

Sample Contract

ALASKA DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF FORESTRY  
ADMINISTRATIVE AREA  
**DRAFT** TIMBER SALE CONTRACT

TOK BIOMASS TIMBER SALE  
NC-1075T  
**ADL # IF APPLICABLE**

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**STATE OF ALASKA**  
**DEPARTMENT OF NATURAL RESOURCES**  
**DIVISION OF FORESTRY**  
*Tok Area*  
*P.O. Box 10*  
*Tok, Alaska 99780*

**TIMBER SALE CONTRACT**  
**TOK BIOMASS TIMBER SALE**  
**Sale Number NC-1075T**  
**ADL # if applicable**

The State of Alaska, represented by the Director, Division of Forestry, Alaska Department of Natural Resources or his authorized representative under authority of Alaska Statutes, Title 38, Public Lands, Chapter 05, Alaska Land Act, Article 4, entitled "Disposal of Timber and Materials, hereinafter called the STATE, does hereby agree to sell, and **Purchaser**, hereinafter called the PURCHASER, does hereby agree to purchase timber as designated herein, subject to the following terms and conditions. This Contract is effective as of \_\_\_\_\_ ("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:

**Comment [DoNR1]:** Change to actual purchaser's name

**Comment [DoNR2]:** Effective date of agreement

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. "CUNIT (CCF)" - One hundred cubic feet of solid wood. Used as a log measure or as a measure of solid wood content.
- C. "Cord" - A measure of roundwood or pulpwood representing a stack of such wood 4 ft. x 4 ft. x 8 ft. or 128 ft<sup>3</sup>. Often used for pulpwood or firewood measurement.
- D. "Environmental Contamination" means pollution resulting from the "release" [as that term is defined in AS 46.03.826(9)] of a "Hazardous Material."
- E. "Forest Litter" means the uppermost slightly decayed layer of organic matter on the forest floor.
- F. Fiber Saturation Point - The point at which all free water has been removed from the wood, but all "bound "water" remains (water in the cell walls). This is approximately 25-30% moisture content, (Oven Dry weight basis), for all species. Below this point shrinkage occurs in the wood.
- G. Green Ton (GT) - 2,000 pounds of woody biomass with moisture content in excess of the fiber saturation point. In this contract and context the Green Ton is simple 2000 pounds of woody biomass harvested with variable moisture content at the time it is hauled and weighed.
- H. "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 foregoing, "Hazardous Material" includes hydrocarbon fuels such as diesel oil and gasoline, and lubricating oil.

- I. "Forest Land Management Plan" also referred to as a "FLUP" means as defined in AS 38.05.112
- J. "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.
- K. "Merchantable Timber" is all timber, harvested or unharvested, which contains woody biomass 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 or specified to be retained within the harvest unit in the Forest Land Use Plan.
- L. "Operating Plan" means the document developed by the PURCHASER and approved by the STATE in order to communicate the PURCHASER'S plans and schedule for road construction and harvesting operations, referenced in Paragraph 10 (Timber Operations) herein.
- M. "PURCHASER" means the purchaser of timber, purchaser's agent, employees, representatives, contractors, subcontractors or other individuals or entities operating on behalf of PURCHASER.
- N. "Road Standards" means road and bridge construction, maintenance, and closeout standards required herein and by Law.
- O. "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.
- P. "Slash" means all woody debris resulting from PURCHASER's Timber Operations or from construction of roads and related transportation facilities or other improvements.
- Q. "Timber" means all trees, living or dead, standing or down, located within the Timber Sale Area.
- R. "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).
- S. "Timber Harvest Unit(s)" means the unit(s) of Merchantable Timber located within the Timber Sale Area, as designated by the State in the FLUPs.
- T. "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.

- U. "STATE Land" means land owned by the State of Alaska, and interests and resources in the land, including improvements to the land.
- V. "Woody Biomass" refers to the aboveground portions of white and black spruce, birch, aspen and balsam poplar excluding existing forest floor litter less than 4" in diameter and less than 12 feet in length.

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 Paragraph 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 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 reasonably harvestable 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 September 30, 2038 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 September 30, 2038, 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 or civil commotions, war or acts of public enemies, storms, floods, and other unusual climatic conditions, including droughts, or acts of God, or 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 under 11AAC 71.210, at the STATE's sole discretion, in consideration for the advance payment of \$1,000.00, 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. Stumpage Fees.

PURCHASER shall pay stumpage fees to THE STATE at the rate set forth below. Stumpage fees are due without regard to whether the harvesting and marketing of merchantable timber is profitable for PURCHASER; and, the entire purchase price shall be paid even if PURCHASER fails to remove all Merchantable Timber purchased. The stumpage rate is determined based on the method outlined by 11AAC71.090.

<u>Species</u>	<u>Rate</u>	<u>Scale Unit</u>
All species	\$2.50/GT	Green Ton (GT)

B. Stumpage Fee Payments.

1. Minimum Stumpage Fee Payments.

PURCHASER shall make minimum stumpage fee payments ("Minimum Stumpage Fee") to THE STATE on the following date(s) and in the following amount(s) during the Term of this Agreement:

The total minimum annual stumpage payment due the State is the stumpage fees rate in Paragraph 6A.times 35,000. The first annual stumpage payment is due three years after execution of the contract or 30 days prior to operations, which ever comes first. The remaining annual stumpage payments will be due on the anniversary date of the execution of the contract for every year of the term of the contract thereafter.

PURCHASER'S Bid Deposit in the amount of Fifty Thousand Dollars (\$50,000), receipt of which is hereby acknowledged, shall be applied to the first Minimum Stumpage Fee payment.

2. Credit for Stumpage Fees Paid and Adjustments for Weight Scale Removal.

Weight Scale shall be credited against the minimum stumpage fee payments due under Paragraph 6.B.(1) above, with a monthly accounting. In the event that weight scale exceeds Minimum Stumpage Fees paid to date, PURCHACER shall pay the balance on a monthly accounting. There shall be an additional reconciliation of contract payments on the same date as the anniversary of the date of the execution of the contract and at the end of contract.

