

UNITED STATES DEPARTMENT OF THE INTERIOR
Bureau of Indian Affairs
CONTRACT PART B STANDARD PROVISIONS

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B1 Definitions

As used in these provisions (Part B) and in Part A of the contract to which they are attached:

Agency The Bureau administrative office having jurisdiction over the sale area.

Approving Officer (AO) The Bureau official who approves the contract or an authorized representative.

Bureau The Bureau of Indian Affairs, or the Director, Bureau of Indian Affairs (Director), or any other person or persons duly authorized to act for the Bureau of Indian Affairs or the Director.

Cultural Resources Archaeological deposits, human remains, or locations associated with Native American religious or traditional beliefs or practices.

Government The United States Government.

Harvest To cut or take forest products.

Harvest Block The area that will have harvest operations and contains the forest products designated for harvest. Harvest blocks are identified and described in contract provision A8 (Estimated) and A7 (Predetermined) and on a contract map. Harvest blocks may be the same as the Sale Area or be a portion of the Sale Area.

Officer in Charge (OIC) The OIC is the forest officer of the highest rank assigned by the AO to oversee the day-to-day operations of forest product harvests, or their designated representative.

Purchaser The purchaser of forest products under the contract and any successor(s) in interest.

Purchaser's Operations All activities and use of equipment by the purchaser, purchaser's employees, agents, contractors, subcontractors, or their employees or agents, acting in the course of their employment in the Sale Area.

Regional Director The Regional Director of the Bureau of Indian Affairs or their authorized representative.

Sale Area The boundaries of the sale area are identified and described in A8 (Estimated) and A7 (Predetermined) and on a contract map. The Sale Area may be only the harvest block area(s) or may be a larger area including areas adjacent to the harvest block(s).

Scaling Handbook FSH2409.11, the *National Forest Scaling Handbook* (as revised), or other scaling reference approved by the Regional Director.

Seller The Indian Tribe(s) or the individual owner(s) of the forest products sold under the contract.

B2 General Conditions

B2.1 Outstanding Indebtedness

The Purchaser agrees in the performance of this contract not to employ, or otherwise contract for, the services of any individual or business entity, which has an outstanding indebtedness to the United States resulting from harvest of forest products or damage to Indian lands or is currently debarred from federal or Tribal contracting.

B2.2 Bureau Services

The Bureau will furnish their customary services within a basic workweek of 8 hours per day for 5 days per week, exclusive of Saturdays, Sundays, and Government holidays. If additional services are requested by the Purchaser and approved by the AO, the Purchaser must pay for such services as required by the Act of July 30, 1956 (25 U.S.C. 407d).

B2.3 Performance Bond

As further guarantee of the faithful performance of the provisions of this contract, the Purchaser delivers and agrees to maintain a bond acceptable to the AO in the dollar amount stated in Part A.

B2.3.1 New Bond

If the bond expires or is determined unsatisfactory to the AO, the Purchaser must, within 30 days of receipt of demand, furnish a new bond satisfactory to AO. Any extension of time for completion of this contract beyond the original contract period may be granted only with the consent of surety on bond or delivery of a new bond.

B2.4 Entry

The Purchaser has the right to enter the land described in Part A of this contract for the sole purpose of accessing, cutting, and removing designated forest products (as defined in Part A) and performing the obligations authorized under this contract. Any unauthorized entry, occupancy, or use of Indian lands, or the unauthorized use or taking, willfully or through neglect, of Indian resources may be prosecuted according to Tribal, Federal, or State law.

B2.5 Correspondence

Notices, requests or other actions where formal written notice or report is required in the Contract provisions will be made through the AO.

B2.6 Title

Title for forest products passes to the Purchaser when the forest products have been removed from the sale area, scaled, and paid for.

B2.7 Risk of Loss

B2.7.1 Estimated Volume Sales

The risk of loss for all forest products which have been harvested, is borne by the Purchaser. The risk of loss as to all standing timber not a result of the Purchaser's acts or omissions shall remain with the Seller.

B2.7.2 Predetermined Volume Sales

The risk of loss passes to the Purchaser upon the approval of the contract.

B2.8 Interpretation of Contract

The decision of the AO prevails in the interpretation of the contract, subject to the right of appeal prescribed in Part B2.17.

B2.9 Contract Dates

The cut and pay date is the date that payment, cutting, scaling and removal of forest products from the sale area is to be completed. The Contract expiration date is the date that all contractual obligations must be completed. No contract may exceed 5 years from approval date to contract expiration date including modifications.

B2.10 Modification

The conditions of sale as stated in the contract may be modified only through a written agreement between Seller and the Purchaser prior to the expiration of the contract. Modifications become effective when approved by the AO.

