs of repairing damage from slides, washouts, landslips, fire, etc., caused by said event. If necessary, plans and contract specifications shall be revised, and the contract modified, to meet the new conditions. Purchaser must obtain advance approval from the Contracting Officer for such additional work in order for Purchaser to be eligible for cost adjustment under this section. The payment for physical changes shall be made by crediting against the total actual purchase price and may be accomplished by applying the credit to future installments owed by the Purchaser.

**Sec. 20. Design Change** - If the Purchaser requests and the Contracting Officer agrees to a design change of a substantial nature to any road, road structure, or bridge required to be constructed or improved under the terms of this contract, or, in the absence of such a request, the Contracting Officer determines that a design change of a substantial nature is needed, the total purchase price shall be revised to reflect the estimated increase or decrease in cost from such design change. A design change of a substantial nature is one that would result in a cost adjustment of \$2,000 or more.

**Sec. 21. Rights and Obligations After Time for Removal of Personal Property or Cancellation of the Rights of the Purchaser** - If any of Purchaser's obligations remain unperformed after expiration of the time for removal of personal property, as set forth in Sec. 40, or if the rights of Purchaser under this contract have been cancelled by Government, all provisions of this contract for the benefit and protection of Government or third parties shall remain in effect until this contract is terminated in its entirety by Government.

**Sec. 22. Protection of Survey Monuments, Witness Corners, Reference Monuments, and Bearing Trees** - Purchaser shall protect all survey monuments, witness corners, reference monuments, and bearing trees against destruction, obliteration, or damage during operations on the contract area. If any monuments, corners, or accessories are destroyed, obliterated, or damaged by such operations, Purchaser shall hire an appropriate county surveyor or registered land surveyor to reestablish or restore the monuments, corners, or accessories, at the same location, using surveying procedures in accordance with the *Manual of Instructions for the Survey of the Public Lands of the United States*, and shall record such survey in appropriate county records. The Authorized Officer may prescribe in writing additional requirements for protection of monuments, corners, and bearing trees.

**Sec. 23. Protection of Cultural Resources** - If in connection with operations under this contract the Purchaser, Purchaser's contractors, subcontractors, or the employees of any of them, discovers, encounters, or becomes aware of any object or sites of cultural value on the contract area, such as historical or prehistorical ruins, graves, grave markers, fossils, or artifacts, the Purchaser shall immediately suspend all operations in the vicinity of the cultural value and shall notify the Authorized Officer of the findings. Operations may resume at the discovery site upon receipt of written instructions and authorization by the Contracting Officer.

**Sec. 24. Purchaser's Representative** - At all times when operations are in progress under this contract, Purchaser shall have an authorized representative, whom shall be designated in writing by Purchaser, readily available on the contract area who shall be

authorized to receive, in behalf of Purchaser, any notices or instructions from the Authorized Officer in regard to performance under this contract. Purchaser shall take such action as required by the terms of this contract.

**Sec. 25. Simultaneous Use of Contract Area by Others -**

The simultaneous use of the contract area by others may be authorized by the Government through issuance of permits, leases, or contracts, provided that the Contracting Officer first determines that such use of the contract area will not seriously interfere with the operations of the Purchaser.

**Sec. 26. Watershed Protection: Water Quality, Erosion Control, and Soil Damage**

(a) Purchaser shall comply with all applicable State and Federal laws and regulations pertaining to water quality in connection with any operations under this contract.

(b) Purchaser shall take every reasonable precaution not to pollute or obstruct any stream, lake, or reservoir on or near the contract area in connection with any operations under this contract. If Purchaser's operations cause pollution or obstruction of any stream, lake, or reservoir on or near the contract area, Purchaser shall correct the condition to the satisfaction of the Authorized Officer.

(c) Purchaser shall undertake every reasonable measure to minimize erosion and soil damage in connection with any operations under this contract, including but not limited to construction of water bars on yarding and spur roads as designated by the Authorized Officer. Purchaser shall immediately discontinue any construction, timber harvesting, or hauling operations under this contract, upon receipt of written notice from the Contracting Officer that due to weather or soil moisture conditions, such operations will cause excessive damage to the soil. The Contracting Officer shall notify Purchaser, in writing, when such operations may be resumed.

**Sec. 27. Refuse Control and Disposition of Waste Materials**

(a) Purchaser shall comply with all applicable State and Federal laws and regulations pertaining to refuse control and disposition of waste materials in connection with any operations under this contract.

(b) Purchaser shall, to the satisfaction of the Authorized Officer, remove, or otherwise dispose of all garbage, temporary buildings, trash, litter, discarded equipment or parts, waste materials, or other refuse resulting from Purchaser's operations. Areas for disposal of waste material shall be subject to approval of the Authorized Officer.

(c) Waste materials, such as garbage, trash, oil, grease, chemicals, and similar substances shall be disposed of in a manner that will prevent their entry by drainage, high water, or other means into any river, watercourse, lake, or reservoir in or near Purchaser's operations. Water used to wash down equipment used for petroleum products, industrial chemicals, cement, or other toxic materials shall be disposed of in a manner that will prevent their entry into any watercourse or waterway.

