

VARIATION TO WOOD SUPPLY AGREEMENT



THIS AGREEMENT is made the *Fifth* day of *October* 2017

1. PARTIES

- 1.1 **THE FORESTRY CORPORATION OF NEW SOUTH WALES** a State owned statutory corporation constituted by the Forestry Act 2012 (NSW) ('FCNSW')
- 1.2 **VICFORESTS**(ABN 76 846 538 543) of Level 12, 461 Bourke Street Melbourne 3000 Victoria ('VicForests')

2. RECITALS

- 2.1 The parties entered into a wood supply agreement on 18 June 2015 providing for FCNSW to deliver Timber to Ryan & McNulty Ltd at 123 Sydney Road Benalla Victoria ("the Ryan & McNulty WSA").
- 2.2 The parties have agreed to certain amendments to the Ryan & McNulty WSA. This Agreement records the agreed amendments.
- 2.3 In this Agreement, unless the context requires otherwise, words defined in the Ryan & McNulty WSA will have the same meaning given to those words in the Ryan & McNulty WSA.

3. AMENDMENTS

- 3.1 The Ryan & McNulty WSA is amended in accordance with Schedule 1 to this Agreement. References in Schedule 1 to a clause is a reference to that clause in the Ryan & McNulty WSA.

4. COMMENCEMENT

- 4.1 Clause 3 of this Agreement will take effect from 2 September 2015.

IN WITNESS WHEREOF THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT AS A DEED THE DAY AND YEAR FIRST HEREINBEFORE WRITTEN.

EXECUTED BY the FORESTRY)
CORPORATION OF NEW SOUTH)
WALES by its delegate)

JEAN ANDERSON)
.....)
(name))

GM HAROLD)
.....)
(position))

[Signature])
.....)

in the presence of:

[Signature])
.....)
(witness)

EXECUTED BY VICFORESTS)
by its delegate)

A.M. Cecing)
.....)
(name))

General Manager Commercial Resources)
.....)
(position))

A.M. Cecing)
.....)

in the presence of:

n. m. cathy)
.....)
(witness)

SCHEDULE 1

1. **Clause 2.1**
In the definition of DC Year delete “October” and insert instead “September”
2. **Clause 16.2**
Delete “July” and insert instead “September”
3. **Schedule 5**
In the Table, delete the column heading “40-45” and insert instead “40-44”.
4. **Schedule 8**
Delete Schedule 8 and insert instead:

“SCHEDULE 8 - RATE REVIEW MECHANISM FOR DELIVERY CHARGE

Part 1 – Definitions

In this Schedule 8 unless the context indicates to the contrary:

‘Base Indicator Rate’ means the percentage, index, or value, as specified in Column 3 of the table annexed in Part 3 of Schedule 8, to be used in calculating the Base Item Rate.

‘Base Item Rate’ means those listed in Column 6 of the table annexed in Part 3 of Schedule 8 calculated in accordance with Column 5 of the table annexed in Part 3 of Schedule 8, using the Base Indicator Rates.

‘Base Item Weighting’ means those listed in Column 7 of the table annexed in Part 3 of Schedule 8.

‘Current Item Rate’ means the percentage, index, or value to be used in calculating the Rate Review Factor as calculated in accordance with Column 5 of the table annexed in Part 3 of Schedule 8, using the Current Indicator Rates.

‘Current Indicator Rate’ means the percentage, index, or value, as specified in Part 2 of Schedule 8, to be used in calculating the Current Item Rate.

‘DC Year’ means the 12 month period commencing 1 September in any year.

‘Indicator’ means an Indicator of an Item, more specifically being any Indicator set out in column 2 of the tables annexed in Parts 2 and 3 of Schedule 8.

‘Item’ means a factor relevant to the cost of Harvesting Operations or Haulage Operations, more specifically being any item set out in Column 1 of the tables annexed in Parts 2 and 3 of Schedule 8.

‘Item Weighting’ for the first rate review under this agreement means the Base Item Weighting. For all subsequent Rate Reviews the Item Weighting will be ascertained by calculating what percentage each Item contributed to the Rate Review Factor in the most recent Rate Review as described in Part 6 of Schedule 8.

‘Movement Factor’ for all rate reviews under this agreement means those listed in Column 8 of the table annexed in Part 3 of Schedule 8.

‘Previous Item Rate’ for the Rate Review used to calculate the Delivery Charges to apply from 1/9/16 means the Base Item Rate. For all subsequent rate reviews the Previous Item Rate means the rate assigned to an Item in the most recent Rate Review.

‘Rate Review Factor’ means the value calculated by the method described in Part 5 of Schedule 8.

‘Year’ means a period of twelve months commencing on 1 July in any year.