B2.11 Extension of Contract Dates

If an extension of the contract date is desired, the request must be made at least 14 days prior to the contract expiration date and include an explanation of why an extension is being requested. Contract extensions may be granted for good cause at the discretion of the AO. Payment penalties may apply as determined by the AO. An extension of time for the performance of the contract is a modification of the contract and will be treated as provided for in Part B2.9.

B2.12 Assignment of Interest

The assignment by the Purchaser of any or all interest under the contract will not affect any of the obligations of the parties under the contract until the assignment has been approved by AO, after consultation with the seller.

The party to whom an interest is assigned must provide a bond as specified in the contract or obtain a commitment from the previous surety to be bound by the assignment when approved. The approval of an assignment by AO must not change the provisions of the contract. Unless otherwise provided, an assignment will not relieve the assignor of any of the responsibilities and liabilities under the contract.

B2.13 Suspension of Operations

If Purchaser's Operations threaten the Seller's or the Bureau's interests or pose a threat to public safety the OIC may suspend any portion of the Purchaser's Operations. This may occur immediately, in the field, prior to any written notice from the AO.

The AO may, after written notice to the Purchaser, suspend any of the Purchaser's Operations under the contract if the Purchaser violates any of the requirements of the contract. Any suspension notice from the AO must be delivered within 10 working days. The notice will provide the Purchaser with justification for the suspension and identify the corrective measures required. The continued failure of the Purchaser to comply with the directions in the notice will be grounds for revocation by the AO of all rights of the Purchaser under the contract. Suspension of Purchaser's Operations may be continued until the Purchaser furnishes evidence satisfactory to the OIC or AO that corrective measures have been implemented.

B2.13.1 Resumption of Operations

Purchaser's Operations suspended by the OIC may resume with written authorization from the OIC. Purchaser's Operations suspended through action of the AO may resume upon receipt of a written notice from the AO that the suspension is lifted.

B2.14 Revocation

If the Purchaser breaches terms of this contract and does not resolve the situation to the satisfaction of the AO, the AO may revoke the contract by written notice to the Purchaser. Revocation will address title and ownership of harvested material not removed from the sale area, equipment not removed, unresolved contract obligations and other items determined by the AO.

B2.15 Failure to Complete Contract

In the case of Revocation or due to the Purchaser's failure to complete the contract, the Purchaser will be liable for the depreciation in the value of designated forest products that are not harvested and removed and for any costs or expenses incurred by or caused to the Seller or the Government because of failure to complete all obligations under the contract. The amount of the depreciated value and the costs and expenses resulting from the Purchaser's failure to complete the contract will be determined by the AO. The Performance Bond may be retained for this purpose and additional collections will occur if the value of the Performance bond is insufficient to cover the costs of outstanding contract obligations.

B2.16 Termination

The contract may be terminated at any time by written agreement between the Seller and the Purchaser. Termination agreements will not become effective until approved by the AO. The Purchaser is required to fulfill any contract obligations specified in the termination agreement.

B2.17 Disputes

The Purchaser or Seller may submit, in writing, disputes of any action or decision made under the contract by the AO or the OIC in accordance with the following procedure.

2.17.1 Timeframe for Disputes

Disputes must be made in writing to the AO within 30 days of the action or decision unless the party disputing the action or decision furnishes reasons satisfactory to the AO for granting a longer time period. The AO may extend the time period as deemed reasonable.

2.17.2 Timeframe for review

The AO will have 30 days to review all pertinent information and decide. If the dispute is not resolved to the satisfaction of the parties at the Agency level, a request to review the dispute may be submitted to the Regional Director for a final decision.

B2.18 Appeals

The parties to this contract may appeal, in accordance with the regulations stated in 25 CFR Part 2, any action or decision taken by the AO.

B2.19 Application of Proceeds

If the obligations of the Purchaser have not been fully completed and accepted by the contract expiration date, any money advanced or deposited will be retained and applied toward unfulfilled obligations of the Purchaser without prejudice to any other rights or remedies of the Bureau.

B2.20 Contract Closure

Upon satisfactory completion of all terms and obligations of this contract the Purchaser will be issued a Statement of Completion, and written notice from the AO releasing them of any further liability under the contract and they will be paid any refunds due.

B3 Payments and Deposits

B3.1 Amount Payable for Forest products

All forest products will be paid for at the Contract Rates in effect at the time of scaling except as otherwise provided for in the contract.

B3.2 Method of Payment

The Purchaser will pay for the forest products covered by the contract in advance of cutting. Payments and deposits will be by electronic funds transfer, certified check, cashier's check, or postal money order and must be

transmitted to the Bureau of Trust Funds Administration or as otherwise directed by the AO. Payment for sales of predetermined volumes can be either a single payment or installment payments as specified in Part A of this contract. Payment for estimated volume sales must be in the form of advance payments and advance deposits as described below.