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. When a Forest Land Management Plan area (FLUP) is entered for harvest that has not been operated on in the past by the purchaser or every fifth year of the contract if the contract has not been redetermined as part of operations in a new FLUP area.
4. Significant change in market conditions.

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 agree a redetermined payment amount in good faith.

7. PASSAGE OF TITLE:

Subject to Paragraph 11 herein, the timber within the Timber Sale Area may be removed from the Timber Sale Area when the advance stumpage fee is current and representative of the stumpage being harvested. The State maintains title to all logs until they are removed from the Timber Sale Area, scaled and paid in full. The risk of loss or damage will be allocated as provided in Paragraph 11 (Risk Management) herein.

8. SCALING AND LOG ACCOUNTABILITY:

A. Scaling Point.

All woody biomass produced from the Timber Sale Area shall, unless otherwise agreed in writing, be weight scaled at a designated area in the approved Operating Plans. PURCHASER shall use its best efforts to ensure that chips or logs are weighted within 24 hours of removal from the sale area.

B. Scale Rules.

Weighing for the basis of scale payment will be performed on each log truck load or chip van load as applicable: (i) net weight of chips or green logs will be determined using the difference of empty (tare) to loaded weight of the truck on a per trip basis; (ii) in accordance with the industry standards for weight scale of chip and log trucks in the Pacific Northwest and meeting the Alaska Division of Measurement Standards [Sec. 45.75.010-020]; (iii) the net weight of the logs or chips will be the basis of weight payment.

C. Cost of Scaling and Delivery of Scale Documents.

PURCHASER shall pay the cost of scaling, and provide copies of the daily scale tickets that identify individual loads of logs or chips and weekly scale summary sheets to the STATE and PURCHASER within one (1) week after scaling. PURCHASER shall also provide copies of scale summary sheets for every four (4) week period to the STATE within ten (10) business days of the end of each four week period. Summary scale sheets shall include gross and net weight by species if applicable and must be subtotaled for each Timber Harvest Unit within the Timber Sale Area. Within thirty (30) days of completion of scaling for an operational period (one year), PURCHASER shall deliver to the STATE an annual scaling summary of the total Green Tons of logs and chips by species (if applicable), by timber harvest unit.

D. Truck Trip Tickets.

Each load of logs or chips shall be identified by a unique six (5) 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), one part retained by the scaler, one to the trucker, 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 Agreement. Truck trip tickets shall include date, logger's name, truck driver's name, Timber Harvest Unit and product description. 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 Agreement, and shall account for any gaps in the series of numbers when the truck trip tickets are provided to the STATE.

9. COMPLIANCE WITH LAWS AND OTHER REQUIREMENTS:

A. Compliance with Laws.

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

B. Responsibility for Acquisition of Permits, Authorizations and Approvals.

PURCHASER is responsible for the acquisition of necessary permits, licenses, fees and other regulatory approvals at its cost.

C. Notification of Violation.

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

10. TIMBER OPERATIONS

A. Operating Plan Requirements.

Unless otherwise provided for in the Forest Land Management Plan, PURCHASER shall be responsible for performing based on existing road and unit layout and design. Purchaser must do so in strict compliance with applicable Laws and the approved Timber Sale Operating Plan. The PURCHASER must prepare and submit to the STATE prior to commencing operations, a written annual operating plan meeting the requirements of Exhibit D and providing for the orderly and progressive development of all operations necessary to complete this contract. The operating plan is ineffective until it is APPROVED by the STATE, which must occur prior to the start of operations. Operating without a representative on site and an approved Operating Plan is grounds for suspension of operations until approved by the STATE. This plan must be updated annually, whenever there is a change in the PURCHASER'S operation or when a new Forest Land Use Plan area is operated on for the first time. The PURCHASER shall within twelve months of the executing the contract or prior to operations, whichever comes first, submit and obtain approval of the first annual Operating plan. Harvest operations including constructing road and harvesting must begin within this first operational planning period.

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 by the FLUP within the Timber Sale Area is utilized per this contract unless otherwise approved by the Area Forester;
- (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 six (6) inches above the ground on the side of the stump where the elevation of the

ground is the highest. 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 and harvesting methods 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) No trees with a large diameter less than 4 inches regardless of their length shall be left in the clear-cut portions of the unit standing or cut. The minimum acceptable residual level of cut and wasted trees in the clear-cut units for large end tree diameters from three to four inches regardless of length shall be 20 per acre.

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 through the use of scarification, 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 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 construction of unauthorized roads and landings will be considered a breach of contract. This provision does not supersede any applicable penalties under the Alaska Forest Resources and Practices Act (AFR&PA) (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 fires occurring within or without the contract area resulting

from any and all operations involved under the provisions of this contract. AS 41.15.050 established the fire season from April 1 - August 31, 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 from PURCHASERS operations 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 of the Division of Forestry 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 fire fighting equipment and training for use on site when operating in the Timber Sale Area, pursuant to the approved Operating Plan. In the event of "high, very high and 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 Alaska Division of Forestry in Tok at (907) 883-3473 immediately after becoming aware of a fire or imminent threat of fire.

#### H. Timber Trespass.

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

#### I. Automated Layout And Positioning

The Purchaser is responsible for locating themselves adequately to perform the tasks associated with this contract. The sale units and access roads will be designated by the DOF in a Forest Land Use Plan (FLUP) and further detailed in a GIS electronic format. A record of this location and prescription will be provided to the Purchaser and will be the basis of the Purchaser's operating plan. The purchaser will be responsible for purchasing, installing and maintaining necessary GIS, GPS or other navigation system technology to track and direct construction and harvest machinery operations in real time per the electronic plans provided by the DOF for the life of this contract. The standard of real-time accuracy shall be equal to or less than 3 meters. The State will physically flag road centerline control points (I.E.- significant water crossings, junctions, etc.), all property boundaries and riparian retention areas located within ¼ mile of operations. All other location services are the Purchaser's responsibility and liability to be performed to the standards, requirements and level of accuracy as described in the contract, the FLUP and Purchaser's operating plan.

#### J. 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.

K. 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.

L. 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 bond, and are not to be used for other purposes.

M. 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.

N. 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 16.14.

O. 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.

P. Monuments and Markers.

The Purchaser must protect all known land survey monuments, 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 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 contains higher limits, the STATE and the additional insureds 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.