**Sec. 28. Storage and Handling of Hazardous Materials**

(a) Purchaser shall comply with all applicable State and Federal laws and regulations pertaining to storage, handling, use, and disposal of industrial chemicals, pesticides, herbicides, and other hazardous materials in connection with any operations under this contract.

(b) All petroleum products, industrial chemicals, and similar toxic or volatile materials stored by Purchaser on or near the contract area, in connection with operations under this contract, shall be stored in durable containers and shall be stored in areas, as determined by the Authorized Officer, which are either located so that any accidental spillage will not drain into any watercourses, lakes, or reservoirs or, when such areas are not available, shall be stored in an area

surrounded by impermeable containment dikes of sufficient capacity to contain the aggregate capacity of all tanks.

**Sec. 29. Safety and Health -** Purchaser shall conduct all operations in connection with this contract in compliance with the applicable provisions of Federal, State, and local safety, health, and sanitation laws, codes, and regulations and shall make it possible for the Authorized Officer to inspect such operations.

**Sec. 30. Equal Opportunity -** The Purchaser will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.

**Sec. 31. Records and Reports -** Upon request of the Authorized Officer, Purchaser shall furnish the following records and reports: (1) volume or quantity of timber cut and removed from the contract area; (2) road costs including road use fees paid in connection with removing timber from the contract area; and (3) prices received for lumber and other wood products.

**Sec. 32. Unsatisfactory Bond -** Whenever any performance or payment bond furnished under this contract becomes unsatisfactory to the Contracting Officer, said official may require a new bond.

**Sec. 33. Assignments**

(a) Purchaser may not assign this contract or any interest therein without written approval of the Contracting Officer. An assignment shall contain all the terms and conditions agreed upon by the parties thereto.

(b) The Contracting Officer will not approve any assignment involving contract performance unless assignee: (1) is authorized to transact business in the State indicated in Sec. 1; (2) submits such information as is necessary to assure the Contracting Officer of their ability to fulfill the contract; and (3) furnishes a performance bond as required by Sec. 39 or obtains a commitment from the previous surety to be bound by the assignment when approved.

**Sec. 34. Contingent Fees -** The Purchaser warrants that no person or agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee excepting bona fide employees or bona fide established commercial agencies maintained by Purchaser for the purpose of securing business. For breach or violation of this warranty, Government shall have the right to cancel this contract without liability or, in its discretion, to require Purchaser to pay, in addition to the contract price or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

**Sec. 35. Successors in Interest -** Every obligation hereunder shall extend to and be binding upon the successors in interest of the parties hereto and every benefit hereunder shall inure to such successors.

**Sec. 36. Exercise of Rights or Duties of the Authorized Officer -** The rights or duties of the Authorized Officer may be exercised by the Contracting Officer or said official's designated representative.

**Sec. 37. Officials Not to Benefit -** No Member of, or Delegate to Congress, or Resident Commissioner, after said official's election or appointment, or either before or after said official has qualified and during said official's continuance in office, and no officer, agent, or employee of the Department of the Interior, except as provided in 43 CFR (20.735-24) shall be admitted to any share or part in this contract or derive any benefit that may arise therefrom; and the provisions of Section 3741 of the Revised Statutes of the United States, as amended (41 U.S.C. Sec. 22), and Sections 431, 432, and 433, Title 18 U.S.C., relating to contracts, enter into and form a part

of this contract so far as the same may be applicable.

### **Sec. 38. Disputes**

(a) This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613).

(b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved under this clause.

(c) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. However, a written demand or written assertion by the Purchaser seeking the payment of money exceeding \$100,000 is not a claim under the Act until certified. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(d) A claim by the Purchaser shall be made in writing and, unless otherwise stated in this contract, submitted within six (6) years after accrual of the claim to the Contracting Officer for a written decision. A claim by the Government against the Purchaser shall be subject to a written decision by the Contracting Officer.

(e) The Purchaser shall provide certification when submitting any claim exceeding \$100,000. The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim. The certification shall state as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Purchaser believes the Government is liable; and that I am duly authorized to certify the claim in behalf of the Purchaser." The certification may be executed by any person duly authorized to bind the Purchaser with respect to the claim.

(f) For Purchaser claims of \$100,000 or less, the Contracting Officer must, if requested in writing by the Purchaser, render a decision within sixty (60) days of the request. For Purchaser-certified claims over \$100,000, the Contracting Officer must, within sixty (60) days, decide the claim or notify the Purchaser of the date by which the decision will be made.

(g) The Contracting Officer's decision shall be final unless the Purchaser appeals or files a suit as provided in the Act.

(h) If the claim by the Purchaser is submitted to the Contracting Officer or a claim by the Government is presented to the Purchaser, the parties, by mutual consent, may agree to use alternative dispute resolution (ADR). If the Purchaser refuses an offer for ADR, the Purchaser shall inform the Contracting Officer, in writing, of the Purchaser's specific reasons for rejecting the offer.

