

DEED dated:

2010

PARTIES: WEATHERTEX SUPPLY PTY LTD (ABN 14 089 261 861) (Weathertex Supply)

The **FORESTRY COMMISSION OF NEW SOUTH WALES**, a corporation constituted under the Forestry Act 1916 (NSW) trading as **FORESTS NSW (FORESTS NSW)**

THE STATE OF NEW SOUTH WALES (State of NSW)

WEATHERTEX PTY LTD (ACN 084 713 986) (Assignee)

RECITALS:

- A. FORESTS NSW, State of NSW and Weathertex Supply are parties to the Timber Supply Agreement. Clause 33 of the Timber Supply Agreement permits the assignment of the Timber Supply Agreement subject to FORESTS NSW providing its consent.
- B. Weathertex Supply has agreed to assign the Timber Supply Agreement to the Assignee on the terms set out in this Deed and FORESTS NSW and State of NSW have agreed to consent to this assignment.

THE PARTIES AGREE:

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Deed (including the recitals) unless the context otherwise requires:

Assignment Date means the date of this deed;

Claim means any, or all of the following as appropriate in the context: claim, demand, action, right of action or proceedings whatsoever;

Deed means this Deed and any document that varies or supplements it;

Timber Supply Agreement means the agreement between Weathertex Supply, FORESTS NSW and State of NSW dated 1 July 2007.

- 1.2 References to recitals, clauses, subclauses, paragraphs, annexures or schedules are references to recitals, clauses, subclauses, paragraphs, annexures and schedules of or to this Deed.
- 1.3 Headings in this Deed are for convenience only and do not affect its interpretation or construction.
- 1.4 In this Deed unless the context otherwise requires:
 - (a) the singular includes the plural and vice versa;
 - (b) the word **person** means a natural person and any association, body or entity whether incorporated or not;
 - (c) the word **month** means calendar month and the word **year** means 12 calendar months;
 - (d) a reference to writing includes any communication sent by post or facsimile transmission;

- (e) where any word or phrase is defined, any other part of speech or other grammatical form of that word or phrase has a cognate meaning;
- (f) a reference to any statute, proclamation, rule, code, regulation or ordinance includes any amendment, consolidation, modification, re-enactment or reprint of it or any statute, proclamation, rule, code, regulation or ordinance replacing it;
- (g) all monetary amounts are in Australian currency;
- (h) a reference to time refers to time in Sydney, Australia;
- (i) **Business Day** means a day other than a Saturday, Sunday or public holiday in New South Wales;
- (j) mentioning anything after **include**, **includes** or **including** does not limit what else might be included;
- (k) no rule of construction applies to the disadvantage of a party because this Deed is prepared by (or on behalf of) that party;
- (l) a reference to any thing is a reference to the whole and each part of it;
- (m) a reference to a group of persons is a reference to all of them collectively and to each of them individually;
- (n) a reference to a document includes all amendments or supplements to, or replacements or novations of, that document.

2. ASSIGNMENT

- 2.1 With effect on the Assignment Date, Weathertex Supply legally and beneficially assigns to the Assignee all of Weathertex Supply's interests, rights and powers under the Timber Supply Agreement.
- 2.2 With effect on the Assignment Date, the Assignee accepts the assignment of all of Weathertex Supply's interests, rights and powers under the Timber Supply Agreement.

3. CONSENT BY FORESTS NSW AND STATE OF NSW

- 3.1 FORESTS NSW and State of NSW consent to and agree to the assignment set out in clause 2 above.
- 3.2 With effect on and from the Assignment Date, the Assignee:
 - (a) agrees to comply with the terms of the Timber Supply Agreement as if it were named as the party Weathertex Supply therein and
 - (b) confirms all other terms of the Timber Supply Agreement.

Without limiting the above, the Assignee agrees to assume and become responsible for all of Weathertex Supply's present and future liabilities and Claims (if any) incurred in connection with the Timber Supply Agreement.

- 3.3 With effect on and from the Assignment Date, FORESTS NSW and State of NSW each agree to comply with the terms of the Timber Supply Agreement as if the Assignee were named as the party Weathertex Supply therein and confirms all other terms of the Timber Supply Agreement.

4. RELEASE RE FUTURE LIABILITIES

- 4.1 FORESTS NSW and State of NSW agree to release Weathertex Supply from all liabilities and Claims (if any) incurred in connection with the Timber Supply Agreement that arise with effect on and from the Assignment Date.

5. GENERAL PROVISIONS

- 5.1 The parties agree that this Deed includes the following provisions of the Timber Supply Agreement as if these provisions were included in the body of this Deed:
- (a) clause 36 - Notices and Service, subject to: the Assignee's address for service being the same as the address for service of Weathertex Supply;
 - (b) clause 37 - Governing Law and Jurisdiction;
 - (c) clause 38- Severability;
 - (d) clause 26 - Confidentiality; and
 - (e) clause 40 - Costs.

6. AMENDMENT OF THE TIMBER SUPPLY AGREEMENT

- 6.1 The parties agree that clause 17.4 of the Timber Supply Agreement inadvertently omitted a reference to the date of the Timber Supply Agreement for the purposes of 5 yearly reviews of the Delivered Price and accordingly clause 17.4 of the Timber Supply Agreement is amended from the Assignment date by deleting "anniversary of 5 years" and inserting instead "expiration of 5 years from the date of this Agreement".