The performance bond will be deposited with the State upon execution of this contract. The amount of the performance bond will be \$65,000.00. If PURCHASER is in default under this Contract and has received notice of such default from the STATE, but has failed to cure such default, the STATE may apply said Performance Bond to pay for the performance of the default obligation and any of the STATE'S expenses or damages incurred as a result of PURCHASER'S default. PURCHASER shall remain liable for any deficiency that remains after application of the Performance Bond to any amount owed and within ten (10) days of STATE'S said application, PURCHASER shall deposit that sum of money necessary to maintain a Performance Bond of sixty five thousand dollars (\$65,000.00).

E. Scarification Bond.

A scarification bond will be deposited with the State prior to commencing operations. The scarification bond will be based on \$80.00/acre. The amount of the scarification bond at a minimum will equal the acreage harvested and unscarified times \$80.00/ acre (adjusted annually for inflation by the accumulated prevailing rate). The purchaser will deposit a scarification bond based on the operating plan'S total proposed harvest acreage prior to starting the season. The purchaser will maintain the bond to reflect the acres to be harvested in the operations plan as it changes during the period of this contract. The State will seasonally determine the adequacy of the scarification completed by the purchaser and will reduce the scarification bond held proportionally to the acreages actually scarified. If the purchaser fails to complete scarification as required 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 scarification bond to pay for the

performance of the scarification obligation and any of the STATE's expenses or damages incurred as a result of PURCHASER's default.

The PURCHASER shall deposit the two separate bonds with the State as specified either in the form of a cashier's checks or money orders made payable to the STATE. The STATE shall place the Performance Bonds in a separate State account and all interest on the Performance Deposits shall accrue to the benefit of STATE.

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 applicable 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 fuelling, maintenance and repair operations and damage likely to be sustained in the course of operations. Fuel storage facilities must not be placed within 100 feet of water bodies. Refueling of equipment must not occur on the active flood plain of a water body. Vehicle maintenance, campsites, and/or storage and stockpiling of material on the surface ice of lakes, ponds or rivers are prohibited.

C. Sanitation.

The sale area must be maintained in a clean and sanitary condition during the operations of the PURCHASER. Any foreign materials or wastes such as 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. The purchaser shall have adequate toilet facilities as outlined in the Operating Plan for properly dealing with crew generated waste.

D. Immediate Cleanup of Environmental Contamination.

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

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 State law, 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 Paragraph 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 Bonds, or for failure to obtain or maintain insurance as required herein, Timber Operations must cease immediately upon PURCHASER’s knowledge of the default or upon notice from the STATE, whichever is earlier. If the default is not cured within thirty (30) business days of written notice to PURCHASER, the STATE may suspend or terminate this Contract by serving written notice on the PURCHASER stating that this Contract is suspended or terminated. If an Event of Default is of any nature other than the defaults identified in the previous sentence and if (i) the default is not cured, or (ii) reasonable steps are not taken to diligently execute a cure within thirty (30) business days of notice, or within 48 hours in the case of obligations which the STATE or an authorized regulatory agency has declared to be of an emergency nature, the STATE may suspend or terminate this Contract by serving written notice on PURCHASER stating that the Contract is suspended or terminated. Failure of the STATE to strictly enforce at any time any of the provisions of this Contract shall not be construed to be a waiver or affect the right of the STATE to thereafter strictly enforce such provision.

C. Remedies.

In addition to the above, if an Event of a Default by PURCHASER occurs under this Contract through no fault of the STATE, the STATE, at it’s 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 Paragraph 10K (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  
Tok Area  
Department of Natural Resources, Division of Forestry  
P.O. Box 10  
Tok, AK 99780  
Phone No.: (907) 883-5134

Fax No. (907) 883-5135

To: PURCHASER;  
Name:  
Address:  
City, State, Zip  
Phone No.:  
Fax No.:  
Attention:

To: Purchaser's Field Rep.  
Name:  
Address:  
City, State, Zip  
Phone No.:  
Fax No.:  
Attention:

Comment [DoNR3]: Name and address of Contractor and primary field representative

Either party may change its representative or its field representative and its address for the purposes of this Paragraph 15 (Notices and Parties' Representatives) by giving notice of such change to the other party in the manner provided in this Paragraph 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 Law;
- (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;
- (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 Paragraph 19A (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 applicable 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. GENERAL PROVISIONS:

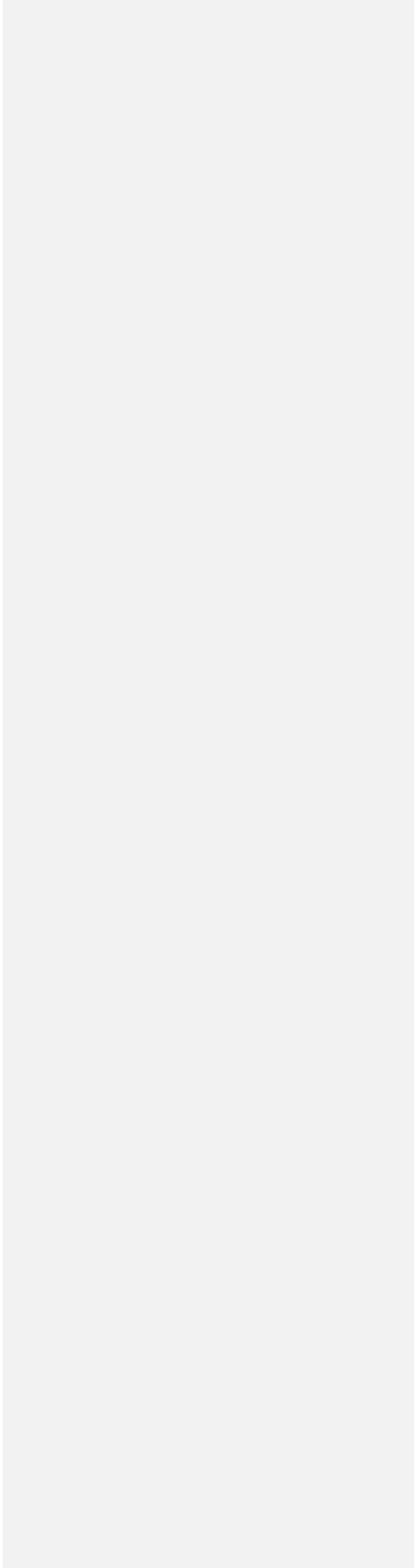
A. Contractors.