B3.3 Advance Payments

Advance payments are tract specific non-refundable partial payments of the estimated value of timber to be harvested. Advance payments will be credited against forest products removed from each tract at Contract Rates. If the advance payment on any tract exceeds the value of forest products harvested on that tract, the entire amount of the advanced payment is retained by the Seller.

B3.4 Advance Deposits

Advance deposits are payments made and held in an Advance Deposit account, for Estimated Volume Contracts, to maintain an operating balance against which the value of forest products to be harvested will be charged. The Purchaser must make advance deposits at such times as requested by the AO and in such amounts as required by the contract.

B3.4.1 Application of Advance Deposits

Advance deposits will be applied as payments due for Tribal and allotment timber after the approval of a scale report. No distribution of advanced deposit balances will occur until the advanced payment "credit" balance is zero for the tract ownership to be paid.

B3.4.2 Advance Deposit Balance

To compute the advance deposit balance, the estimated value of timber cut but not yet scaled will be deducted from the amount of advance deposit currently available.

B3.4.3 Suspension of Operations

If advance deposits are not received within 15 days of written requests or if the advance deposit balance is below the required minimum advance deposit balance, the AO may suspend all or any part of the Purchaser's Operations until additional deposits are received, and the balance is above the required minimum balance.

B3.4.4 Interest

The Purchaser will not receive interest earned on funds paid to, or deposited with, the Bureau pursuant to Part B3.2, except for funds returned or refunded to the Purchaser.

B3.4.5 Refund of Advance Deposits

The AO may, at their discretion, refund to the Purchaser certain advance deposit funds prior to contract closure when the Purchaser requests the refund, and: (i) Purchaser's Operations may be inactive for approximately three months or longer, (ii) the balance of advance deposits is in excess of the required minimum advance deposit balance specified in the contract, and (iii) there is not an unexcused deficiency in minimum harvest requirements. The AO will refund the total unobligated balance of advance deposits after all forest products covered by the contract have been paid for and the Purchaser has fulfilled all contract requirements.

B4 Rates of Payment

B4.1 Contract Rates

Contract Rates are the species and product unit rates identified in Part A9(a) (Predetermined) and Part A12(a) (Estimated) of the contract, or periodically determined according to procedures stated in Part A12(a) (Estimated), unless superseded by rates determined under Part B4.2.

B4.2 Other Payments

B4.2.1 Rates not Designated in Contract

If rates are not designated within the contract, the AO will approve any additional payment rates necessary.

B4.2.2 Payment for Cutting Deficiency

If the Purchaser fails to meet the minimum cutting requirements and no relief is granted, the Purchaser must pay, as liquidated damages, an amount for losses to the Seller arising from deterioration of deficient volume, delay, or loss of growth in the residual stand, delay in establishing a new stand, and

from a delay in receipt of planned income or other causes, if provided for in the contract. The volume of timber scaled during the following contract year will not be applied to the minimum requirements for that year until the existing deficiency has been made up. All timber scaled to correct a cutting deficiency must be paid for at the stumpage rates in effect at the end of the contract year in which the deficiency occurred or at the rates in effect at the time of scaling, whichever are higher, plus the liquidated damage amount, if provided for in the contract. Normal stumpage rate procedures will be applied at the start of the first monthly period after the monthly reporting period in which the deficiency is satisfied.

B4.2.3 Undesignated Timber Cut or Damaged

The Purchaser may be required to pay for the timber at the contract rates plus a penalty of double the contract rates for timber not designated for harvest which is cut or seriously damaged.

B4.2.4 Unauthorized Harvest

The Purchaser is responsible for unauthorized harvest resulting from Purchaser's Operations that occurs within the Sale Area or during times that the Purchaser is not authorized to harvest designated forest products. The Purchaser agrees to pay for the timber at the contract rates plus a penalty of double the contract rates for all material removed or damaged from unauthorized harvest.

B4.2.5 Unauthorized Movement

Products that are moved contrary to the instructions of the OIC will be paid for by the Purchaser at the contract rates plus a single penalty at the contract rates.

B4.2.6 Waste Material

Waste material will be paid for at contract rates plus a single penalty at the contract rates unless otherwise specified.

B5 Utilization

B5.1 Sales of Estimated Volumes

In sales in which the volume of timber will be determined by measurement of harvested products, timber must be cut to yield the maximum stumpage value of the tree. Waste material will be measured and charged to the Purchaser at rates prescribed in Part B4.2.6.

Stumps must be cut as low as practicable to avoid waste. Stumps which exceed the maximum height will be paid for by the Purchaser at the rates per stump specified in A12(d) of the contract. The OIC may require the Purchaser to recut such stumps to the maximum allowable height.

