

Sample Contract

**ALASKA DEPARTMENT OF NATURAL RESOURCES
DIVISION OF FORESTRY
MAT-SU AREA
PALMER, ALASKA
DRAFT TIMBER SALE CONTRACT**

**COPPER #4 TIMBER SALE
SC- 3049M
ADL # 232369**

TABLE OF CONTENTS

1. DEFINITIONS1

2. SALE OF MERCHANTABLE TIMBER2

3. RESERVATIONS:.....3

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

5. TERM OF CONTRACT:.....3

6. PAYMENTS4

 A. TOTAL STUMPAGE PAYMENT.....4

 B. STUMPAGE PAYMENTS.....4

7. PASSAGE OF TITLE4

8. COMPLIANCE WITH LAWS AND OTHER REQUIREMENTS5

9. TIMBER OPERATIONS5

 A. OPERATING PLAN REQUIREMENTS.....5

 C. SLASH DISPOSAL.....6

 D. REFORESTATION6

 E. ROADS6

 F. MAINTENANCE.....6

 G. FIRE7

 H. TIMBER TRESPASS.....7

 I. STATE INSPECTIONS7

 J. EMERGENCY REPAIRS BY THE STATE.....7

 K. FACILITIES CONSTRUCTION8

 L. USE OF TIMBER SALE AREA.....8

 M. FISH SPAWNING WATERS.....8

 N. ARCHEOLOGICAL SITES8

 O. MONUMENTS AND MARKERS.....8

10. RISK MANAGEMENT.....8

 A. INDEMNIFICATION.....8

 B. INSURANCE REQUIREMENTS8

 C. RISK OF LOSS9

 D. BONDS9

 1) PERFORMANCE BOND9

11. ENVIRONMENTAL COMPLIANCE, PROTECTION AND SAFETY.....10

 A. HAZARDOUS MATERIALS.....10

 B. FUEL STORAGE, FUELING, MAINTENANCE AND SPILL PREVENTION10

 C. SANITATION.....10

 D. IMMEDIATE CLEANUP OF ENVIRONMENTAL CONTAMINATION10

12. DEFAULT BY PURCHASER11

 A. EVENTS OF DEFAULT BY PURCHASER11

 B. NOTICE OF DEFAULT/CURE/TERMINATION11

 C. REMEDIES11

13. INTERIM AND FINAL ACCOUNTING11

14. RIGHTS AND OBLIGATIONS UPON EXPIRATION OR TERMINATION OF CONTRACT12

 A. RIGHTS IN TIMBER SALE AREA.....12

B.	<u>OBLIGATION TO REMOVE</u>	12
15.	<u>NOTICES AND PARTIES' REPRESENTATIVES</u>	12
16.	<u>ASSIGNMENT OF CONTRACT</u>	13
17.	<u>LIENS</u>	13
18.	<u>REPRESENTATIONS AND WARRANTIES</u>	13
A.	<u>STATE</u>	13
B.	<u>PURCHASER</u>	13
20.	<u>VALID EXISTING RIGHTS:</u>	14
21.	<u>PRODUCTION REQUIREMENTS</u>	14
22.	<u>GENERAL PROVISIONS</u>	15
A.	<u>CONTRACTORS</u>	15
B.	<u>DELIVERY OF PAYMENTS</u>	15
EXHIBIT A	TIMBER SALE AREA MAP.....	ERROR! BOOKMARK NOT DEFINED.
EXHIBIT B	LEGAL DESCRIPTION	18
EXHIBIT C	SILVICULTURAL PRESCRIPTION	19
EXHIBIT D	OPERATING PLAN REQUIREMENTS	23
EXHIBIT E	ROAD CONSTRUCTION AND MAINTENANCE REQUIREMENTS.....	24
EXHIBIT F	LAYOUT MAP	25
EXHIBIT G	INSURANCE POLICIES	26
EXHIBIT H	APPROVED OPERATING PLAN.....	27

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF FORESTRY**

*Mat-Su Area
101 Airport Road
Palmer, Alaska 99645*

**TIMBER SALE CONTRACT
COPPER #4 TIMBER SALE
SC-3049M
ADL 232369**

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:

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. "Cord" represents 85 cubic feet of solid wood cut and stacked and that occupies a space that is 4' high x 4' wide x 8' feet long.
- C. "Cunit" is a measure of solid wood that is 1.18 cords. This unit is a measure of all birch on the timber sale larger than 6" in diameter at breast height (DBH) and all spruce Utility Logs that are cut by the purchaser and have a diameter greater than 5" in diameter but won't make requirements for a saw log.
- 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. "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.
- F. "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.