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 Paragraph 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 the

STATE shall accrue interest at the interest rate of 10.5% per anum until payment is received by the STATE.



22. SIGNATURES

Seller: Division of Forestry  
Department of Natural Resources  
Mailing Address

PURCHASER: *Company Name:*  
*Address*

Comment [DoNR4]: Name & Address of Purchaser

STATE OF ALASKA

PURCHASER

By: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF ALASKA )  
THIRD JUDICIAL DISTRICT ) ss.

The Foregoing Instrument was acknowledged before me \_\_\_\_\_, of and on behalf of the State of Alaska, Department of Natural Resources Division of Forestry on this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

Comment [gs5]: This portion is to for the Notary to witness the State's Agent's signature.

Notary Public for the State of Alaska

My Commission expires: \_\_\_\_\_

STATE OF ALASKA )

) ss.

The Foregoing Instrument was acknowledged before me by \_\_\_\_\_ the \_\_\_\_\_ of \_\_\_\_\_ a \_\_\_\_\_ Corporation as \_\_\_\_\_ of and on behalf of the Corporation on this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

Comment [gs6]: Title of Purchaser's officer.

Comment [gs7]: Purchaser's corporation name.

Comment [gs8]: Type of corporation.

Notary Public for the State of \_\_\_\_\_

My Commission expires: \_\_\_\_\_

Comment [gs9]: This portion is to for the Notary to witness the Purchaser's Agent's signature.

**EXHIBIT A**

**TIMBER SALE AREA MAPS  
TOK BIOMASS TIMBER SALE**

See separate document by title of this page.

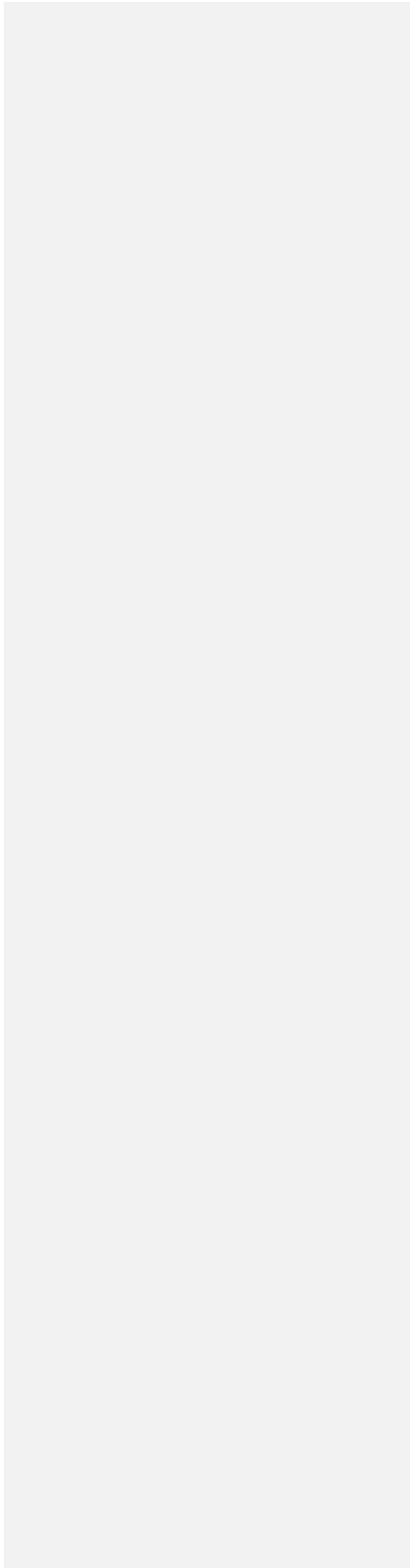


EXHIBIT B

LEGAL DESCRIPTION  
**TOK BIOMASS TIMBER SALE**

**Property Description:**

The sale area encompasses state land within an approximate 40 mile radius of the community of Tok, Alaska located in Township 18N, Range 13E, in the Copper River Meridian. Tok is found on the United States Geological Survey 1:63,360 Quadrangle map titled Tanacross B-4. The sale area is shown on the attached Maps I –IX from the Final Best Interest Finding (BIF) for a Long Term Timber Sale for Biomass Utilization in Tok, AK dated April 3, 2013 as depicted in in this contract Exhibit A or as designated on the ground by the State.

The BIF maps depict the project area in which the DOF may operate over the project life span. The project area is subdivided on the maps showing area outlines from within which the harvesting is likely to occur (primary harvest areas) along with approximate timelines; the remaining land is depicted as “secondary harvest areas.” The secondary areas will be used at the DOF’s discretion once the initial objective of reducing hazardous fuels near Tok has been accomplished. The plan is to recover the majority if not all of the volume required for the contract from the “primary areas.” If conditions change in the primary area (land use, major wildland fire, etc.) the secondary area will be utilized. The areas depicted on the maps represent a pool from which the harvest will occur; the complete area outlined will not be harvested during the course of the contract. Harvest units within the primary and secondary areas will be chosen by professional judgment of the DOF in order to make the best use of the State’s resources. These specific decisions will be described in FLUPs prior to harvesting. The goal of the State will be to make available approximately 35,000 green tons of merchantable timber from the timber sale area every calendar year for the term of this contract.

The Timber Sale Area includes only the area described above and as depicted on Exhibit A: *TOK BIOMASS TIMBER SALE* Area.