B5.2 Sales of Predetermined Volumes

In sales in which the volume of timber sold was determined prior to the sale, the OIC may require the Purchaser to recut stumps which exceed the maximum height as defined in Part B8.3.2.1. If the Purchaser does not recut stumps which exceed the maximum height, they will be paid for by the Purchaser at the rates per stump specified in A9(e) of the contract.

The OIC may also require any merchantable pieces to be removed from the site.

B6 Cutting Requirements

B6.1 Maximum Volume

The volume of timber harvested from the Sale Area during any contract year must not exceed the maximum volume specified in the contract. This does not include the cutting deficiencies from any previous year or years, or the volume of timber salvaged pursuant to Part B6.4.2.

B6.2 Minimum Volume

The actual amount of timber scaled will be counted towards the minimum volume required for the contract year. Cutting performance in any contract year beyond the minimum required will not be applied against the cutting requirements of subsequent contract years. The shortfall in minimum volume will be added to the minimum volume required for the following year. If the Purchaser fails to meet the minimum volume requirements, the volume of forest products scaled during the following contract year will not be applied to the minimum requirements for that year until the existing deficiency has been made up.

B6.2.1 Relief from Minimum Cutting Requirements

If the Purchaser fails to meet the minimum harvest requirements specified in Part A of the contract, the Purchaser may request relief in writing from the AO. The AO may grant relief in whole or in part from the minimum annual cutting requirement when, in the opinion of the AO, the Purchaser is prevented by factors beyond their control from meeting the minimum cutting requirements, or when such relief is in the best interest of the Seller.

B6.3 Final Year Volume

All remaining volume on the sale is required to be harvested in the final year of the contract, minimum or maximum volume requirements do not apply. If a modification extending the length of the contract is granted, it is no longer considered the final year, so minimum and maximum volumes do apply.

B6.4 Damaged Timber

B6.4.1 Damage by the Purchaser

- Damage includes but is not limited to any injury to the living crown, bole or roots of a tree as a result of the Purchaser's Operations.
- Undesignated merchantable timber determined by the OIC to have been damaged during the Purchaser's Operations must be paid for as stated in Part B4.2.
- Any damaged timber or waste material, which is paid for, will become the property of the Purchaser. These forest products must be removed as directed by the OIC.
- If timber is injured or damaged to the extent that, in the opinion of the OIC, it will constitute a hazard to residual trees if not removed, or a safety hazard to the public, the Purchaser will be required to remove and pay for such injured or damaged timber.
- Negligent or intentional damage to timber is grounds for revocation as stated in Part B2.14 as determined by the AO.
- The Purchaser may be charged additional penalties for the cost of rehabilitation and lost future revenue as determined by the AO.

B6.4.2 Damage by Catastrophic Events

B6.4.2.1 Merchantable Damaged Timber

All timber within the harvest blocks that are commercial species and meet the minimum merchantability standards as specified in the contract which are damaged but not rendered unmerchantable by insects, disease, windthrow, fires or by other forces after the date the contract is approved, are considered merchantable, and must be removed as directed by the OIC. In predetermined volume contracts where minimum merchantability standards are not specified, merchantability will be determined in accordance with customary standards. The Purchaser must cut and pay for damaged merchantable timber as the AO directs, except as otherwise provided for in Parts B4.2.6 and B6.4.

B6.4.2.2 Unmerchantable Damaged Timber

If any timber covered by the contract is lost, destroyed, or damaged by catastrophic events to the extent that it is unmerchantable, there is no obligation on the part of the Bureau to designate, or on the part of the Purchaser to accept and pay for, other timber in lieu of that destroyed or damaged.

B6.4.3 Additional Salvage of Damaged Timber

If, in the opinion of the AO, additional salvage operations are necessary to prevent losses to the Sellers and cannot be reasonably removed by the Purchaser's operation, or the parties do not agree on contract rates for the additional material, the AO may offer all or part of the damaged timber for sale to other parties.

B7 Scaling

Scaling as used in these provisions may include various volume determination methods including, but not limited to, Scribner decimal C log rules, cubic volume, lineal measurement, piece count, weight, sampling, or any other reasonable method approved by the AO. Products presented for scaling in other than sawlog form will be measured as provided for in Part A.

B7.1 Scaling Services

B7.1.1 Personnel

All scaling is conducted by employees of the Bureau or Tribe unless a written agreement is entered into to accept scaling services of third-party scaling organization(s) acceptable to the AO.

B7.1.2 Scaling Organizations

The OIC may enter into written agreements to accept scaling services from scaling organizations.

B7.2 Scaling Specifications

Unless otherwise provided for in the contract, the following specifications are prescribed for scaling logs: (a) the Scribner Decimal C log rule will be used, (b) measurement will follow instructions contained in the FSH 2409.11 Scaling Handbook, (c) all logs exceeding the maximum scaling length will be scaled as two or more segments.

