

CUTTING CONTRACT

THIS AGREEMENT entered into this ___ day of _____, 200__, by and between _____ (hereinafter "Contractor@) and _____ (hereinafter "Owners"), agree as follows:

WHEREAS: The Owners wish to have Contractor cut approximately _____ acres of timberland which is currently owned by _____, collectively known as the "Owners"; and,

WHEREAS: The Contractor wishes to provide labor and equipment in order to fell and buck merchantable timber in return for payment.

NOW, THEREFORE, in consideration of the mutual benefits to be derived and the promises for performance of the terms and conditions as set forth herein, the parties agree as follows:

Agreement

1. **Cutting.** Contractor agrees to provide labor and equipment in order to fell, and buck merchantable timber under the terms of this Agreement. Any subcontractor hired by Contractor shall comply with the same requirements as those of the Contractor.

2. **Compensation.** Compensation shall be computed as follows:

Contractor shall fell and buck timber for Owner as agreed below at a price per THOUSAND BOARD FEET and/or per TON to be calculated so the Contractor shall receive:

- [] \$ _____ Per M. Bd. Ft. for scaled logs
- [] \$ _____ Per ton for weighed logs
- [] Other:

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3. **Payment.** Payment to Contractor shall be on a monthly basis or as agreed to by both parties and set forth above. Each monthly payment shall be accompanied by the corresponding scale sheets for that month. Owners agree to advance the sum of \$_____ per day to be paid _____ week to the Contractor for each day worked by the Contractor. Any such sums advanced to the Contractor shall be deducted from the regular monthly payment made in accordance with the scale sheets for logs delivered to the Owner. In the event no advance payments are made, then the Owners shall make payment promptly upon receipt of monies received from log buyers for logs shipped to the same.

 4. **Compliance.** Contractor agrees to comply with all federal, state and local regulations relating to its operations. Without limiting the foregoing, Contractor shall comply with all laws and regulations governing forest practices, fire protection and suppression. Owners shall comply with all federal, state and local regulations relating to harvesting timber from its property. Without limiting the foregoing, Owners shall comply with all laws, secure the proper permits for cutting and land use, payment of sales tax, B&O tax, excise tax, and EPA requirements.

 5. **Independent Contractor.** Contractor is an independent contractor and is not an agent, employee or partner with the Owners in any respect. Contractor shall be responsible for reporting local, state and federal taxes under its own tax ID numbers and shall be responsible only for Contractor=s employees in regard to filing the necessary applications with Labor and Industry, Workman's Compensation and Unemployment Compensation, or any other required documents designated by state agencies arising from this Agreement. Contractor shall provide the following:

UBI Number:
L&I Number:
IRS Tax ID Number:

 6. **Insurance.** Contractor shall obtain and maintain during the term of this Agreement a comprehensive general liability and property damage policy, satisfactory to Owners, with limits of not less than \$1,000,000 general aggregate limits, \$500,000 bodily injury protection with \$500,000 per occurrence limit. A Certificate of Insurance shall be provided to the Owners prior to commencement of the work.

 7. **Merchantable Timber.** Merchantable timber and cutting specifications for this project are defined in Exhibit A. All exhibits are attached hereto and by this reference are incorporated into this agreement.

 8. **Boundary Designations.** The Owners shall be responsible for designating boundaries and

clearly marking said boundaries. A map, attached hereto as Exhibit B, shall clearly indicate the legally described boundaries, as well as all right-of-ways and roads. Owners shall indemnify and hold Contractor harmless for any damages in cutting as a result of improperly or poorly defined boundaries.

9. **Applications.** The Owners shall be responsible for applications to the Forest Service, Department of Natural Resources, or county authorities for permission to cut timber. The Owners shall be responsible for payment of permits in advance.
10. **Indemnification and Hold Harmless.** Contractor shall indemnify and hold Owners harmless against all claims or liabilities asserted by third parties or governmental agencies for all acts directly within Contractors control for damages to property or persons through negligence of Contractor. Owners shall indemnify and hold Contractor harmless against all claims for liability asserted by third parties or governmental agencies, for all acts directly within Owners' control for damages resulting directly or indirectly from Owners acts or omissions hereunder, whether negligent or otherwise.
11. **Warranties.** The Owners warrant they have clear title to the land, trees, and permission where necessary, to enter right-of-ways and cut inside of right-of-ways, for entry onto the property designated in Exhibit B, right-of-way across property designated in Exhibit B, to harvest, remove, and haul logs from the designated areas within this Agreement. Owners warrant that there are no tenants on the property or that tenants have been notified in writing of the harvesting of timber and said harvesting of timber does not impair any legal right of the tenants.
12. **Notices.** Any notices to be given hereunder may be served personally or sent by registered or certified mail, addressed to the party to be served as designated below:

Contractor:

Owners:

13. **Assignment.** No portion of this Agreement may be assigned, in whole or in part, by operation of law or otherwise, by either party. No portion of Contractor's or Owners' liabilities or obligations shall be assigned, except upon written consent of the other party.
14. **Suspension of Operations.** Contractor may suspend cutting operations temporarily for safety, health, labor or equipment failure reasons. Contractor shall suspend operations if ordered by local, state, or federal authorities due to fire hazard, safety concerns, or for compliance with any governmental agency requirements. This Agreement shall be extended for a period of time equal to the suspension of operations.

15. **Remedies.** If Owners shut down harvesting operations and fail to allow Contractor to resume cutting for any reason other than by order of local, state or federal authorities, Contractor shall have a lien interest in all felled logs or trees left standing but selected for harvesting, as if the contract had continued uninterrupted.
16. **Lien Rights.** Contractor shall deliver statutory lien notices at the commencement of the project. Contractor shall maintain a lien interest in all trees felled and all trees designated for cutting throughout the term of the contract. Owners shall preserve the statutory lien rights and interests of the Contractor as identified in the statutory notices and as determined by law and shall not convey, offer as security, or settle any interest in the timber, in any form, which might compromise the lien interest of the Contractor.
17. **Captions and Headings.** The headings and captions in this Agreement are for convenience only, and such captions and headings shall neither add to, nor detract from, the substantive provisions set forth in this document.
18. **Controlling Law.** This Agreement shall be construed and enforced according to the laws of the State of Washington.
19. **No Waiver of Default.** Any waiver by either party of a breach of contract or default in performance by the other party shall not be deemed a waiver of any subsequent breach or default by the other party, no matter how made or how often recurring.
20. **Modification.** This Agreement may be modified, amended or rescinded at any time during the term of the contract by, and only by, a written document executed by the party to be charged with any such change with the same formality with which this instrument was originally executed.
21. **Fees and Costs.** In the event either party commences any proceeding to enforce all or any part of this Agreement, the prevailing party shall be awarded reasonable attorney's and expert's fees and all costs, whether or not taxable, included in any such proceeding.
22. **Arbitration Clause.** It is understood and agreed that any dispute, controversy or question arising under this Agreement shall be referred to arbitration for decision by an arbitrator selected by the parties. Either party shall give the other party 30 days written notice of its desire to submit the dispute, controversy, or question to arbitration. The proceeding shall be governed by the rules of the American Arbitration Association then in effect. If the parties are unable to agree upon an arbitrator within 30 days after either party has given the other party written notice of its desire to submit the dispute, controversy or question for a decision, then the arbitrator shall be appointed by a court of competent jurisdiction. The compensation and expenses of the arbitrator and any administrative fees or costs associated with the arbitration shall be paid equally by the parties. Arbitration shall be the exclusive remedy for

the settlement of disputes arising under this Agreement. The decision of the arbitrator shall be final, conclusive and binding, and no action at law or in equity may be instituted by either party other than to enforce the award of the arbitrator.

23. **Time for Performance.** Time is of the essence for this Agreement. Contractor shall commence performance of the obligations set forth herein promptly, when agreed to by both parties, and shall continuously perform thereafter in a diligent manner, according to the best standards of the logging and road-building industry, as such are conducted in the region of the cutting. Contractor shall complete performance of this Agreement no later than _____, unless extended by mutual agreement, in writing, of the parties, or unless prevented from doing so by circumstances not under Contractor=s control.

DATED this ___ day of _____, 200__.

“CONTRACTOR”

By

"OWNERS"

By

Title:

ADDENDUM

EXHIBIT "A"

1. Definition of Merchantable Timber:

2. Definition of Non-Merchantable Timber:

3. Method of disposing of Non-Merchantable Timber:

4. Cutting Specifications:

5. Clean Up Specifications:

6. Other:

EXHIBIT "B"

MAP OF PROPERTY AND DESIGNATED CUTTING AREAS