## EXHIBIT C

## LOGGING REQUIREMENTS

### TOK BIOMASS TIMBER SALE

#### Harvest Prescription:

The predominant harvest method will be patch clear-cuts with reserves. The patches will be separated by uncut timber stands while the reserves will consist of uncut clumps of trees within the patch clear-cut. Unharvested areas which include the reserves and uncut timber between the patches will be approximately 40% of the area. Size and shape of each cut will be determined by site specific characteristics such as terrain, soils, and water bodies and will be addressed in the Forest Land Use Plans. Timber types within the project area comprise a wide range of stand ages. Within the clear-cut areas all trees over four and one half feet tall shall be cut and all trees greater than 3" on the large end shall be removed unless approved by the Area Forester.

Scarification in addition to any disturbance associated with logging will generally be required on all units harvested and will be tailored to the site's characteristics in the Forest Land Use Plan.

The default standard of scarification on all units will be as follows:

- A. 75% exposed mineral soils distributed uniformly over the unit or,
- B. 90% of the unit will be treated with a "Roller-chopper" or forest disc type site tool meeting the approval of the State.

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 for public lands.

1. Landings must be located, constructed, and operated in a manner that
  - A. avoids surface and standing waters,
  - B. minimizes the use of marshes and non-forested muskegs;
  - C. prevents logs and vegetative debris from entering surface and standing waters; and
  - D. minimizes the sedimentation of surface and standing waters.
2. An operator must locate and construct a landing according to the following standards:
  - A. when choosing the site of a landing, an operator must consider the effects of the landing location and provide for a logging layout that will reduce the overall adverse effects on the operation;
  - B. the design of a landing must minimize the need for side casting or fill;
  - C. a landing must be no larger than necessary for safe operation of the equipment and decking of logs;
  - D. where slopes have a grade greater than 67 percent, are unstable, or are in a slide-prone area, fill material used in construction of a landing must be free from loose stumps and excessive accumulations of slash, and must be mechanically compacted in layers if necessary to prevent soil erosion and mass wasting;
  - E. a truck road, a skid trail, or a fire trail must be out-sloped or cross drained uphill of the landing and the water diverted onto the forest floor away from the toe of any landing fill;
  - F. a landing must be sloped, water barred, ditched or otherwise constructed and maintained to minimize accumulation of water on the landing; and
  - G. any excavated material from the construction of a landing may not be placed where it is likely to result in degradation of surface water quality.
3. 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.

4. In a riparian area, an operator must, where feasible and necessary, leave high stumps to prevent felled and bucked timber from entering surface waters.
5. The division will, in its discretion, require stabilization, to the extent feasible, of disturbed banks to prevent soil erosion and degradation of water quality.
6. 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.
7. 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.
8. 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.
9. 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.
10. The following standards apply to cable yarding operations:
  - A. when feasible, an operator must use maximum available deflection;
  - B. where feasible, an operator must use uphill yarding techniques;
  - C. where downhill yarding is used, an operator must use deflection to lift the leading end of the log and minimize downhill movement of slash and soils;
  - D. when yarding parallel to surface waters, and when in or near a riparian area, an operator must make an effort to minimize soil disturbance and to prevent logs from rolling into surface waters or the riparian area; and
  - E. when yarding across marshes and non-forested muskegs, an operator must make an effort to minimize damage to vegetative cover.
11. The Purchaser may utilize only logging systems detailed in the Operating Plan. The number of skidding routes through an area must be minimized.
12. 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.
13. 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% 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



14. When using tracked and wheeled vehicles, an operator must:
  - F. use puncheon where significant ground disturbances may contribute to sedimentation of surface water;
  - G. locate skid trails to minimize degradation of surface water quality;
  - H. use water bars or other appropriate techniques as necessary to prevent or minimize sedimentation;
  - I. keep skid trails to the minimum feasible width; and
  - J. outslope skid trails where feasible, unless an inslope is necessary to prevent logs from sliding or rolling downhill off the skid trail.
15. 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.
16. 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.
17. The tops of all trees felled, and not yarded to the landing, must be lopped and 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. "Lopping" means that the top is cut into segments not greater than 3 feet in length, and treated as slash. 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 scattered back into the unit or otherwise disposed of as directed by the STATE within one year.
18. Any spruce trees or portions of spruce trees larger than 5 inches in diameter which have been mortally wounded or cut during felling and yarding must be skidded to the landing(s), removed from the sale area or disposed of as directed by the STATE.
19. Existing recreational trails affected by harvest operations must be cleared of slash and logging debris by the operator in such a manner as to leave the trail safe for normal recreational use. Harvest operations must leave the ground surface in a condition that freely drains and in a surface condition like or better than prior to harvest operations. Trails impacted by the PURCHASER must be cleared daily of logging debris and signed as detailed in Exhibit E by the PURCHASER to maintain safe conditions in the Sale Area or as required by the State.

**EXHIBIT D**

**OPERATING PLAN REQUIREMENTS**

**TOK BIOMASS TIMBER SALE**

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

A. Overall Description of Operating Plan.

- (1) Timber Harvest schedules, to include specifications of the number of the settings and associated access development by year. Start and stop dates for operations such as cutting, road building, hauling, logging, scaling and any periods without operations longer than 60 days;
- (2) Fire planning, including an area-wide action plan and list of adequate equipment maintained and trained personnel in the Timber Sale Area to suppress fires;
- (3) An area-wide control plan for Hazardous Substances;

B. Details of Operating Plan.

- (1) Method and schedule of timber harvest by settings for the plan year, and the estimated volume by month to be harvested during the plan year. This must be identified on the unit maps and in writing;
- (2) Details of road construction and maintenance, including a summary of areas of concern per FRPA or other considerations along with specific pit and waste areas plans.
- (4) Details of the seasonal closeout plan, including Roads and Related Transportation Facilities and other pertinent information. Also, the bi-annual plan under this Contract must provide for closeout activities, including putting roads to bed and full clean-up;
- (5) Locations of log scaling areas, storage and log transfer facilities, camp facilities or local operations office; and copies of any required road or land use contracts.
- (6) Names, addresses, business licenses, proof of insurance and contact persons for all contractors and subcontractors. The plan must state the task and percentage of the work that each contractor will perform for the Purchaser.