- G. "MBF" means one thousand board feet, Scribner (long log) log scale rule.
- H. "Merchantable Timber" is all timber, harvested or unharvested, which contains at least one Merchantable Sawlog and all Utility Logs harvested or unharvested located within the Timber Sale Unit(s) designated by the State within the Timber Sale Area as depicted in Exhibit A that will be harvested in accordance with the approved Operating Plan. This excludes all timber in designated retention areas.
- I. "Operating Plan" means the document developed by the PURCHASER and approved by the STATE in order to communicate the PURCHASER'S planned schedule for road construction and harvesting operations, referenced in Paragraph 9 (Timber Operations) herein.
- J. "PURCHASER" means the purchaser of timber, purchaser's agent, employees, representatives, contractors, subcontractors or other individuals or entities operating on behalf of PURCHASER.
- K. "Road Standards" means road and bridge construction, maintenance, and closeout standards required herein and by Law.
- K. "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.
- L. "Slash" means all woody debris resulting from PURCHASER's Timber Operations or from construction of roads and related transportation facilities or other improvements.
- M. "Timber" means all trees, living or dead, standing or down, located within the Timber Sale Area.
- N. "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).
- O. "Timber Harvest Unit(s)" means the unit(s) of Merchantable Timber located within the Timber Sale Area, as designated by the State in Exhibits A and B.
- P. "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.
- Q. "STATE Land" means land owned by the State of Alaska, and interests and resources in the land, including improvements to the land.
- R. "Utility Logs" are logs that do not meet the minimum requirements of No. 4 or better sawmill grades, but are suitable for the production of firm useable pulp chips to an amount of not less than 50% of the gross scale with a minimum gross diameter of 6 inches on the small end, minimum gross length of 12 feet, plus trim.

2. SALE OF MERCHANTABLE TIMBER

STATE sells to PURCHASER, and PURCHASER purchases from STATE, all of the Timber, whether standing or down, within the Timber Sale Area as depicted on Exhibit A and described in Exhibit B, at

the price and upon the terms set forth herein, whether harvested or not, subject to the provisions under 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 flagged and depicted on Exhibits A and F, unless otherwise specifically approved in writing by the STATE. Said rights will be exercised as reasonably necessary and at PURCHASER's cost in strict accordance with the approved Operating Plan, applicable provisions of Law, and other applicable provisions of this Contract. Construction Material rights granted hereunder shall not be used to provide benefits to parties other than PURCHASER. The PURCHASER will compensate the STATE for any value lost through unauthorized use of Construction Material.

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

5. TERM OF CONTRACT:

The Term of this Contract shall commence upon the Effective Date and terminate on date, or the date that all obligations under this Contract have been completed, whichever is earlier. Timber harvesting as described above (page 5) must begin prior to date, within one year (1-YEAR) of the execution of this contract, or a breach of the contract by the PURCHASER will have occurred and the timber sale reverts back to the STATE. Notwithstanding the above, Timber Operations shall cease on or before date, except as provided otherwise herein.

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

If PURCHASER is prevented or delayed from beginning harvest operations due to lack of performance by purchaser of the Copper #3 Timber Sale (SC-2963M), the Term shall be automatically extended for SC-3049M

the period that such lack of performance by purchaser of the Copper #3 Timber Sale (SC-2963M) 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 lack of performance by purchaser of the Copper #3 Timber Sale (SC-2963M).

In the event that PURCHASER desires to extend the term of this Contract for reasons other than Force Majeure or lack of performance by purchaser of the Copper #3 Timber Sale (SC-2963M), such extension may be granted by the STATE, at the STATE's sole discretion, in consideration for the advance payment of \$1,000.00. Any request for an extension shall be made at least thirty (30) days prior to (**termination date**). The total extension time may not exceed one year. If the contract is extended, the State may enter into redetermination of the stumpage fees with the Purchaser if it deems it in the State's best interest.

6. PAYMENTS

A. Total Stumpage Payment. PURCHASER shall pay a total lump sum stumpage payment to the STATE as set forth below. The stumpage payment is due the STATE without regard to whether the harvest and marketing of the Merchantable Sawlogs and Cordwood was or will be profitable for PURCHASER. The agreed upon total lump sum stumpage payment is in the amount of **\$amount, (amount written out in dollars, U.S.)**.