EXECUTED as a Deed

I N.J.V. ROBERTS
(name)

CEO
(position)

have hereunto affixed the Seal of the
**FORESTRY COMMISSION OF NEW
SOUTH WALES** in the presence of:

[Signature]



SIGNED SEALED AND DELIVERED
by **THE HONOURABLE STEVE WHAN**
Minister for Primary Industries
in and for the State of New South Wales
for and on behalf of the Crown (but not
so as to incur personal liability) in the
presence of:

[Signature]

[Signature]

Minister for Primary Industries

EXECUTED by **WEATHERTEX SUPPLY**
PTY LTD in accordance with section 127 of the
Corporations Act:

[Signature]

[Signature]

ANTHONY P MICHAEL
Print Name of Signatory

GORDON KEITH MICHAEL
Print name of Signatory

EXECUTED by **WEATHERTEX PTY LTD** in)
accordance with section 127 of the Corporations)
Act:)
)

AP Michael

GK Michael

Anthony P MICHAEL

Print Name of Signatory

GORDON KEITH MICHAEL

Print name of Signatory



WOOD SUPPLY AGREEMENT

(Pulplog)

Weathertex Supply Pty Ltd

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ARM

TIMBER SUPPLY AGREEMENT

THIS AGREEMENT is made on the day of 2005

BETWEEN The **FORESTRY COMMISSION OF NEW SOUTH WALES**, a corporation constituted under the Forestry Act 1916 (NSW) trading as **FORESTS NSW** ('FORESTS NSW');

AND **WEATHERTEX SUPPLY PTY LTD** (ABN 14 089 261 861) ('Company')

AND **THE STATE OF NEW SOUTH WALES** ('State of NSW')

1. DEFINITIONS AND INTERPRETATIONS:

1.1 Definitions:

In this Agreement unless a contrary intention appears:

'Act' means the *Forestry Act 1916* (NSW);

'Agreement' means this agreement;

'Annual Delivery Plan' means the plan, prepared in accordance with **clause 10**, for the supply of Timber during the Year to which the plan applies;

'Annual Forecast' means a document prepared by the Company each month specifying its monthly requirements for Timber delivered under this Agreement during the twelve month period covered by the Annual Forecast and which must:

- (a) be consistent with the Base Allocation or Base Allocations (as those volumes may be adjusted to take into account any allowable Overcut or Undercut) for the period covered by the Annual Forecast;
- (b) propose for each month within that twelve month period, deliveries of no less than 6% and no more than 13% of the Base Allocation relevant for the particular month;
- (c) in respect of the first three months of the twelve month period, not propose revisions of the monthly deliveries proposed for the same calendar months in the Company's last Annual Forecast which are substantially different to the proposed deliveries for the same calendar months in the last Annual Forecast);

'Annual Supply' for a Year means the Base Allocation adjusted for any Overcut or Undercut in accordance with **clause 6**;

'Area of Supply' means the Crown timber-lands within the region covered by the New South Wales Government Forest Agreement for Lower North East Region 5 March 1999 more particularly identified on the map attached as **Schedule 2**;

'Base Allocation' for a Year means the quantity of Timber specified as the Base Allocation for that Year in **clause 5** as varied from time to time in accordance with that clause;

'Business Days' means the days Monday to Friday inclusive, but excluding Public Holidays;

'Change in Control' means change in the control of more than 50% of the shares with the right to vote in general meetings of the Company;

'Code of Procedure' is as set out in **Schedule 5** as amended from time to time in accordance with this Agreement;

'Company' includes all employees, servants and agents of the Company;

'Compartment' means a Forests NSW administrative area within a forest from which Forests NSW will make a supply of Timber available to the Company;

'Contract Harvesting' includes the felling, extraction, sorting, processing, grading, loading, hauling and delivery of Timber to the Mill and ancillary works including roading, tracking, log dump construction and site rehabilitation by Contractors engaged by Forests NSW;

'Contractor' means a person under contract with Forests NSW to conduct Contract Harvesting operations and includes employees and agents of the Contractor;

'Cost Item' – see **Schedule 4**;

'Delivered Price' means the price payable by the Company per tonne of Timber delivered to the Company under this Agreement calculated in accordance with **clauses 16 and 17**;

'Delivered Price Review Mechanism' means a mechanism for the annual review of the Delivered Price set out in **Schedule 4** as amended or replaced from time to time in accordance with this Agreement;

'Force Majeure' means an event (other than the payment of money) arising from an act of God, industrial dispute, act or omission of government or government department or instrumentality, war, sabotage, riot, civil disobedience, epidemic, disease, flood, fire, explosion, failure of power supply, accident, natural disaster, calamity, unavailability of essential inputs to the Mill or unlawful act by other persons, or any similar cause which prevents a party from performing its obligations (in whole or in part) under this Agreement;

'Indicator' – see **Schedule 4**;

'Indicator rates' – see **Schedule 4**;

'Indicator weighting' – see **Schedule 4**;

'Insolvency Event' means in respect of a party:

- (a) a receiver, manager, receiver and manager, trustee, administrator, controller or similar officer being appointed in respect of the party or any asset of the party;
- (b) a liquidator or provisional liquidator being appointed in respect of the party;
- (c) a moratorium of any debts of the party or an official assignment or a composition or an arrangement (formal or informal) with the party's creditors or any similar proceeding or arrangement by which the assets of the party are subjected conditionally or unconditionally to the control of the party's creditors being ordered, declared or agreed to;
- (d) the party becoming, or admitting in writing that it is, or being declared to be insolvent or unable to pay its debts;
- (e) any writ of execution, garnishee order or similar order, attachment, distress or other process in an amount exceeding \$10,000,000 (or its equivalent in a foreign currency) being made, levied or issued against or in relation to any asset of the party (which is not stayed, withdrawn or satisfied within 14 days of when it is made, levied or issued);
- (f) the party suspending payments of its debts generally; or
- (g) the party being, or under legislation being presumed or taken to be, insolvent (other than as the result of a failure to pay a debt or claim the subject of a good faith dispute);

'Mill' means the Company's board production facilities located at Raymond Terrace or such other location as the parties agree upon in writing;

'Minister' means the Minister for Forestry or any other Minister administering the Act;

'Monthly Delivery Schedule' means a schedule for the month to which it applies, specifying information described in clause 10;

'Monthly Quantity' means the quantity specified in a Monthly Delivery Schedule as the quantity to be delivered in the month to which the Monthly Delivery Schedule applies;

'Pricing Year' means a period of twelve (12) months commencing on 1 October;

'Products' means the reconstituted hardboard product Weathertex manufactured by the Company at the Mill;

'Overcut' means the amount by which the quantity of Timber taken by the Company in any Year is more than the Base Allocation for that Year;

'Specifications' means the specifications for timber set out in **Schedule 1**;

'Term' means the term of this Agreement;

'Threshold Supply' for a Year means 80% of the Base Allocation for the Year;

'Timber' means timber which meets the Specifications;

'tonnes' means green metric tonnes;

'Undercut' means the amount by which the quantity of Timber taken by the Company in any Year is less than the Base Allocation for that Year;

'Year' means a period of twelve (12) months commencing on 1 July.