**EXHIBIT E ROAD CONSTRUCTION AND MAINTENANCE REQUIREMENTS**

**TOK BIOMASS TIMBER SALE**

1. Road and Landing Construction. Roads as identified in Exhibit F must be used for access to the timber sale. All road segments must be built to the specifications described below, and in the location marked on the ground with orange centerline ribbon labeled "Truck Road" (also shown on timber sale layout map). The road type(s) required in the sale is identified in Exhibit F. The type, grade and alignment may be changed only with written permission from the STATE representative. The PURCHASER must take all measures which the STATE determines necessary to protect stream banks and stream courses during road and landing construction and to prevent erosion of exposed soil and fill material.
2. Drainage Structures. Obvious drainages are identified in Exhibit F. The drainage structures identified are for surface waters of significant size that will likely require that special care be exercised during road construction and logging operations. The drainages may not be capable of supporting snow and ice bridge crossings, depending on the seasonal weather conditions. If weather conditions provide for good logging conditions but are inadequate to harden areas adjacent to drainages for truck and equipment traffic, the PURCHASER must be prepared to:
  - a. Stop hauling, scarifying and/or logging operations until conditions improve with respect to the integrity of the streams and soil conditions. The State will make the final determination as to whether conditions are adequate to maintain water quality and stream integrity. This in no way diminishes the responsibility of the Purchaser to maintain water quality under the FRPA.
  - b. Install portable bridge structures over unstable stream areas to protect the integrity and water quality of the streams by keeping traffic away from the streams and associated unstable soil conditions.
3. Culvert Specifications. Culverts must be installed as approved by the STATE with the following specifications:
  - a. Culverts must extend beyond the base of the road at least 36" on either side of the road,
  - b. The minimum culvert diameter is 18 inches,
  - c. The natural slope of the stream or drainage must be maintained, where feasible,
  - d. Culverts must be designed and installed so as to maintain the course of the stream or drainage. On steep slopes, the culvert drain must be sloped about 30 degrees down grade,
  - e. Culverts must be installed to avoid pooling at either end of the culvert, use ditch plugs on steep slopes,
  - f. PURCHASER must install energy dissipaters and sediment traps to prevent erosion on steep slopes and sediment run off,
  - g. The road bed depth over the culvert must be ½ the culvert diameter or at least 12 inches, whichever is greater,
  - h. Bedding material must be free of rock and debris that might puncture the pipe or carry water around the culvert,
  - i. The bedding material must be tamped along the sides and above the pipe, and
  - j. Culverts in streams requiring fish passage must be installed as per 11 AAC 95.305.
4. Bridge Construction.
  - a. Each end of the bridge must be firmly anchored to the abutment structure;
  - b. An earth embankment constructed for use as a bridge approach must be protected from erosion by using planted or seeded ground cover, bulkheads, rock riprap, retaining walls, or other equally effective means;

- c. A bridge must be installed in such a way as to minimize disturbance to the bed and banks of a stream. No part of the finished bridge structure may be below the high water marks of the stream or obstructing the stream's flow between ordinary high water;
- d. Equipment stream crossings are not authorized without prior specific State approval. The purchaser must submit written plans if crossing of open (unfrozen waters) is required for road construction.
- e. A snow ramp or ice bridge must be constructed only of snow, ice, and cribbing, and must be largely free of soil and organics; it must be constructed to disintegrate with natural ice breakup, or it must be breached and the cribbing removed when feasible before breakup to protect downstream structures, water quality, and fish habitat.
- f. Bridge structures used on the sale must meet or exceed USFS standards for temporary low volume industrial bridge structures for the loading anticipated by the purchaser.

5. Road Maintenance.

- a. On-going Maintenance. Once initial operations involving road use under this contract commence by the PURCHASER, maintenance must be an on-going function throughout the duration of the contract. The PURCHASER may cease maintenance operations during prolonged shut-down periods providing all roads are stabilized according to the standards specified in (D&E) below with prior written approval by the STATE.
- b. Existing Road Cross Sections. The PURCHASER must maintain existing road cross-sections by blading and shaping the surface and shoulders or replacing surfacing as required by the STATE.
- c. Minimize Damage. The PURCHASER must minimize damage to ditches, drainage structures, slopes and road surfaces. Where damage does occur, the PURCHASER must restore the road and structures to their prior condition within 48 hours, unless the STATE requires a shorter or longer period of time.
- d. Preventative Maintenance. The PURCHASER must perform preventative maintenance at the end of each operating season to minimize weather damage during the non-hauling period. This may include cross-ditching, post-haul blading to remove berms, ruts or other surface irregularities that would interfere with normal runoff of water and cleaning ditches and removal of drainage structures.
- e. Seasonal Work. The PURCHASER must perform all seasonal weather clean-up, removal of bank slough, minor slides and fallen timber, brush road, replace material eroded from slopes, and clean out drainage ditches and culverts at the beginning of each operating season. In removing material from slides or other sources, the PURCHASER must deposit the material in a location where it will not erode into streams, lakes or reservoirs. Cut slopes, slumps, or other areas of exposed soil that are at risk for producing sedimentation of surface waters must be grass seeded or otherwise stabilized to reduce sediment transport.
- f. Work Upon Termination. All roads and structures must be put to bed upon termination of use in compliance with the Alaska Forest Resources and Practices Act and Regulations, or at the option of the STATE, they may be left to be maintained as specified in (E) and (F) above.

6. Road Maintenance Contracts.

- a. If the PURCHASER jointly uses the Roads and Related Transportation Facilities with other authorized parties under this, or a subsequent contract, each party must enter into a joint use road maintenance Contract prior to hauling logs on the jointly used roads.
- b. The PURCHASER, if utilizing state, borough maintained roads and private roads for business operations, must protect the roads from damage by its activities. Any damage to public and private roads must be corrected to existing or better condition. The PURCHASER and the private property owner are responsible for negotiating private road issues. The STATE, in its discretion, reserves the right to enforce any such agreements as third-party beneficiary contracts.

7. Road Standards.

When roads are constructed as part of this contract they will be specified as follows:

Primary or Main Haul Roads.