Logs or pieces presented for scaling measuring less than the minimum contract specifications that have not been bucked from products meeting the minimum contract specifications will be scaled as though such bucking had been done, in accordance with the appropriate log Scaling Handbook.

B7.3 Scaling Deduction

When measuring products presented for scaling, deductions will be made for defect or damage according to the Scaling Handbook. Scaling deductions will not be made if any defect or damage is due to carelessness, negligence, or the willful act of the Purchaser.

B7.4 Designated Scaling Point

The OIC will designate scaling points where products will be scaled.

B7.5 Convenience in Scaling

The Purchaser must roll out, deck or otherwise present products in a manner suitable for safe, accurate and efficient scaling as directed by the OIC.

B7.6 Movement of Products

Products must not be moved from a designated scaling point until they have been scaled and released by the OIC. Unauthorized movement of logs will be paid for in accordance with Part B4.2.4. The OIC may require that products are decked, stacked, or otherwise held for scaling when the average daily volume produced is too small to permit economical scaling.

B7.7 Scaling Unmerchantable Material

Timber which, in the opinion of the OIC, is more defective than the minimum merchantable percentage specified in Part A11 of the contract, and/or material that does not meet the minimum product specifications in Part A11 of the contract, will be paid for based on net merchantable content or as specified in the contract when removed from the Sale Area at the option of the Purchaser.

B7.8 Waste Material

Waste material is comprised of long butts, tops, broken and partially sound logs, trees designated for cutting that are not cut or which are left felled, lodged, or damaged, or other products damaged or not fully utilized by Purchaser's Operations. The amount or volume of waste material will be determined based on the Scaling Handbook and may be supplemented by local policy. Waste material will be paid for by the Purchaser at the contract rates plus a single penalty at the contract rates.

B7.9 Marking Products

When a separate record of the volume of forest products harvested from one or multiple individual or groups of Harvest blocks (Scaling Units) is required by the Bureau, the Purchaser must distinctively identify all products with paint, or perform other procedures as directed by the OIC to ensure positive identification of the products cut by Scaling Unit.

B7.10 Reports of Scale

The AO will furnish to the Purchaser a scale report, or other document that they deem equivalent, showing the volume and value of all products scaled under the contract during each reporting period and the balances in advance payments and advance deposits.

B7.11 Check Scales

The Purchaser may arrange with Bureau, through the OIC, for a check scaler employed by the Purchaser or representing the Purchaser, to conduct check-scaling services for the Purchaser. A check scaler must meet certification standards as set by the Bureau and comply with Bureau scaling procedures. Furthermore, the Bureau reserves the right to conduct check scales on third party scalers at any time. Check scales will be for gross and net volumes only unless otherwise stated in the contract. All data compiled by each party will be exchanged at either party's request. When products are sold by weight, certification of weight scales used must be calibrated to ensure accuracy on a schedule determined by the OIC.

B8 Purchaser's Operations

The Purchaser will be responsible for all Purchaser Operations, committed by the Purchaser and their agents, contractors, subcontractors, employees, or invitees.

B8.1 Representative

The Purchaser must designate, in writing, a representative who is authorized to receive notices regarding performance under this contract and take related action. At all times when Purchaser's Operations are in progress; the Purchaser must have a representative readily available in the area of operations who is authorized to receive on behalf of the Purchaser any notices or instructions from the Bureau regarding performance under the contract and to take such action thereon as is required by the terms of the contract.

B8.2 Logging Plan

The AO or OIC may require the Purchaser to present a Logging Plan for approval before initial or seasonal operations begin. Any deviation from the plan will require the written consent of the OIC. The Logging Plan must include an annual schedule of anticipated major activities and requirements for harvesting designated forest products, such as harvest operations, road maintenance, and road construction. The schedule will include the Purchaser's annual cutting requirements (if any) in terms of minimum and maximum volume as stated in Part A7 (Estimated), and the sequence and time frame of harvest operations. Prior to initial operations and after shutdowns of 20 days or more, the Purchaser's representative must notify the OIC two (2) days, excluding weekends and Federal holidays, before any operations commence on the Sale Area.

B8.3 Conduct of Logging

Unless otherwise specifically provided in this Contract, the Purchaser must cut designated timber and must remove the portions that meet utilization standards in Part A of the contract. The Purchaser's Operations must not damage lands, property or other environmental, cultural, or property interests of the owners or Bureau. The Purchaser must employ best management practices and other appropriate procedures for the protection of air, soil, and water quality. The operation of all equipment will be subject to such restrictions as the OIC may prescribe.