1.2 Interpretation

In this Agreement, unless the context requires otherwise:

- 1.2.1 a reference to the Act includes all amendments, regulations, rules, by-laws and proclamations under the Act;
- 1.2.2 words and phrases defined in the Act will have the same meanings attributed to those words and phrases in the Act unless the word or phrase is defined in this Agreement in which case the word or phrase will have the meaning attributed to it in this Agreement;
- 1.2.3 headings are for convenience only and do not affect the interpretation of the Agreement;
- 1.2.4 words importing the singular include the plural and vice versa;
- 1.2.5 words importing a gender include any gender;
- 1.2.6 a reference to a natural person includes a Company, partnership, joint venture, association, corporation or other body corporate and any governmental agency;
- 1.2.7 a reference to any thing includes a part of that thing;

- 1.2.8 a reference to a clause, party, annexure, exhibit or schedule is a reference to a clause of and a party, annexure, exhibit and schedule to this Agreement;
- 1.2.9 a reference to a document includes all amendments or supplements or replacements or notations of that document;
- 1.2.10 a reference to a party to a document includes that party's successors and permitted assigns;
- 1.2.11 no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this Agreement or any part of it;
- 1.2.12 a reference to dollars or \$ is a reference to the lawful currency of the Commonwealth of Australia.
- 1.2.13 a schedule that forms part of this agreement can be varied with mutual consent by both parties without varying any further condition or schedule of the contract.
- 1.2.14 a reference to a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether of the same or any other legislative authority having jurisdiction);

2. COMMENCEMENT AND DURATION OF AGREEMENT

This Agreement will take effect from the date the parties sign this Agreement and operate for a term of 20 years unless sooner terminated or extended in accordance with this Agreement.

3. SCOPE OF AGREEMENT

- 3.1 Subject to the terms and conditions set out in this Agreement:
 - 3.1.1 Each Year Forests NSW agrees to supply the Annual Supply to the Company from the Area of Supply;
 - 3.1.2 The Company agrees to purchase the Annual Supply at the prices specified in clauses 16 and 17.

4. OBLIGATION OF THE STATE

- 4.1 The State of NSW undertakes to ensure that Forests NSW has sufficient resources and the necessary capacity to make Timber available to the Company and will cause Forests NSW to perform its obligations as required by the provisions of this Agreement. The State of NSW will only be excused for any failure to perform its undertakings set out in this clause if prevented from doing so by Force Majeure. For the purposes of this clause and clause 25.4.1 (to the extent that clause 25.4.1 relates to the State of New South Wales) the words 'act or omission of government or government department or instrumentality' in the context of Force Majeure will be deemed to mean 'act or omission of a government or government department or instrumentality other than the government or a department or instrumentality of the State of NSW'.

5. BASE ALLOCATION

- 5.1 Subject to clauses 5.2 and 5.3 the Base Allocation for each Year during the Term will be 15,000 tonnes per annum.

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5.2 The Company may request in writing an increase or decrease in the Base Allocation. Forests NSW must comply with the request provided:

- 5.2.1 the decrease must not exceed 20% of the Base Allocation and the increase must not exceed 35% of the Base Allocation current at the time of the request;
- 5.2.2 a request for an increase must be made at least 6 months prior to the commencement of the Year in which the increased supply is required;
- 5.2.3 a request for a decrease must be made at least 12 months prior to the commencement of the Year in which the decreased supply is required;
- 5.2.4 the Base Allocation for a Year may not be less than 15,000 tonnes or greater than 50 000 tonnes; and
- 5.2.5 where the Company requests an increase in the Base Allocation, the amount of the increase can be made available from operations within the Area of Supply. In this regard, Forests NSW must act in good faith and use all reasonable endeavours to ensure that Timber is available from the Area of Supply to enable Forests NSW to comply with the Company's request.

5.3 If for reasons other than Force Majeure or default by Forests NSW, the Company takes less than 80% of the Base Allocation in any 2 consecutive Years, Forests NSW may by written notice to the Company reduce the Base Allocation to a quantity that is not less than the Yearly average of the quantity of Timber taken by the Company in those 2 Years.

6. OVERCUT AND UNDERCUT

6.1 In addition to having the right to make a request under clause 5.2, in any Year the Company may take and Forests NSW must supply (if the Company elects to take) more or less than the Base Allocation in accordance with the following conditions:


- 6.1.1 in any Year the quantity of Timber taken by the Company must not exceed 120 percent of the Base Allocation or 50 000 tonnes;
- 6.1.2 in any Year the minimum quantity of Timber taken during that Year must not be less than 80 percent of the Base Allocation; and
- 6.1.3 notice of the intention to take the Overcut or the Undercut must be provided in the relevant Annual Forecasts for the Year.

6.2 The Company is not entitled to an Undercut or Overcut except in accordance with the conditions set out in clause 6.1.

7. SHORTFALL MANAGEMENT

7.1 If, for any reason other than the default of Forests NSW, the Company takes less than the Threshold Supply in any Year, the Company will pay to Forests NSW an amount equivalent to 70% of the Delivered Price payable on the quantity of Timber being the difference between the Threshold Supply and the Timber taken by the Company in that Year. The Delivered Price per tonne on that difference will be the average Delivered Price paid by the Company in that Year calculated by dividing the total Delivered Price paid by the quantity taken by the Company in that Year.