Part 2– Current Indicator Rates Definition

Item	Indicator	Source	Period to use
CPI	CPI	<p>ABS Consumer Price Index Cat No 6401 table 1 and 2 (Series ID A2325846C; Index Numbers; All groups; Australia)</p> <p>As published by the Australian Bureau of Statistics (ABS) at www.abs.gov.au</p>	<p>The index for the quarter ending 30th of June in the Year, prior to the Year in which the rates calculated in the Rate Review will take effect.</p> <p>For example: When calculating the Delivery Charge that will apply to the DC Year starting 1st September 2017, use the indices for the period 1st April 2017 to 30th June 2017 being the June Quarter 2017.</p>
Fuel	Terminal Gate Price	<p>Daily average Terminal Gate Price, in dollars per litre (including GST), of Diesel in Sydney</p> <p>As published by the Australian Institute of Petroleum (AIP) at www.aip.com.au</p>	<p>Average price for the Year previous to the Year in which the rates calculated in the Rate Review will take effect. For clarity this will be an average of all days within the specified period where the AIP has reported and recorded the Terminal Gate Price of Diesel in Sydney.</p> <p>For example: When calculating the Delivery Charge that will apply to the DC Year starting 1st September 2017, average those daily prices reported by the AIP during the period 1st July 2016 to 30th June 2017.</p>
	GST	GST as specified by the ATO	Average rate during the period determined for the Terminal Gate Price.
	On Road Tax Credit	<p>Fuel Tax Credit rates applicable to liquid fuels for heavy vehicles travelling on public roads</p> <p>As published at www.ato.gov.au</p>	Average rate during the period as determined for the Terminal Gate Price.

Part 3 – Base Item Rates

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8
Item	Indicator	Base Indicator Rate	Base Indicator Date	Calculation	Base Item Rate	Base Item Weighting	Movement Factor
Item 1: CPI	CPI	107.5	June Quarter 2015	None Required	107.5	80.0%	90%
Item 2: Fuel	Terminal Gate Price	[REDACTED]	Average 1/7/14 to 30/6/15	Terminal Gate Price Minus GST Minus the On Road Tax Credit	[REDACTED]	20.0%	100%
	GST		Average 1/7/14 to 30/6/15				
	On Road Tax Credit		Average 1/7/14 to 30/6/15				
Total						100.0%	

Part 4 – Not Used

Part 5 – Formulas used to calculate the Rate Review Factors

$$R = \left(\frac{C_1 - P_1}{P_1} \times W_1 \times M_1 \right) + \left(\frac{C_2 - P_2}{P_2} \times W_2 \times M_2 \right)$$

where;

- R = the Rate Review Factor;
- C₁ = the Current Item Rate for CPI;
- P₁ = the Previous Item Rate for CPI;
- W₁ = the Item Weighting for CPI;
- M₁ = the Movement Factor for CPI;
- C₂ = the Current Item Rate for Fuel;
- P₂ = the Previous Item Rate for Fuel;
- W₂ = the Item Weighting for Fuel;
- M₂ = the Movement Factor for Fuel;

Part 6 – Formulas used to calculate the Item Weightings to use during the next Rate Review

$$I_1 = \frac{W_1 \times \left(1 + \frac{C_1 - P_1}{P_1} \times M_1 \right)}{1 + R} \qquad F_1 = 1 - I_1$$

where;

- I_1 = the Item Weighting to use for CPI during the next Rate Review;
- F_1 = the Item Weighting to use for Fuel during the next Rate Review;
- R = the Rate Review Factor;
- C_1 = the Current Item Rate for CPI;
- P_1 = the Previous Item Rate for CPI;
- W_1 = the Item Weighting for CPI;
- M_1 = the Movement Factor for CPI;

Part 7 – Rate Review Calculation

The formula in Part 5 of Schedule 8 will be used to calculate the Rate Review Factor. The Delivery Charge listed in the previous DC Years Delivery Charge Schedule, will be multiplied by the Rate Review Factor plus one, to produce the new Delivery Charge to list in the Delivery Charge Schedule.

For removal of doubt the Delivery Charge will be calculated as follows:

$$\text{New Delivery Charge} = \text{Previous Delivery Charge} \times (1 + \text{the Rate Review Factor})$$

Part 8 – Rounding

The purpose of this clause is to ensure that sufficient information is given to enable the delivery charge calculations to be reconciled against advice provided in hard copy.

The Current Indicator Rate for both the Terminal Gate Price and the On Road Tax Credit will be presented in dollar value and rounded to 5 decimal places before being used in subsequent calculations. For example, \$1.23456

The Current Item Rates will be rounded to 5 decimal places before being used in subsequent calculations. They will remain rounded to 5 decimal places when they become Previous Item Rates when used in subsequent Rate Reviews.

The Rate Review Factor will be rounded to 3 decimal places before being used in subsequent calculations. For example a Rate Review Factor of 0.0236872 would be rounded to 0.024 and would appear as 2.4% signifying a 2.4% rate increase.

The Item Weightings will be rounded to 3 decimal places before being used in subsequent calculations. They will remain rounded to 3 decimal places when they are used in subsequent Rate Reviews. For example a Rate Review Factor of 0.7236872 would be rounded to 0.724 and would appear as 72.4%.

The New Delivery Charge, as described in Part 7 of Schedule 8, will be rounded to 2 decimal places for application. It will remain rounded to 2 decimal places when it is subsequently used as the Previous Delivery Charge.

5. Schedule 9

In the definition of “Current Price Point” delete “July” and insert instead “September”.