B. Stumpage Payments. The PURCHASER must pay for timber in advance of harvest operations in the described timber sale units. Under no circumstances may timber be cut or removed from the sale area without prior payment to the STATE. The initial bid deposit will be applied towards the first stumpage payment. The State will refund the bid deposit if PURCHASER is prevented from beginning harvest operations due to lack of performance by purchaser of the Copper #3 Timber Sale (SC-2963M). The PURCHASER shall make an advance stumpage payment to the STATE 15 days prior to commencement of harvest operations for the entire price of Unit 14 less the bid deposit. Payments must be delivered to the State's representative as listed in Paragraph 15 (Notices).

Sale payments for this timber sale will be based on one payment described as follows:

Unit 14, **\$AMOUNT. 20% of total lump sum stumpage payment**

Unit 16, **\$AMOUNT. 44% of total lump sum stumpage payment**

Unit 193, **\$AMOUNT. 36% of total lump sum stumpage payment**

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

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

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

7. PASSAGE OF TITLE

The State maintains title to all logs until they are removed from the Timber Sale Area.

Subject to Paragraph 11 herein, the timber within the Timber Sale Area may be removed from the Timber Sale Area when the entire lump sum stumpage payment for each unit is paid in full. The risk of loss or damage will be allocated as provided in Paragraph 10 (Risk Management) herein.

8. COMPLIANCE WITH LAWS AND OTHER REQUIREMENTS

- A. Compliance with Laws. PURCHASER must carry out all Operations, in compliance with the Law. Responsibility for operating in compliance with Laws and rectifying any instances of non-compliance rest solely with PURCHASER. The PURCHASER must also comply with the specific requirements of applicable laws specified in this contract that apply to this timber sale.
- B. Responsibility for Acquisition of Permits, Authorizations and Approvals. PURCHASER is responsible for the acquisition of necessary permits, licenses, fees and other regulatory approvals at its cost. This Timber Sale requires the PURCHASER to notify the Mat-Su Borough (MSB) in Palmer (907) 745-9863 and acquire, if needed, the MSB Timber Harvest Permit and Road Access Permit. This Timber Sale requires the PURCHASER to acquire approval from the Alaska Department of Fish and Game's Habitat Division for crossing two streams identified in Exhibit F.
- C. Notification of Violation. Within twenty four (24) hours of PURCHASER's knowledge, PURCHASER must notify the STATE and applicable regulating agencies of any regulatory or permit violations that have occurred as a result of actions by PURCHASER, or PURCHASER's agent, representatives, contractors, subcontractors, or other individuals or entities operating on behalf of PURCHASER.

9. TIMBER OPERATIONS

- A. Operating Plan Requirements. Unless otherwise provided for, PURCHASER shall be responsible for performing based on existing road and unit layout and design. 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 on or before the execution of this contract, a written logging plan meeting the requirements of Exhibit D and providing for the orderly and progressive development of all operations necessary to complete this contract. The logging 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 logging plan is grounds for suspension. This plan must be updated annually and whenever there is a change in the PURCHASER'S operation.
- B. Timber Utilization Standards. Unless otherwise mutually agreed upon by the STATE and PURCHASER, PURCHASER must conduct its Timber Operations in accordance with the following Utilization Standards:
 - (1) PURCHASER must harvest Timber in such a manner as will ensure that all the Merchantable Timber designated for harvest within the Timber Sale Area is utilized;
 - (2) Except as otherwise set forth below, PURCHASER must ensure that stumps left after logging are cut as low to the ground as practicable, and in any event are not higher than eighteen (18) inches above the ground on the side of the stump where the elevation of the ground is the highest. High stumps must be paid for by the PURCHASER at the rate of \$5.00 per stump, which sum shall be regarded as fixed, agreed, and liquidated damages;
 - (3) PURCHASER must vary log lengths to provide for as complete a utilization of all the Merchantable Timber in the Timber Sale Area as is practicable; and
 - (4) The STATE shall have the right to require PURCHASER to remove unyarded

Merchantable Timber that has been left on the ground from the Timber Sale Area;

(5) The PURCHASER shall not leave cut spruce larger than 5" in diameter and logs longer than four feet (4') in length for more than 1 year after harvest on the Timber Sale or within the Timber Sale Area except at a pre-approved log transfer location off of the Timber Sale. This is required to remain in compliance with the Alaska Forest Resources and Practices Act and Regulations, specifically 11 AAC 95.195 Clearing of spruce trees;

(6) The PURCHASER may leave cut birch larger than 5" in diameter and logs longer than four feet (4') on the Timber Sale but only in decks at designated landings. Birch timber left on the Timber Sale becomes the property of the STATE after the Timber Sale Contract expires, and its disposal is at the sole discretion of the STATE.