7.2 Payment due under clause 7.1 must be made on or before 31 August in the Year following the Year in which the liability arose. Such payment is payable as pre-estimated and liquidated damages and not as a penalty.

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- 7.3 If for reasons other than Force Majeure or default on the part of Forests NSW, the Company fails to purchase Timber of a quantity equal to or greater than:

7.3.1 70% of the Base Allocation for 2 consecutive Years on 2 or more occasions; or

7.3.2 60% of the Base Allocation in any one Year,

Forests NSW may treat the failure as a material breach of this Agreement and terminate this Agreement in accordance with clause 28.1.2.

8. METHOD OF SUPPLY

- 8.1 Forests NSW will make available the Annual Supply for each Year by undertaking Contract Harvesting and delivering the Timber to the Mill.

- 8.2 For the purposes of its compliance with its obligations to make the Annual Supply available to the Company in any Year, Forests NSW will be deemed to have made available that quantity which it is ready willing and able to make available by Contract Harvesting and not any lesser quantity which it actually makes available at the request of the Company.

- 8.3 Without limiting Forests NSW' obligation to deliver the Annual Supply and any other obligations under this Agreement, the Company acknowledges that:

- 8.3.1 Forests NSW must manage the Crown-timber lands within the Area of Supply:

(a) in accordance with the provisions of a forest agreement and integrated forestry operations approval (IFOA) within the meaning of the *Forestry and National Park Estate Act 1998* which, in effect, requires that, except in certain limited circumstances, forestry operations within the Area of Supply must be for the primary purpose of logging high quality sawlogs and other high quality timber; and

(b) to otherwise achieve a range of environmental, recreational, occupational health and safety, silvicultural, commercial and other objectives;

- 8.3.2 for the purposes of this Agreement Forests NSW will, with due regard for the matters set out in clauses 8.3.1(a) and (b), and otherwise acting reasonably, be the sole determinant of what constitutes good forest management of Crown-timber lands in the Area of Supply;

- 8.3.3 Timber is a by product of logging high quality sawlogs and other high quality timber; and

- 8.3.4 from time to time Forests NSW may have legally binding commitments to supply other persons with Timber from within the Area of Supply provided always Forests NSW must deal equitably with the Company in relation to the allocation of available Timber.

- 8.4 Each Year Forests NSW will determine the areas from which it proposes to make the Annual Supply available to the Company in accordance with good forest management and the matters referred to in clauses 8.3.3 and 8.3.4.

9. ANNUAL FORECAST

- 9.1 Not less than 7 days prior to the end of each calendar month the Company must provide Forests NSW with a copy of its Annual Forecast in respect to the next 12 calendar months.

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10. ANNUAL DELIVERY PLAN

10.1 The Annual Delivery Plan:

- 10.1.1 must be based on the Annual Supply or other quantity agreed between the parties;
- 10.1.2 must take into account information provided by the Company including any relevant Annual Forecast;
- 10.1.3 must set out indicative information regarding the Monthly Quantities during the Year to which it applies;
- 10.1.4 must make provision for stockpiling by the Company at the Mill to make provision for wet weather preventing Contract Harvesting of Timber by Forests NSW.

10.3 Not later than 30 April in each Year, Forests NSW and the Company must confer and negotiate in good faith to reach agreement on an Annual Delivery Plan for the following Year. In default of agreement, the Annual Forecast for the relevant Year will be deemed to be the Annual Delivery Plan.

10.4 If during a Year the Company advises State Forest by service of an Annual Forecast of an intention to take less Timber than previously advised which requires an amendment of the Annual Delivery Plan, Forests NSW and the Company must confer and negotiate in good faith to reach agreement on an amended Annual Delivery Plan which matches the relevant Annual Forecast. In default of agreement the amendment proposed to the Annual Delivery Plan by relevant Annual Forecast shall apply.

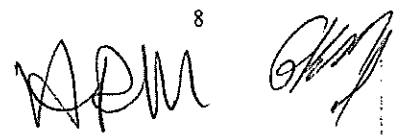
11. MONTHLY DELIVERY SCHEDULES

11.1 The Monthly Delivery Schedule:

- 11.1.1 must be based on, but not bound to, the indicative information in the Annual Delivery Plan for the month to which it applies;
- 11.1.2 must take into account information provided by the Company including any relevant Annual Forecast;
- 11.1.3 must state the Monthly Quantity for the month to which it applies;
- 11.1.4 must take into account the need for the Company to stockpile Timber at the Mill to make provision for wet weather preventing Contract Harvesting; and
- 11.1.5 must include any special delivery requirements the Company may have for that month, as agreed between the parties.

11.2 No later than seven (7) days prior to the commencement of each calendar month the parties must confer and negotiate in good faith to reach agreement on a Monthly Delivery Schedule for that month. In default of agreement, the relevant part of the Annual Forecast will be deemed to be the Monthly Delivery Schedule.

11.3 If either party wishes to vary a Monthly Delivery Schedule during the month to which it applies, the party must notify the other as soon as practicable and the parties must negotiate in good faith to reach agreement on an amended Monthly Delivery Schedule. In default of agreement the original Monthly Delivery Schedule shall apply.



- 11.4 Forests NSW must supply Timber substantially in accordance with the Monthly Delivery Schedules.

12. AMENDING OF ANNUAL DELIVERY PLAN OR MONTHLY DELIVERY SCHEDULE

- 12.1 Where any Timber in a Compartment has been damaged or destroyed by fire, disease or other natural cause or access to a Compartment intended to supply the Annual Supply is otherwise prevented by Force Majeure, Forests NSW may, after consultation with the Company, amend any Annual Delivery Plan or Monthly Delivery Schedule as it deems necessary to facilitate salvage operations or to adjust to the unavailability of timber in Compartments.
- 12.2 Despite any other provision of this Agreement any amendment of an Annual Delivery Plan in accordance with **clause 12.1** will prevail over any proposed future amendment of the Annual Delivery Plan.