(i) The Government shall pay interest on the amount found due and unpaid from: (1) the date that the Contracting Officer receives the claim (certified, if required); or (2) the date that payment otherwise would be due, if that date is later, until the date of payment. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each six (6) month period as fixed by the Treasury Secretary during the pendency of the claim.

(j) The Purchaser shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.

### **Sec. 39. Bond**

(a) A performance bond shall be filed by Purchaser on or before the date this contract is signed by the Contracting Officer in the amount of \_\_\_\_\_ dollars ( \_\_\_\_\_ ).

(b) If Purchaser elects to cut timber before payment of the second installment or subsequent installments, Purchaser shall increase the amount of the required performance bond by an amount equal to the second installment and one or more additional installments as set forth in Sec. 3(b). The adjusted bond must be approved, in writing, by the Contracting Officer prior to cutting any timber under the adjusted bond. The increased amount of bond shall be used to ensure payment for such timber. Timber cut pursuant to this subsection may be paid for in installments. Upon payment, the increased amount of bond may be applied to other timber sold under this contract to permit its cutting in advance of payment.

(c) As contract provisions are completed to the satisfaction of the Contracting Officer, said official may, at their discretion, reduce the amount of the required performance bond; *Provided, however*, the performance bond may not be reduced below the amount of \_\_\_\_\_ dollars ( \_\_\_\_\_ ) until provision under Sec. 3(b)(1)(i) or 3(b)(1)(ii) have been completed. Further, the performance bond may not be reduced below the amount of \_\_\_\_\_

\_\_\_\_\_ dollars ( \_\_\_\_\_ ) until the total purchase price has been paid. The performance bond shall be forfeited to the amount of damages, as determined by the Contracting Officer, if all contract provisions are not faithfully and fully performed by Purchaser. If the amount of damages exceeds the amount of the bond, Purchaser hereby agrees to pay the excess. Upon satisfactory performance of all provisions of this contract, the bond shall be cancelled or, if cash or negotiable securities are furnished in lieu of a performance bond, such cash or negotiable securities shall be returned to Purchaser. In event of litigation, any determination by the Contracting Officer as to the amount of damages will be subject to review by a court of competent jurisdiction.

(d) If Purchaser elects to: (1) cut and remove timber; (2) remove timber already cut which has been secured by an increased performance bond as provided in Sec. 39(b), before payment of the second installment or subsequent installments, Purchaser shall obtain a payment bond in an amount equal to the second installment and one or more additional installments as determined by the Authorized Officer. The payment bond must be approved, in writing, by the Contracting Officer prior to cutting or removing any timber under the bond. The amount of the bond shall be used to ensure payment for such timber; *Provided, however*, that such bond shall be considered as payment under Sec. 7, for the purpose of passing title and risk of loss to timber sold. Timber cut pursuant to this subsection shall be paid for as provided in Sec. 3(f). Upon payment, the amount of the bond may be applied to other timber to permit its cutting and/or removal in advance of payment. If a bond of a corporate surety is used, it shall provide that if Purchaser fails to make payment as required by Sec. 3(f), the surety will make such payment including interest as specified in Sec. 3(j), to Government within sixty (60) days after demand by Government.

**Sec. 40. Time for Removal of Personal Property** - Purchaser shall have the right within \_\_\_\_\_ ( \_\_\_\_\_ ) month(s) after expiration of time for cutting and removal to remove Purchaser's equipment, improvements, or other personal property from Government lands or rights-of-way; *Provided, however*, that any improvements such as road surfacing, culverts, and bridges which have become a permanent part of a Government road, shall not be removed. The Contracting Officer may, in said official's discretion, grant an extension of time, not to exceed three (3) months for

removal of personal property. Any improvements remaining on Government lands and rights-of-way at the end of the period for removal, or any extension, shall become the property of Government. Any equipment or other personal property remaining on Government

land and rights-of-way at the end of this period may be removed at the expense of Purchaser and disposed of in accordance with applicable law.

**Sec. 41. Timber Reserved from Cutting** - The following timber on this contract area is hereby reserved from cutting and removal under the terms of this contract and is retained as the property of Government.

**Sec. 42. Special Provisions** - Purchaser shall comply with the special provisions which are attached hereto and made a part hereof unless otherwise authorized, in writing, by the Contracting Officer.

IN WITNESS WHEREOF, the parties hereto have executed this contract as of the day first above written.

If Individual or Partnership, sign here:

If Corporation, sign here:

\_\_\_\_\_  
(Name of Firm)

\_\_\_\_\_  
(Name of Corporation)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Title)

UNITED STATES OF AMERICA

\_\_\_\_\_  
(Signature)

By \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Address)

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

*(If Purchaser is a corporation, the following certificate must be executed by the Secretary or Assistant Secretary of the Corporation.)*

I, \_\_\_\_\_, certify that I am the \_\_\_\_\_ Secretary of the corporation named as Purchaser herein; that \_\_\_\_\_, who signed the contract was then \_\_\_\_\_ of said corporation, that said contract was duly signed for and in behalf of said corporation by authority of its governing body, and is within the scope of its corporate powers.

Signature: \_\_\_\_\_