(7) The Purchaser shall have the option to leave or burn un-merchantable logs treated as described above at landings on this Timber Sale during the time of this agreement. At no time will these logs obstruct the STATE's future use of the land. Under no circumstances will the logs be located so as to obstruct or hinder water quality. Title remains with the State until logs are removed from the Sale Area.

- C. Slash Disposal. PURCHASER must comply with all applicable Laws relating to the disposal or accumulation of slash and with the conditions set forth in Exhibit "C".
- D. Reforestation. The parties anticipate that reforestation requirements will be met through natural regeneration after the PURCHASER accomplishes the required scarification and site preparation as provided in Exhibit C (Silvicultural Prescription). Except as provided in Exhibit C (Silvicultural Prescription), the STATE is responsible for all reforestation obligations required under applicable Laws. PURCHASER must take reasonable actions to facilitate natural regeneration, as described in the approved Operating Plan. Notwithstanding any of the above, PURCHASER is responsible for reforestation of areas where PURCHASER's Timber Operations have materially damaged or impeded an area's ability to naturally regenerate.
- E. Roads. PURCHASER must, at its cost, construct, reconstruct, and improve roads in accordance with applicable laws, the 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 permits and approvals (including any road use agreements) and provided copies to the STATE prior to commencing operations. The STATE, in its discretion, reserves the right to enforce these agreements as third party beneficiary contracts. All borrow and waste areas utilized in the construction or maintenance of the roads and facilities by the PURCHASER require the submittal of development plans and approval by the State prior to development. The location and construction of all landings must be submitted to and approved by the State prior to use and construction by the Purchaser unless they are already identified on the approved timber sale unit maps. The PURCHASER is responsible for all repairs and mitigation deemed necessary by the State due to unauthorized roads and landings. PURCHASER must additionally pay stipulated damages of \$1,000.00 for each unauthorized construction development. 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 and all destructive or uncontrolled fires occurring within or without the contract area resulting from any and all operations involved in the removal of the timber under the provisions of this contract. AS 41.15.050 established the fire season from April 1 – 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 within the Timber Sale Area. Unless otherwise required herein, or prevented by circumstances, over which PURCHASER has no control, PURCHASER must place its equipment, employees, contractors, and employees of contractors at the disposal of any authorized government employee for the purpose of fighting forest fires within or near the Timber Sale Area.

(2) Presence of Fire Equipment. PURCHASER must ensure that both the road building crew and logging crews have adequate 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 “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 Palmer at (907) 761-6311 immediately after becoming aware of a fire or imminent threat of fire.

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

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

- J. Emergency Repairs by the STATE. In the event PURCHASER refuses to make a repair of an emergency nature to improvements or structures in the Timber Sale Area after requested to do so by the STATE or regulatory agency, except when these emergency repairs result from the gross negligence of STATE, the STATE shall be entitled to make the repairs and bill PURCHASER for the actual cost of making such repairs. Emergency repair of improvements or the sale area necessary to keep the Purchaser in compliance with federal, State, and local

laws and regulations is the PURCHASER'S responsibility. If the emergency repairs are not required by law or in this contract, the State will reimburse the purchaser for the cost of repairs. All emergency work covered by this contract must be authorized in writing by the STATE prior to commencing unless prevailing conditions will cause imminent and significant irreparable damage to the State's resources.