13. DELIVERY

- 13.1 Forests NSW must deliver Timber to the Mill and the Company must accept Timber delivered to the Mill by Forests NSW:
- 13.1.1 substantially in accordance with the Monthly Delivery Schedule; and,
 - 13.1.2 during the delivery hours in **clause 13.2**.
- 13.2 The delivery hours on Business Days are between 7:00 am and 3:30 pm for the months of April through to September inclusive and between 6:00 am and 3:30 pm for the months of October through to March inclusive or as otherwise agreed by the parties, ('specified hours'). Delivery hours on weekends, public holidays and on Business Days outside the specified hours are to be by arrangement between Forests NSW and the Company.
- 13.3 The Company will promptly unload Timber delivered to it in accordance with this Agreement.
- 13.4 The Company must ensure that all unloading operations are performed in a safe manner in accordance with the relevant code issued by NSW WorkCover or other relevant agency which replaces or exercises the functions carried out by NSW WorkCover.
- 13.5 Forests NSW must ensure that all truck drivers delivering Timber to the Mill undertake site induction training provided by the Company. The Company shall bear its own costs for the provision of site induction training.
- 13.6 At least two months prior to the commencement of the Year, the parties must confer to review the delivery hours and must negotiate in good faith to reach agreement on the delivery hours to apply for the following Year. In default of agreement on the delivery hours to apply during the following Year, the delivery hours to apply will be the delivery hours at the time of the review.

14. SPECIFICATIONS

- 14.1 Forests NSW warrants that all Timber supplied under this agreement will conform in all material respects to the Specifications. The Company will accept any Timber which, when delivered to the Mill, conforms to the Specifications.
- 14.2 Timber will be deemed to conform to the Specifications once the delivery docket has been signed by the Company and the Company does not object under **clause 14.3** to its failure to meet the Specifications.
- 14.3 If the Company disputes that timber delivered by Forests NSW conforms to the Specifications, the Company will advise Forests NSW of the dispute within three Business Days of delivery of the timber and set the timber aside for inspection and adjudication by a suitably qualified Forests NSW officer.
- 14.4 Forests NSW must arrange for the inspection and adjudication of disputed timber within five business days after receipt of advice referred to in **clause 14.3**.
- 14.5 Subject to **clause 14.7** the Company must accept the determination of the suitably qualified Forests NSW officer regarding disputed timber as final and binding.
- 14.6 If a Forests NSW Officer determines that disputed timber fails to meet the Specifications:
 - 14.6.1 Forests NSW may arrange for the timber to be reserviced so that it complies with the Specifications; or
 - 14.6.2 the Company may, at its sole discretion, elect to accept delivery of the timber on terms and conditions (including price) to be agreed between the parties and in such a case the disputed timber will be deemed to be Timber made available to the Company as part of the Annual Supply; or
 - 14.6.3 if, for any reason, the Company does not elect to accept delivery of the timber, Forests NSW must remove the timber from the Mill within 7 days at Forests NSW' expense
- 14.7 If the Company disputes a determination by a suitably qualified Forests NSW officer, the Company may appeal to Forests NSW's Director Commercial Services within two Business Days of the determination. If the Company disputes the determination of the Director or his nominee the matter may be treated as a dispute under **clause 29**.

15. TITLE AND RISK

- 15.1 Ownership of the Timber comprising the Annual Supply will pass to the Company on payment for the Timber by the Company to Forests NSW.
- 15.2 The risks of ownership of the Timber forming part of the Annual Supply will pass to the Company once the Timber has been delivered to the Mill and the delivery docket has been signed.

16. DELIVERED PRICE

- 16.1 The price payable by the Company for Timber harvested in the Area of Supply and delivered to it under this Agreement will be the Delivered Price determined under this Agreement.
- 16.2 The Delivered Price for the Area of Supply are as specified in **Schedule 3**.
- 16.3 The Delivered Price will be varied from time to time in accordance with **clause 17**.

- 16.4 Apart from GST, the Delivered Price is inclusive of all costs, fees and charges including all administrative costs, fees and charges of Forests NSW in relation to the transactions referred to in this Agreement.

17. DELIVERED PRICE REVIEW

- 17.1 The Delivered Price for each Pricing Year shall be the Delivered Price for the previous Pricing Year varied by the percentage determined by Forests NSW by applying the Delivered Price Review Mechanism.

- 17.2 As soon as practicable after the commencement of a Pricing Year Forests NSW must apply the Delivered Price Review Mechanism to determine the Delivered Price for that Pricing Year. Forests NSW must provide the Company with details of its application of the Delivered Price Review Mechanism and the Delivered Price so determined shall be applied retrospectively to the commencement of the Pricing Year.

- 17.3 The parties must review the Delivered Price if the Company requests a variation in the Base Allocation under **clause 5.2** and, in the case of a request for an increase in the Base Allocation, Forests NSW is able to make the increase available. The review must commence as soon as practicable after the Company makes the request. For the purposes of the review the parties must negotiate in good faith to reach agreement on any proposed amendment to the Delivered Price and in default of agreement by 4 weeks before the variation is given effect (and subject to **clause 17.5**) Forests NSW may determine the Delivered Price to apply to the amended Base Allocation.

- 17.4 The parties must review the Delivered Price and the Delivered Price Review Mechanism on or before the anniversary of 5 years and before the expiration of each subsequent 5 Year period and negotiate in good faith to reach agreement on whether to:

17.4.1 amend the Delivered Price;

17.4.2 amend the Delivered Price Review Mechanism by:

(a) adding, deleting or varying any Cost Items, Indicators, Indicator Rates or weightings; or

(b) by replacement with a new mechanism for calculating annual shifts in the market value of Timber delivered at the Mill; or

17.4.3 do any combination of (a) or (b) above,

and in default of agreement (and subject to **clause 17.4**) Forests NSW may:

17.4.4 determine whether any amendment or replacement is necessary;

17.4.5 may make such any amendment or replacement or both, as it considers necessary; and

17.4.6 implement its determination in relation to the Delivered Price to apply in the Pricing Year following the review.