- Road Width: Roads must be 25 feet, including ditch (see typical roadbed section) and 40 feet where designated turnouts are built.
- Surfacing Width: 14-16 feet running surface.
- Use: Moderate year round, except during spring breakup. Designed and constructed to access several timber sales, or to allow for possible future upgrades.
- Surfacing: The minimum necessary, usually a minimum of 12" of gravel, to allow log trucking without surface deformation year round, except during spring breakup.
- Turnouts: Surfaced length of 50 feet , 12 foot width and 25 foot length of ingress and 25 foot egress. Turnouts must be inter-visible, or every ½ mile, whichever is more often.
- Grade: The maximum favorable grade is 10%; the maximum adverse grade is 6%.
- Degree of curvature: The ordinary desired curve radius is a 100 foot minimum.
- Stump removal: Stump removal is required under running surfaces and ditches.
- Clearings: All merchantable materials within the road clearing limits must be felled, limbed and decked at landings. Debris must be pushed into natural openings and may also be buried beneath the running surface of the road, especially in wet areas that need more support.
- Ditches: Minimum depth is 1½ foot below the surface grade of the entire length of both sides of the road and must be adequate to drain peak flow.
- Culverts: Culverts must be placed on the natural slopes where necessary to prevent pooling of water caused by the roadbed. Culverts must extend beyond the base of the road at least 36" on both sides of the road.

Secondary Roads.

- Road Width: Roads must be 20 feet, including ditch (see typical roadbed section)
- Surfacing Width: 14 feet running surface.
- Use: Light year round, except during spring breakup. Designed and constructed to access more than one timber sales, or to allow for possible future upgrades.
- Surfacing: The minimum necessary, usually a minimum of 6" of gravel, to allow log trucking without surface deformation year round, except during spring breakup.
- Turnouts: Must be constructed large enough for opposing truck and utility vehicles to safely get out of log truck traffic without undo maneuvering at the typical traffic speed. Turnouts must be every 1/4 mile, or more often as needed for safe passage of logging trucks and at the end of the spur.

- Grade: The preferred maximum favorable grade is 10%; the preferred maximum adverse grade is 8%. In any case, the grade must not exceed standards set by OSHA.
- Degree of curvature: The ordinary desired curve radius is 75 foot minimum.
- Stump removal: Stump removal is not required under running surfaces and ditches, but they must be sheared off or otherwise lowered so as to not affect the road surface or ditch function.
- Clearings: All merchantable materials within the road clearing limits must be felled, limbed and decked at landings. Debris must be pushed into natural openings and may also be buried beneath the running surface of the road, especially in wet areas that need more support.
- Ditches: Minimum depth is 1 foot below the surface grade of the entire length of both sides of the road. Ditches must be adequate to drain peak flow. The road must be graded and crowned to drain. Standing water may not be allowed to pool on the road.
- Culverts: Culverts must be placed on the natural slopes where necessary to prevent pooling of water caused by the roadbed. Culverts must extend beyond the base of the road at least 36" on both sides of the road.

Spur Truck Roads.

- Road Width: Roads must be 16-18 feet.
- Surfacing Width: 12-14 feet running surface.
- Use: Light short-term. Chiefly timber harvest use, normally less than ¼ mile in length. No expected future extension.
- Surfacing: The minimum necessary to complete timber harvest operations, normally a seasonal road.
- Turnouts: Must be constructed large enough for opposing truck and utility vehicles to safely get out of log truck traffic without undo maneuvering at the typical traffic speed. Turnouts must be constructed as needed for safe passage of logging trucks and at the end of the spur.
- Grade: The preferred maximum favorable grade is 20%; the preferred maximum adverse grade is 12%. In any case, the grade must not exceed standards set by OSHA.
- Degree of curvature: The ordinary designed curve radius is 75 foot minimum.
- Clearings: Debris may be buried or piled in natural openings.
- Ditches: As required to minimize water quality impacts. The road must be graded and crowned to drain. Standing water may not be allowed to pool on the road.

Culverts: Culverts must be placed on the natural slopes where necessary to prevent pooling of water caused by the roadbed. Culverts must extend beyond the base of the road at least 36" on both sides of the road.

Winter Ice Roads.

Winter roads are roads that can normally support regular logging vehicle traffic only during winter months and that have a load bearing capacity derived from a combination of frost, snow, and/or ice (11 AAC 95.900(90)). Construction techniques for winter access routes depend on the range of terrain encountered, and may include clearing vegetation and ground cover needed to provide a level running surface. Road surfaces may be composed of frozen mineral soil, packed snow, ice, or surface organics (11 AAC 95.290(f) & (g)). Some segments of winter roads may cross terrain that requires construction to all season standards. Ballast for winter construction will predominately be snow, ice and frozen organics. Where ballast is required, it must be obtained from an approved borrow pit. Unless otherwise approved in writing and staked on the ground by the STATE, road fill placed by the PURCHASER must not cover, encroach on, or alter permanent or intermittent water channels.

Road Width: Roads shall be 14 feet.

Surfacing Width: 12 feet running surface.

Use: Light short-term. Chiefly timber harvest use. No expected future extension.

Surfacing: The minimum necessary to complete timber harvest operations, normally a seasonal road. Minimum requirement of 8 inches of snow and 6 inches of frost to maintain a minimum of three inches of compacted ice and snow. This standard allows for variations in winter snow conditions. Deep snow may prevent ground freezing but provide for adequate ground protection. If the ground is not frozen to a depth of at least 6 inches, additional snow depth is required.

Turnouts: Must be constructed large enough for opposing truck and utility vehicles to safely get out of log truck traffic without undo maneuvering at the typical traffic speed. Turnouts are to be constructed as needed for safe passage of logging trucks and at the end of the spur.

Grade: The preferred maximum favorable grade is 10%; the preferred maximum adverse grade is 10%. In any case, the grade must not exceed standards set by OSHA.

Degree of curvature: The ordinary designed curve radius is 75 foot minimum.

Stump removal: Blading or removal of stumps and vegetative mat is prohibited unless approved by the STATE. All stumps must be cut lower than 6 inches.

Clearings: Debris may be piled in natural openings and burned.

Ditches: Not required.

Maintenance: Open drainages before spring breakup. Close access after logging use. Discontinue use before frost layer is too thin to prevent surface deformation.