B8.3.1 Safety

The Purchaser will facilitate the Bureau's safe and practical inspection of the Purchaser's Operations in the Sale Area. The Purchaser will conduct their operations in compliance with prescribed safety practices and Federal Law. The Bureau may direct the Purchaser to post appropriate warning signs concerning conditions arising from operations that the OIC determines to be hazardous.

B8.3.2 Felling

Felling must be done in such a way as to prevent breakage of designated timber and damage to residual trees.

B8.3.2.1 Stump Height

The height of any stump must not exceed one-half of its diameter or 12 inches from ground level on the uphill side, whichever is more. The OIC may authorize a different maximum height after receiving a written request from the Purchaser that explains why the standard height is impractical.

B8.3.2.2 Hazard and Cull Trees

The Purchaser must fell designated hazard and cull trees as directed by the OIC. Hazard and cull tree felling must be completed in each Cutting Block as logging progresses.

B8.3.3 Skid Trails and Landings

Skid trails and landings will be located in such a manner as to minimize erosion and to protect residual trees and young growth as directed by the OIC. Skid trails and landings must not flow, pool water, or negatively impact riparian areas, designated streams, or lakes.

B8.3.4 Treatment of Slash

Treatment of slash as specified in the contract must be accomplished by the Purchaser concurrently with other phases of the Purchaser's Operations. Slash includes any residual tree material whole or part, including leaves, needles, bark, wood, and root tissue resulting from the Purchaser's Operations. Unless otherwise specified in Part A, the Purchaser must lop and pile all slash compactly for burning. Any slash piles created must be placed a sufficient distance from reserved trees and young growth to prevent unnecessary damage as a result of burning.

B9 Protection Measures

B9.1 Residual Trees

The Purchaser's Operations must avoid damage to seedling, saplings, and other trees that are not designated for harvest.

B9.2 Land Survey Monuments

The Purchaser must protect all Public Land Survey System corner evidence against damage. The Purchaser must hire a licensed surveyor to reestablish or restore any Public Land Survey System corner evidence that is damaged by the Purchaser's Operations.

B9.3 Cultural Resources

The Purchaser has a duty to protect all identified or discovered Cultural Resources referenced in this Contract from impact, damage, or removal during the Purchaser's Operations.

9.3.1 Previously Identified

The Purchaser must immediately notify the OIC if disturbance occurs to any Cultural Resources identified in Part A of the contract as needing special protection measures and must immediately halt their operations to minimize further disturbance until the AO authorizes the Purchaser to proceed. The Purchaser will pay for resource evaluation and restoration to previously identified Cultural Resources damaged by the Purchaser's Operations. Such payment will not relieve the Purchaser from civil or criminal liability otherwise provided by law.

9.3.2 Discovered

Discovery of Cultural Resources requiring protection must be promptly reported to the OIC. The Purchaser's Operations may be delayed or terminated if the OIC determines there is risk of damage from continued operations. The Purchaser may resume operations upon notification from the AO.

B9.4 Special status plants and animals

The Purchaser has a duty to protect all plant and animal species designated as a federally or Tribally special status species. Damage to any such plants or animals will result in penalties as determined by the OIC. Immediate notification to the OIC for any newly discovered population is required.

B9.5 Water and Wetlands

The Purchaser's Operations must be conducted in a manner that will minimize damage to rivers, streams, riparian areas, wetlands, or moist meadows. Streams as here referred to include both flowing and intermittent watercourses. Written approval of the OIC is required for the hauling, skidding, or yarding across or through any waters or wetlands.

B9.6 Hazardous Material Disposal

The Purchaser must take immediate action to contain any hazardous materials spills that have occurred because of the Purchaser's Operations. The Purchaser must notify the Bureau immediately of such spills. Hazardous materials will be disposed of as directed by the OIC. Hazardous materials include, but are not limited to, petroleum products such as fuel, oil, and hydraulic fluids, and contaminated soils, rock, and vegetative material.

B9.7 Soils

The Purchaser's Operations must be conducted in a manner to minimize adverse impact to soils. The Purchaser will take reasonable and practicable measures to retain road surfaces and prevent the erosion of roads and skid

trails, and stabilize barren areas created by landings or other actions that expose soil. The OIC may suspend Purchaser's Operations in whole or in part for such periods as may be deemed necessary to avoid damage when ground conditions are unfavorable to operations.

B9.8 Sanitation

The Purchaser is expected to maintain all lands in a clean and sanitary condition. All man-made material and other waste resulting from the Purchaser's Operations and occupancy must be removed and disposed of properly. The OIC may, in their discretion, designate specific locations and other conditions for the servicing of equipment. The servicing of equipment is not permitted within the Sale Area without the permission of the OIC.