- 17.5 Any agreement or determination under **clause 17.3** or **clause 17.4** must meet the requirements that:

17.5.1 the Delivered Price is fair, reasonable and competitive in comparison to current market prices for Timber (or timber types similar or comparable to Timber)

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harvested and hauled in similar or comparable quantities, distances and other circumstances to those which apply under this Agreement; and

- 17.5.2 the Delivered Price Review Mechanism provides a fair and reasonable mechanism for calculating shifts in the market value of Timber delivered at the Mill.

17.6 If:

- 17.6.1 an exceptional change occurs in the Indicator Rate of an Indicator; or
- 17.6.2 a factor which is not then included as an Indicator or a Cost Item becomes apparent;
- 17.6.3 which may have a significant effect on the market value of Timber delivered to the Mill;

a party may request a review of the Delivered Price Review Mechanism and the parties must negotiate in good faith to reach agreement on whether to amend the Delivered Price Review Mechanism by adding, deleting or varying any Cost Item, Indicator, Indicator Rate, or Indicator Weighting and in default of agreement (and subject to clause 17.7) Forests NSW may:

- 17.6.4 determine whether any amendment is necessary;
- 17.6.5 make such any amendment as it considers necessary; and
- 17.6.6 implement its determination in relation to Delivered Price to apply in the Pricing Year following the review.

- 17.7 Any agreement or determination under clause 17.6 must meet the requirement that the Delivered Price Review Mechanism provides a fair and reasonable mechanism for calculating shifts in the market value of Timber delivered at the Mill.

- 17.8 Forests NSW must advise the Company in writing of any variation to the Delivered Price or the Delivered Price Review Mechanism as soon as practicable after the variation is agreed or determined.

18. CLAUSE DELETED

19. GOODS AND SERVICES TAX

- 19.1 Delivered Price and any other consideration for supplies specified in this Agreement do not, subject to the operation of this clause, include any amount in respect of GST unless provided otherwise.
- 19.2 The GST may be imposed on the Delivered Price for Timber delivered under this Agreement.
- 19.3 If GST is or will be imposed on a supply made under this Agreement, the supplier may:
- 19.3.1 increase the consideration otherwise provided for that supply under this Agreement by the amount of that GST; or
- 19.3.2 otherwise recover from the recipient the amount of that GST.
- 19.4 The supplier must ensure that any invoice issued under this agreement in respect of a taxable supply is a Tax Invoice or Adjustment Note as appropriate or, if no invoice is to be otherwise issued under this Agreement, must issue a Tax Invoice or Adjustment Note as appropriate within 7 days of GST being imposed on a taxable supply made under this Agreement.

Notwithstanding any other provision of this Agreement the payment of any amount by the recipient in respect of a taxable supply is subject to the issuing of the relevant Tax Invoice or Adjustment Note to the recipient.

- 19.5 Costs required to be reimbursed or indemnified under this Agreement must exclude any amount in respect of GST included in the costs for which an entitlement arises to claim an input tax credit provided that the reimbursement or indemnification does not amount to consideration for a taxable supply.
- 19.6 If the consideration for a supply under this Agreement is calculated by reference to the consideration or value of other supplies, in performing that calculation, the consideration or value for those other supplies excludes any amount in respect of GST payable on those supplies.
- 19.7 In the calculation of the Delivered Price by reference to movements in any index, such as the Consumer Price Index:
- 19.7.1 any increase in the index attributable to the introduction or increase in the rate of GST published by the Commonwealth Statistician or similar government body is to be excluded from the index for the purposes of adjusting the consideration;
- 19.7.2 if the Commonwealth Statistician or similar government body does not publish the increase in the index attributable to the introduction or increase in the rate of GST, Forests NSW or the Company may request the president for the time being of the Institute of Chartered Accountants in Australia or an officer of another Australian professional association agreed by Forests NSW and the Company to appoint a person to decide the increase in the index attributable to the introduction or increase in the rate of GST for the purposes of this clause;
- 19.7.3 the person appointed will act as an expert and not an arbitrator;
- 19.7.4 the expert's decision is final and binding on the parties; and
- 19.7.5 the Forests NSW and the Company must each pay one half of the expert's fee (including expenses) in relation to the decision.
- 19.8 In this clause:
- 19.8.1 **Adjustment Note** includes any document or record treated by the Commissioner of Taxation as an adjustment note or as enabling the claiming of an input tax credit for which an entitlement otherwise arises;
- 19.8.2 **GST** includes any replacement or subsequent similar tax;
- 19.8.3 **GST Act** means A New Tax System (Goods and Services Tax) Act 1999 (Cth);
- 19.8.4 **New Tax System changes** has the same meaning as in the Trade Practices Act 1974 (Cth); and
- 19.8.5 **Tax Invoice** includes any document or record treated by the Commissioner of Taxation as a tax invoice or as enabling the claiming of an input tax credit for which an entitlement otherwise arises.
- 19.8.6 Terms defined in the GST Act have the same meaning in this clause unless provided otherwise.

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20. PAYMENT

- 20.1 Forests NSW will issue monthly invoices for the Timber delivered to the Company.
- 20.2 The Company must pay any amounts owing to Forests NSW under an invoice on or before the expiration of the month following the delivery month to which the invoice applies.
- 20.3 If the Company fails to pay an invoice on or before the due date for payment of that invoice, Forests NSW may suspend the Company's right to obtain Timber under this Agreement until payment is made.
- 20.4 If the Company does not accept delivery of Timber harvested in accordance with the Monthly Delivery Schedule or agreed changes to the Monthly Delivery Schedule, Forests NSW may estimate the quantity of that Timber and issue an invoice to the Company as if the estimated quantity had been accepted by the Company. Any such invoice will be deemed to be an invoice for Timber delivered to the Company and the provisions of **clauses 20.2 and 20.3** will apply to it. The invoice will be accepted by the Company as pre-estimated and liquidated damages and not a penalty.
- 20.5 Where the Company pays an invoice issued under **clause 20.4** and the relevant Timber are subsequently accepted by the Company, Forests NSW will adjust its invoices to take into account the previous payment.