- K. Facilities Construction. Any improvements or transportation facilities, including sawmills, buildings, bridges, roads, etc, constructed by the PURCHASER in connection with this sale and within the sale area or on other State land leased for the purpose, must be done in accordance with standard or special plans approved by the STATE. Bonding may be required on each improvement. The STATE neither expressly nor implicitly warrants its improvement estimates. Estimates will be made for the sole purpose of establishing the minimum bid, and are not to be used for other purposes.
- L. Use of Timber Sale Area. The PURCHASER may only use the Timber Sale Area for actions related to the harvest of Merchantable Timber. The Timber Sale Area may not be used for any other commercial purpose. Existing facilities owned by the STATE in the sale area, including but not limited to roads, bridges gates, culverts, and signs may be used by the PURCHASER in connection with this sale without further approval unless such use is limited or prevented elsewhere in this contract. Existing improvements used by the PURCHASER must be kept in good repair by the PURCHASER.
- M. Fish Spawning Waters. All operations in connection with this contract adjacent to lakes, streams, or important fish waters must be conducted so as to avoid stream silting and must not interfere with the passage of fish or injure the spawning grounds, in accordance with AS 16.05.
- N. Archeological Sites. If, during the course of operations, any physical remains of historic, archaeological, or paleontological nature are discovered, work in that immediate vicinity must cease and the State must be notified. The Alaskan Historic Preservation Act prohibits the appropriation, excavation, removal, injury, or destruction of any historic, prehistoric or archaeological resources of the State.
- O. Monuments and Markers. The Purchaser must protect all known land survey monuments and witness trees and markers from damage or obliteration. If monuments or markers are destroyed, the PURCHASER must pay the costs of restoration. No painted, blazed or tagged tree which marks the boundary of the sale area or cutting units may be cut unless approved in writing by the State. The PURCHASER must pay the STATE stipulated damages of \$100.00 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.

10. RISK MANAGEMENT

- A. Indemnification. PURCHASER shall defend, indemnify, and hold the State harmless from any an 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 insured hereunder shall be entitled to those higher limits. The policies must each name the

STATE as an additional insured. The STATE must be provided with certificates of insurance and copies of the policies, a minimum of fifteen (15) days prior to commencing Timber Operations. The policies must provide that coverage shall not be canceled, limited, or allowed to expire until after thirty (30) days written notice has been given to the STATE. The STATE shall have the right, at its option, to pay any delinquent premium on any of the policies if necessary to prevent a cancellation, non-renewal or material alteration thereof; and PURCHASER must within five (5) business days, reimburse the STATE'S expenditure. In the event that any insurance policy is canceled or the policy is materially changed, PURCHASER must immediately notify the STATE and cease Timber Operations until certificates of insurance are delivered to and approved in writing by the STATE. The STATE reserves the right to reasonably increase the required insurance coverage limits to be in accordance with the current industry standards by giving 30 days written notice to PURCHASER.

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

D. Bonds

1) Performance Bond. At the time of executing this contract, PURCHASER must deposit with the STATE **two thousand dollars (\$2,000.00)** in the form of a cashiers check, money order, time certificate of deposit (with automatic renewal) in the State's name in trust for the purchaser or surety made payable to the STATE. Bonding must conform to 11 AAC 71.095. If cash is used for the Performance Bond it will be placed by the State in a separate state account and all interest on the Performance Deposit shall accrue to the benefit of STATE. If PURCHASER is in default under this Contract and has received notice of such default from the STATE, but has failed to cure such default, the STATE may apply said Performance Bond to pay for the performance of the default obligation and any of the STATE's expenses or damages incurred as a result of PURCHASER's default. PURCHASER shall remain liable for any deficiency that remains after application of the Performance Bond to any amount owed and within ten (10) days of STATE's said application, PURCHASER must deposit that sum of money necessary to maintain a Performance Bond of two thousand dollars (\$2,000.00).

2) Scarification Bond. A scarification bond will be deposited by the PURCHASER to the STATE **15 days prior to commencing operations.** The scarification bond will be based on 125.00/acre. The amount of the scarification bond at a minimum will equal the acreage harvested and unscarified times \$125.00/ acre. The minimum Scarification Bond to be deposited by the PURCHASER to the STATE for this sale is **six thousand two hundred fifty dollars (\$6,250.00).** Scarification bonding will be paid and administered by the STATE and the PURCHASER as described above in Performance Bond. Required bonding will increase or decrease as scarification is owed or accomplished. The PURCHASER will pay more Scarification Bond to the STATE if more acreage is harvested without being scarified in accordance with STATE requirements identified in Exhibit C. 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 adjust 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.

3) Access. The State will refund all bonds if PURCHASER is prevented from beginning harvest operations due to lack of performance by purchaser of the Copper #3 Timber Sale (SC-2963M).