B10 Road Management

B10.1 Authorization

The Purchaser is authorized to construct and maintain such roads, bridges, and other transportation facilities the Bureau deems necessary for harvesting and removing designated forest products, subject to applicable regulations and conditions the Bureau may impose. All such construction, improvement and maintenance activities must be performed as required by the OIC and only as necessary for the Purchaser's Operations under the contract. In these Provisions, "construction" includes reconstruction.

B10.2 Construction

Design and locate all roads to be constructed by the Purchaser to minimize damage to land, improvements, and the environment. Prior to construction the Bureau may require approval of the location and design by inspection or through the submission of plans and specifications for the location and design of roads and other improvements. All bridges, drainage structures, or other improvements installed on any road by the Purchaser must be designed and installed in a manner that facilitates long-term usage of the road. Installed structures will be left intact at the completion of Purchaser's Operations unless the removal of such improvements is authorized or required by the AO. Construction or installation of improvements not specified in Part A of the contract will occur only with prior approval of the OIC.

B10.3 Existing Improvements

The Purchaser may be allowed to use existing improvements that are already on lands covered by the contract and are necessary for the Purchaser's Operations under the contract, subject to applicable regulations and conditions the AO may impose. The Purchaser must protect roads and other improvements within the Sale Area and those designated on the Harvest Block map(s) and must restore any such road or improvement damaged by the Purchaser's Operations.

B10.4 Maintenance

B10.4.1 Bureau Roads

Bureau roads are open to public use but may be closed by the Bureau, in its discretion, for reasons including, but not limited to public safety, fire prevention or suppression, fish and game protection, and prevention of damage to roadbeds. The Purchaser will maintain Bureau Roads used for the Purchaser's Operations under this contract as specified in Part A of the contract.

B10.4.2 Other Roads

The Purchaser must maintain or pay road maintenance fees for the use of designated roads maintained by a third party as specified in Part A of the contract.

B10.4.3 Periods of Non-use

During periods of non-use, the AO, may direct the Purchaser to maintain roads and other improvements within the Sale Area that the AO has determined are necessary for the management or protection of Indian Lands.

B10.4.4 Prior to Abandonment

The AO may direct the Purchaser to maintain roads within the Sale Area prior to abandonment or permanent closure.

B10.5 No Obstructions

All transportation facilities which are designated by the OIC, as being necessary for the administration and protection of Indian lands must be kept free of obstructions resulting from the Purchaser's Operations.

B10.6 Use by Other Parties

Roads or improvements constructed by the Purchaser under authority of the contract, or on rights-of-way held by the Bureau, may be used by other parties as authorized by the Bureau, provided that, in its opinion, the use by other parties will not cause unreasonable interference with the Purchaser's Operations.

B10.7 Road Use Agreements

The Purchaser must abide by the terms of any applicable road use or right-of-way agreements on file with the Bureau. The Bureau will advise the Purchaser of all road use agreements within the Sale Area and the Purchaser will be responsible for obtaining any additional rights of way or road use agreements necessary for performance under this contract.

B10.8 Removal

All roads and other improvements used, maintained, constructed, or installed by the Purchaser must be left intact at the completion of the Purchaser's Operations under this contract unless the removal of such roads or improvements is required in Part A of the contract.

B11 Fire Prevention and Suppression

B11.1 Fire Plan

When requested by the BIA, the Purchaser must prepare, in cooperation with the OIC, a plan for the prevention, response to and reporting of wildfires on the Sale Area. At a minimum, the plan must include a communication plan for reporting wildfires; a description of fire prevention and control measures on the Sale Area and a list of qualified personnel and equipment available for implementing the plan.

B11.2 Fire Reporting

The Purchaser must immediately report all wildfires to the appropriate authority specified in the Fire Plan.

B11.3 Fire Precautions

The Purchaser must, both independently and in cooperation with the Bureau, take all reasonable and practicable action to prevent fires from the Purchaser's Operations. The Purchaser must furnish and maintain in good and serviceable condition such wildland firefighting tools and equipment and take such fire prevention measures as may be required by the AO to meet the fire protection requirements of the contract relative to the existing fire danger. The requirements will not be less than are required under the laws of the State in which the Sale Area is located.

B11.4 Suspension of Operations

The Purchaser will abide by the restrictions of the local authorities and will suspend their operations when fire is within or threatening the Sale Area. The OIC may order other restrictions or further suspension and direct the resumption of operations.

B11.5 Suppression Assistance

When called upon by the AO, the Purchaser must make available personnel and equipment identified in the Fire Plan for use in suppressing wildfire on or threatening the Sale Area, in accordance with Bureau policy.

B11.5.1 Personnel

Personnel identified in the Fire Plan as fully qualified under current Bureau standards will be eligible for temporary hire by the Bureau. Such personnel will work under the direction of any authorized employee of the Bureau.