21. MEASUREMENT

- 21.1 The Timber delivered by Forests NSW to the Mill must be measured as provided under the Code of Procedure, through using information produced by the weighbridge, referred to in **clause 21.2**. The Code of Procedure may be amended by Forests NSW from time to time as may be considered necessary by Forests NSW, acting reasonably to implement industry accepted practices and acting in good faith towards the Company. Forests NSW will consult with and take into account any comments of the Company before any amendments are effected or implemented.
- 21.2 The information produced by the Company's weights and measures certified weighbridge at the Mill must be produced to provide weigh in and weigh out information produced in accordance with the Company's practices operating at the time of this Agreement and must be in a format reasonably requested by Forests NSW in order to facilitate the efficient preparation by Forests NSW of sales accounts and contractor payments providing that compliance with Forests NSW' request does not impose an unreasonable cost burden on the Company.

22. COMPANY'S OBLIGATIONS

- 22.1 The Company will use reasonable endeavours to maintain 6 weeks of Timber stocks at the Mill during the months February through to June inclusive and 8 weeks of Timber stocks for the months July through to January inclusive to allow the Mill to continue operating in difficult supply conditions or where delivery is restricted due to adverse weather conditions.
- 22.2 The Company must comply with:
 - 22.2.1 the provisions of the Act; and
 - 22.2.2 the Code of Procedure.

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23. SALE OF TIMBER TO OTHER PERSONS

23.1 Forests NSW reserves the right to:

- 23.1.1 supply timber, products and forest materials from the Area of Supply;
 - 23.1.2 issue licences to obtain timber, products or forest materials within the Area of Supply;
 - 23.1.3 sell part or all of the Annual Supply not taken or proposed to not be taken by the Company in any Year; or,
 - 23.1.4 sell any Timber which does not form part of the Annual Supply;
- to any other person.

24. SECURITY

24.1 The Company must provide and maintain security ('security') for the performance of its obligations under this Agreement in a sum determined by Forests NSW from time to time. Each Year of the Term the amount of the security determined by Forests NSW may not exceed the lesser of:

- 24.1.1 the amount which would be payable by the Company for Timber delivered during any eight (8) week period assuming that Timber was delivered in accordance with the Annual Delivery Plan for that Year ('secured amount') or
- 24.1.2 the amount that may be determined from time to time for the Company under Forests NSW Credit Assessment Policy

24.2 The security (including additional security referred to in clause 24.4) must:

- 24.2.1 be a bank guarantee or other form approved by Forests NSW; and
- 24.2.2 be lodged within fourteen (14) days of written request by Forests NSW.

24.3 Forests NSW may, after advising the Company, draw upon the secured amount to cover any loss or damage caused by the Company's breach of its obligations under this Agreement.

24.4 If Forests NSW draws on the secured amount under this Agreement but does not terminate this Agreement as a result of the breach or if Forests NSW gives written notice of an increase in the secured amount, then the Company must provide additional security on Forests NSW' written request so that the secured amount is maintained at the level determined under clause 24.1.

24.5 Forests NSW may suspend the Company's rights to obtain Timber under this Agreement if the Company fails to lodge the security when requested to do so.

24.6 Forests NSW must release the security to the Company after the expiration of 6 months of the date of termination or assignment of this Agreement (other than by Change in Control) of this Agreement if no money is due to Forests NSW.

25. FORCE MAJEURE

25.1 If the Company is prevented from taking Timber by Force Majeure and:

- 25.1.1 the Force Majeure was not caused by any unlawful act or omission on the part of the Company or any employee or agent of the Company;

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25.1.2 the Company had taken all reasonable or practicable precautions to prevent the Force Majeure; and

25.1.3 the Company has made all reasonable efforts to contain the effect of the Force Majeure,

then the Company may apply to Forests NSW for suspension or modification of its obligations under this Agreement to the extent that its obligations have been affected by the Force Majeure.

25.2 Where the Company makes application under clause 25.1, Forests NSW will negotiate with the Company in good faith to review the Base Allocation taking into account the effect of the Force Majeure event on the productive capacity of the Company, but subject to the obligation on the Company to do all things reasonably necessary or practicable to mitigate the effect of the Force Majeure on the functions and obligations of Forests NSW under this Agreement and the Act.

25.3 Where the Company applies for suspension or modification of its obligations under clause 25.1 and the relief granted results in the Timber harvested being less than 50 percent of the Base Allocation in any two consecutive Years, Forests NSW may reduce the Base Allocation to an amount equal to the average of the Timber taken by the Company over those two Years. If no Timber are taken over those two Years, the Agreement may be terminated by Forests NSW or the Company by notice in writing to the other party.

25.4 If Forests NSW is prevented from performing all or any of its obligations under this Agreement by reason of the Force Majeure and:

(a) the Force Majeure was not caused by any unlawful act or omission on the part of Forests NSW or any employee or agent of Forests NSW;

(b) Forests NSW had taken all reasonable or practicable precautions to prevent the Force Majeure; and

(c) Forests NSW has made all reasonable efforts to contain the effect of the Force Majeure,

then,

25.4.1 the Company will have no claim against Forests NSW or the State of NSW for non-fulfilment of Forests NSW' obligations under this Agreement, to the extent that the non-fulfilment is due to the event of Force Majeure;

25.4.2 Forests NSW will use its best endeavours to assist the Company to locate an alternative supply of Timber from Crown-timber land, until Forests NSW is able to resume supply of the Base Allocation. To resolve any doubt Forests NSW will have no obligations to deliver such Timber and Forests NSW will not be liable to meet any costs associated with the Company obtaining an alternative supply; and

25.4.3 if Forests NSW is unable to resume the performance of its obligations within a period of 6 months from the date of the occurrence of the Force Majeure or date when the occurrence of the Force Majeure first became apparent (the 'relevant date') either party may terminate the Agreement by notice. The right to give notice under this clause 25.4.3 must be exercised within a period of 9 months from the relevant date and in this regard time will be of the essence.