11. 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 fueling, 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.
- 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.

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

C. Remedies. In addition to the above, if an Event of a Default by PURCHASER occurs under this Contract through no fault of the STATE, the STATE, at 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.

13. 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 9K (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.

14. 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.

15. 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
Mat-Su Area
Department of Natural Resources, Division of Forestry
101 Airport Rd.
Palmer, AK 99652
Phone No.: (907) 761-6301

Fax No.

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:

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 15 (Notices and Parties' Representatives).

16. 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.

17. 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.

18. 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

18A (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. PRODUCTION REQUIREMENTS

Logging Production. Commencing from the date of execution of this contract and within one-year (_____, 20__), the PURCHASER must have begun to harvest and remove timber from the sale area, and continue to harvest this timber sale in a work man like manner so as to conceivably harvest and

scarify the entire timber sale in all units by contract expiration. All logging and hauling operations must be completed by _____, 20__ and site scarification requirements must be completed by no later than 6-months after harvesting or _____, 20__, which ever comes first.

- A. Access. If Purchaser does not have access to the timber sale due to uncompleted road construction in the Copper # 3 Timber Sale (SC 2963M), then the Purchaser is not in default and the purchaser may request an extension to the contract according to Paragraph 5 (Term of Contract).

22. GENERAL PROVISIONS

- A. Contractors. All Contractors and subcontractors engaged by PURCHASER to perform Timber Operations relating to this Contract, must be approved in advance by STATE; however, STATE shall not unreasonably withhold its approval. PURCHASER must require, by contract, all such contractors and subcontractors to abide by the terms and conditions of this Contract, and PURCHASER must provide them with relevant provisions of this Contract.
- B. Delivery of Payments. All payments must be delivered to the STATE or to PURCHASER respectively at the addresses set forth in the Paragraph 15 (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.

Seller: Division of Forestry
Department of Natural Resources
101 Airport Rd
Palmer, AK 99645

PURCHASER: **Company Name:** .
Address

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 _____, _____.

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 _____, _____.

Notary Public for the State of _____
My Commission expires: _____

EXHIBIT A

VICINITY MAP

To be attached to signed Contract

EXHIBIT B**LEGAL DESCRIPTION****Copper #4 TIMBER SALE, SC-3049M****Property Description:**

The **Copper #4 SC-3049M Timber Sale, SC-3049M**, is located approximately 10 miles east of the community of Willow, Alaska (see Timber Sale Area Maps) in portions of Section 33 & 34, T21N, R3W in the Seward Meridian (SM). This sale is laid out in a 3 units that comprise approximately 113 acres: Unit 14 at 22 acres, Unit 16 at 50 acres, and Unit 193 at 41 acres. This proposed timber sale is depending on scarification to promote natural regeneration. The boundaries are shown on the attached Sale Area Map, which is made a part hereof, and as designated on the ground by the State with timber sale boundary flagging (pink timber harvest boundary flagging).

The Willer-Kash Road system will be used to access the timber sale. Access is dependent on completion of road construction in the adjacent Copper # 3 Timber Sale (SC 2963M).

The Timber Sale Area includes only the area described above and as depicted on Exhibit A: Copper #4, SC-3049M Timber Sale Area.

EXHIBIT C

Silvicultural Prescription

Copper #4 Timber Sale

General Description: The sale area consists of 3 units that comprise approximately 113 acres: Unit 14 at 22 acres, Unit 16 at 50 acres, and Unit 193 at 41 acres. The units have 330 foot of no-cut areas between it and the next closest unit as required by the Susitna Forestry Guidelines. The units are marked with pink “Timber Harvest Boundary” flagging.

Silvicultural Prescription: The harvest planned for the Copper #4 Timber Sale is a seed-tree harvest. All merchantable birch trees six inches diameter at breast height and larger and all spruce trees 10 inches in diameter at breast height and larger are designated for removal. Snags (approximately two per acre for wildlife use), residual birch described above and all spruce less than 10 inches at breast height will not be cut. Residual trees will be protected from damage during harvest operations. Residual trees, along with the adjacent stands, will provide the seed necessary for reforestation. Un-merchantable aspen and willow in the unit **will be cut** incidental to the timber harvest to encourage prolific regeneration from root and stump sprouts for moose browse and wildlife habitat. These logs may be left on the site and where they lay for use as wildlife habitat, grouse drumming logs, etc.