8. Road Closure.

- a. Road closure must meet the standards identified by 11 AAC 95.320 of the Alaska Forest Resources and Practices Regulations.
  - b. The first 300 feet of any temporary road constructed as part of this Agreement must be ripped with a dozer, overburden and debris pushed back over the road bed, and/or other actions necessary to make the road impassible as directed by the STATE.
  - c. Temporary roads designated by the State to remain open for recreational use will require berms, cables, or gates to restrict highway vehicle use.
9. Clearing and Grubbing.
- a. Trees within the road right of way must be felled and yarded ahead of the road construction.
  - b. The clearing boundary limits outside of the sale area are 75' on either side of the centerline. Timber from within the ROW is considered part of the Timber sale and will be handled as such by the PURCHASER. Within the sale area, the PURCHASER may determine the clearing limits.
  - c. Snags and trees leaning heavily over the roadway that are outside the clearing limits must be felled.
  - d. Unstable soils must be stabilized to minimize sedimentation by using appropriate erosion control measures such as seeding, using erosion control mats, and installing settling basins.
  - e. Cuts and Fills. Minimize cuts and fills in thaw-unstable permafrost. Cuts and fills must be avoided.
  - f. Removal of Surface Organics. Surface organics may only be removed to provide a level running surface.
  - g. Debris must not be piled or pushed against existing trees.
10. Trail Signage. The PURCHASER must place warning signs on all snowmobile routes and seismograph trails where they intersect with the Timber Sale Area. Warning signs must also be placed wherever snowmobile trails intersect with roads used for log removal. The signs must be placed in clear and conspicuous locations. The signs must be maintained throughout the life of this agreement.
11. Road Signage. Reflective "Caution Trucks Entering Roadway" signs (one each side of the junction) must be erected at the junction of all roads. Applicable warning signs must also be placed wherever recreational trails intersect with roads or skid trails used for logging operations. The signs must be placed in clear and conspicuous locations that will allow for adequate and safe notification (day and night) at the typical speeds used by the vehicles traveling on the trail or road. The signs must be maintained throughout the life of this agreement by the Purchaser.

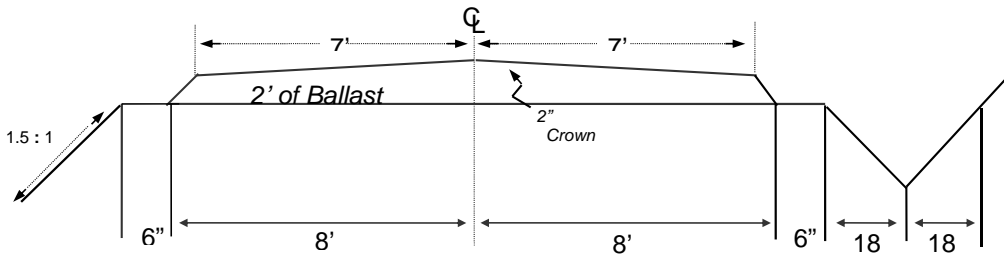


12. Grading.

- a. Any fills over 6 feet must be widened 2 feet for each 6 feet of centerline depth to a max. of 36 feet. Fill slopes must be no steeper than 1 1/2:1 for common fill.
- b. Cut slopes must be no steeper than 1:1 common, 1/2:1 soft rock, 1/4:1 solid rock.
- c. Some dry season roads may require extra widening on curves and deep embankments

Deep Fills	Inside of Curves
Fills under 6' add 1'	10' - 1 foot
Fills over 6' add 2'	30' - 2 feet
	50' - 3 feet
	60' - 4 feet

TYPICAL ROADBED SECTION  
SINGLE LANE - WITH TURNOUTS



**EXHIBIT F**

**LAYOUT MAP/ CULVERT LIST**

**TOK BIOMASS TIMBER SALE**

The specific layout of this sale will be a product of Forest Land Use Plans that will be developed over the term of the contract by the State from within the Sale Area as described in Exhibit A. To be attached and made part of this signed Contract.

**EXHIBIT G**

**INSURANCE POLICIES**

**TOK BIOMASS TIMBER SALE**

Without limiting PURCHASER 's indemnification, it is agreed that PURCHASER shall purchase at its own expense and maintain in force at all times during the performance of services under this agreement the following policies of insurance. Where specific limits are shown, it is understood that they shall be the minimum acceptable limits. If the PURCHASER 's policy contains higher limits, the state shall be entitled to coverage to the extent of such higher limits. Certificates of Insurance must be furnished to the Area Forester prior to beginning work and must provide for a 30-day prior notice of cancellation, nonrenewal or material change of conditions. Failure to furnish satisfactory evidence of insurance or lapse of the policy is a material breach of this contract and shall be grounds for default. All insurance policies shall comply with, and be issued by insurers licensed to transact the business of insurance under AS 21.

- a. Workers' Compensation Insurance: The Contractor must provide and maintain, for all employees engaged in work under this contract, coverage as required by AS 23.30.045, The purchaser must also be responsible for Workers' Compensation Insurance for any subcontractor who performs work under the timber sale contract. The coverage must include:
  - i. Waiver of subrogation against the state by the purchaser and all subcontractors associated with the timber sale;
  - ii. Employer's Liability Protection at \$500,000 each accident/each employee and \$500,000 policy limit;
  - iii. "Other States" endorsement if the purchaser or subcontractor directly utilizes labor of residents from outside of the State of Alaska;
  - iv. United States Longshore and Harbor Workers' Act Endorsement, whenever the work involves activity over or about navigable water; and
  - v. 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.
- b. Commercial General Liability Insurance: covering all business premises and operations used by the Contractor in the performance of services under this agreement with minimum coverage limits of \$1,000,000.00, combined single limit per occurrence.
- c. Commercial Automobile Liability covering all vehicles used in connection with the timber sale. All operators must meet the State minimum requirements for commercial carriers as defined in AS 19.10.300.
  - \$200,000 property damage single occurrence.
  - \$500,000 bodily injury single occurrence.
  - \$2,000,000 combined damage in single occurrence.

**EXHIBIT H**

**APPROVED OPERATING PLAN  
TOK BIOMASS TIMBER SALE**

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