B11.5.2 Equipment

Qualified equipment identified in the Fire Plan may be rented from the Purchaser by the Bureau or Incident Management Team as provided for in the Fire Plan.

B11.6 Fire Suppression Costs

B11.6.1 Purchaser Fire

The origin or spread of all wildfires on the Sale Area for which the Purchaser, the Purchaser's employees, or the Purchaser's subcontractors or their employees, are responsible by act or neglect are classified as either Negligent Fire or Non-Negligent Fire.

B11.6.1.1 Negligent Fire

A person has acted “negligently” if they have departed from the conduct expected of a reasonably prudent person acting under similar circumstances. In the case of Purchaser’s Operations, this would include things such as disposing of burning materials in a careless manner, unattended campfires, and equipment fires caused by inadequate maintenance. Negligence will be determined by the AO. All suppression costs including those incurred by the Bureau for suppressing any such fire ignited through the Purchaser negligence will be borne by the Purchaser.

B11.6.1.2 Non-Negligent Fire

A Non-Negligent fire is any fire caused by the Purchaser, which is not considered negligent by the AO. The Purchaser must pay up to one-half of the total suppression costs for non-negligent purchaser fires as determined by the AO not to exceed 25% of the estimated value of the contract or \$300,000 whichever is less.

B11.6.2 Non-Purchaser Fire

Fires on or outside the sale area for which the Purchaser, their employees, their subcontractors, or their employees, are in no way responsible by act or neglect are called non-Purchaser fires. The Purchaser will be reimbursed, at rates authorized by the Bureau, for all qualified equipment and personnel hired by the Bureau for non-Purchaser fire suppression.

B11.7 Fire Damage

The Purchaser's liability for forest product damage sustained from Non-Negligent Fire and Non-Purchaser Fire will follow the Risk of Loss stated in Part B2.7; otherwise, the Purchaser must pay for all damages caused by Negligent Fire to forest products or any other property of the Sellers, or the Government in an amount to be determined by the Bureau.

B12 Other Conditions

B12.1 Personal property

The Purchaser must remove all equipment, other personal property and temporary structures prior to the contract expiration date, or a date specified by the OIC. Personal property left after that date will be deemed abandoned and subject to confiscation and/or trespass fees.

B12.2 Sales of Other Materials

The Bureau reserves the right to sell from the logging unit during the period of this contract any materials or products not subject to its terms, but will not permit removal, possession, or use thereof that will materially interfere with the Purchaser’s Operations.

B12.3 Indian Labor

When the Purchaser is operating concurrently with a common crew, under a contract with a Government agency, the non-discrimination clause of the Government contract will prevail, except that preferential treatment to Indians may be granted under a publicly announced employment practice within the provisions of Section 703(i) of Public Law 88-352, the Civil Rights Act of 1964 (78 Stat.257). Preferential treatment, to Tribal members enrolled in the Tribe on whose land the contract is operating, and other Indians, will include employment by the Purchaser and their subcontractors under this contract, of Indians at the same wages as other labor, and in preference to other labor not already in their employment, whenever Indian labor seeking employment is qualified. The Purchaser may be required to make available to the Bureau, employment and payroll records as is necessary to enable the Bureau to ascertain compliance with this section. Such records are considered confidential and will be available only to Bureau employees whose official duties require access to the information.

B12.4 Purchaser's Records

Records pertaining to the logging, manufacture and sale of material covered by this contract must be open to inspection at any reasonable time by authorized Bureau employees for the purpose of obtaining information of the type used by the Bureau in appraisals and redetermination of stumpage rates. The information obtained must be regarded as confidential and the right of inspection will extend for a reasonable time beyond the expiration date of the contract to provide the Bureau an opportunity to obtain relevant information for the full contract period.

B12.5 Indemnity

The Purchaser assumes all risk of injury and/or death of its employees, subcontractors, and third-party persons and all loss of and damage to property, except as specified otherwise in this contract, resulting from actions or omissions of the Purchaser under this contract. The Purchaser agrees to indemnify and hold harmless the Seller and Bureau from any liability, loss, cost, and expense including attorney's fees resulting from such injury, death, loss and/or other damage.

B12.6 Insurance

The Purchaser must provide and maintain during the performance of the contract, Worker's Compensation Insurance, provided and maintained for all employees of the Purchaser engaged in work under this contract as required by state law. When directed by the Bureau, the Purchaser is required to provide and maintain public liability insurance and/or other types of insurance as specified under Part A13 (Predetermined) and A17 (Estimated). The Purchaser will provide proof of such coverages within 30 days following contract approval and prior to commencement of operations, whichever is sooner. The Purchaser must provide 30-day notice to the Bureau in the event of cancellation, non-renewal, or a change in the policies.