Limbs and tops will be severed and scattered to decompose in the unit or decked at the landing to be burned by the purchaser when the ground is covered by snow. If burning is utilized to dispose of slash, an open-burning permit may be required from DEC to ensure dispersal of airborne emissions pursuant to 6 AAC 80.110. Piles may be burned when there is at least 6 inches of snow on the ground, and must be completely extinguished before snow melts.

Areas harvested when soils are not frozen will not require scarification. Areas harvested on frozen soils **will require scarification** as follows:

50% exposed mineral soils distributed uniformly over each acre within the unit.

A medium class excavator, Caterpillar D-6 class dozer or equivalent horsepower (180 horse power or more) is required to perform scarification. Scarification is to be applied in all units on upland sites. Do not scarify in wet areas. Avoid areas with advanced regeneration, small willows and shrubs unless directed otherwise by DOF personnel.

All heavy equipment used in road building, timber harvest, scarification, skidding, forwarding etc.; including, dozers, road graders, excavators, backhoes, shovels, front end loaders, rubber tired skidders, cat-skidders, forwarders, delimeter/strokers, disc-trenchers, and mechanical harvesters; are **required to be pressure washed** at a location and in a manner approved by the State to remove all dirt and soil **prior to entering the Matanuska Susitna Borough**. The intent of this requirement is to remove soil and seeds of potentially invasive weed species that could impact reforestation efforts in the harvest units and along the road systems.

All operators, contractors, subcontractors using heavy equipment described above need to again pressure wash their equipment if any is removed from the timber sale and re-mobilized back into the Matanuska Susitna Borough from another location. Pressure washing would not be required if the equipment left the timber sale solely for the purposes of maintenance to that individual piece of equipment. The STATE requires Contractors and or the PURCHASER to have the equipment inspected just prior to entering the Matanuska Susitna Borough, to ensure that power washing was effective.

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 outsloped 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:
 - A. use puncheon where significant ground disturbances may contribute to sedimentation of surface water;
 - B. locate skid trails to minimize degradation of surface water quality;
 - C. use water bars or other appropriate techniques as necessary to prevent or minimize sedimentation;
 - D. keep skid trails to the minimum feasible width; and
 - E. outslope skid trails where feasible, unless an inslope is necessary to prevent logs from sliding or rolling downhill off the skid trail.
 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 piled. Slash must be wind-rowed or piled adjacent to the landing for burning by the PURCHASER as an on-going process during harvest. The PURCHASER must obtain the necessary open burning permits for slash burning prior to igniting the slash. The PURCHASER must notify the Division of Forestry in Palmer (761-6316) prior to igniting any fires intended for slash disposal.

18. Any spruce trees or portions of spruce trees larger than 5 inches in diameter which were alive prior to felling and yarding and are found not to meet minimum product specifications (cull) must be skidded to the landing(s), removed from the sale area or piled and burned as directed by the STATE. Accumulations of slash or logging debris in or around landing(s) must also be piled and burned or otherwise disposed of as directed by the STATE within one year.
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

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 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 due to slope or other considerations along with specific pit and waste area plans, and traffic management plan (consider hours of operation, hunting seasons, weekend recreational use, firewood cutters, trail use, etc.).
 - (3) Details of the seasonal closeout plan, including Roads and Related Transportation Facilities and other pertinent information. Also, the annual plan under this Contract must provide for closeout activities, including putting roads to bed and full clean-up;
 - (4) Locations of log scaling areas, log transfer facilities, camp facilities or local operations office; and copies of any required road or land use contracts.
 - (5) Names, addresses, business licenses, proof of insurance and contact persons for all contractors. The plan must state the task and percentage of the work that each contractor will perform for the Purchaser.
 - (6) An equipment washing/sanitization plan designed to minimize the potential of invasive plant species movement into the sale area (listing the care wash or location of power washing is required). **An inspection of equipment** coming in to or back in to the Timber Sale Area from outside the Matanuska Susitna Borough is **required prior to entering the Timber Sale Area**. Make arrangements with the STATE by prior appointment to do the inspection.

EXHIBIT E ROAD CONSTRUCTION AND MAINTENANCE REQUIREMENTS

To be attached to signed Contract

EXHIBIT F LAYOUT MAP

To be attached to signed Contract

EXHIBIT G**INSURANCE POLICIES**

Chrome #4 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 \$300,000.00, 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

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