25.5 A party affected by an event of Force Majeure must give initial notice of the existence or occurrence of the event of Force Majeure as soon as is practicable to do so and in any case it must provide a more detailed notice within thirty (30) days of the event of Force Majeure being

apparent which provides clear details of the event or occurrence claimed as Force Majeure and setting out particulars of the likely effects of the event or occurrence in question, including whether the event or occurrence in question was an act omission of the government or a department or instrumentality of the state of New South Wales.

- 25.6 If the Company fails to comply with the notice requirements under **clause 25.5**, Forests NSW will be entitled to take the consequences of this failure into account in assessing the effect and mitigation of the Force Majeure under **clause 25.2**.
- 25.7 If Forests NSW fails to comply with the notice requirements under **clause 25.5** the Company may require Forests NSW to supply details of any alternate supplies of Timber which could be made available to the Company to mitigate the consequence of late notification.

26. PRIORITY OF SUPPLY

- 26.1 If an event of Force Majeure results in a reduction in the yield of Timber within the Area of Supply then Forests NSW must allocate the available Timber to the Company and other persons, with contracts with Forests NSW for the supply of Timber from the Area of Supply, in proportion to their respective entitlements under their contracts.
- 26.2 The Company will have no claim against Forests NSW for non-compliance with its obligations to make the Annual Supply available if Forests NSW, as far as is reasonably practicable, supplies Timber in substantial compliance with **clause 26.1**.

27. LIMITATION OF LIABILITY

- 27.1 Where the Company is prevented from taking Timber as a result of any breach of this Agreement:
- 27.1.1 by an act or omission of Forests NSW, then Forests NSW and not the State of NSW will be the party, if any, responsible to the Company for any loss suffered; or
- 27.1.2 by an act or omission of the State of NSW, the State of NSW and not Forests NSW will be the party, if any, responsible to the Company for any loss suffered; or
- 27.1.3 by an act or omission or law of the Commonwealth of Australia, then neither Forests NSW nor the State of NSW will be in any way responsible to the Company for any loss suffered.
- 27.2 Where Forests NSW is in breach of this Agreement by reason of any failure to supply or deliver Timber any claim for loss suffered by the Company will be limited to the lesser of;
- 27.2.1 the loss, damage or expense which would be incurred by the Company as a direct result of obtaining the Timber (which Forests NSW failed to make available, supply or deliver) from the most economic alternative source; or
- 27.2.2 the Company's loss of earnings after deducting operating costs but before interest, tax, depreciation, and amortisation;
- but shall not otherwise include consequential loss.
- 27.3 Except where this Agreement otherwise provides, if the Company is in breach of this Agreement by reason of any failure to take timber, any claim for loss suffered by Forests NSW will be limited to any loss, damage, or expense incurred by Forests NSW as a direct result of the failure of the Company to take the timber under this Agreement but shall not otherwise include consequential loss.

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28. TERMINATION OF AGREEMENT

28.1 Forests NSW may terminate this Agreement if the Company:

28.1.1 suffers an Insolvency Event; or

28.1.2 commits a material breach of this Agreement and the default is not remedied by the Company to the satisfaction of Forests NSW within a period of thirty (30) days after notice of the breach has been served on the Company. Material breaches include without limitation:

- (i) failing to take the quantities of Timber prescribed in **clause 7.3**;
- (ii) failing to accept Timber in breach of **clauses 13.1**;
- (iii) failing to make payments in breach of **clause 20.2**;
- (iv) failing to provide or maintain the secured amount in breach of **clause 24**;
- (v) purporting to assign the whole or any part of this Agreement without the consent of Forests NSW in breach of **clause 35**.

28.2 If Forests NSW commits a material breach of this Agreement and the default is not remedied within a reasonable period after notice to remedy the breach has been served on Forests NSW, then the Company may terminate this Agreement. A material breach includes without limitation failing to supply the Annual Supply in breach of **clause 3.1.1**.

28.3 The party terminating this Agreement arising from the default of the other party may claim damages for all loss arising from the default unless the claim for damages is excluded under this Agreement.

29. DISPUTES

The following procedures will apply to disputes under this Agreement:

29.1 The party claiming a dispute must first seek resolution by negotiation and, failing that, the dispute must be referred to mediation by the Australian Commercial Disputes Centre ('ACDC').


29.2 In the event that the dispute has not been resolved within twenty eight (28) days after the appointment of a mediator then, unless otherwise agreed in writing between the parties, the dispute must be submitted to arbitration, administered by ACDC.

29.3 The arbitrator will be agreed between the parties or, failing Agreement, shall be appointed by the Secretary-General of the ACDC or similar body. The arbitrator must not be the same person as the mediator.

29.4 Any mediation or arbitration proceedings must be held in Sydney. Any arbitration must be undertaken in accordance with and subject to the Institute of Arbitrators Rules for the conduct of Commercial Arbitration.

29.5 The Arbitrator or some person appointed on the Arbitrator's behalf may investigate the Company's and Forests NSW' affairs and accounts so far as may be necessary to assist the Arbitrator to determine any matter referred for arbitration. The Company and Forests NSW must give the Arbitrator full access to all accounts and papers necessary for that purpose and must afford the Arbitrator full information and assistance.

29.6 The provisions of this **clause 29** will not apply to **clause 24**.

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29.7 In so far as the provisions of this **clause 29** apply to **clause 17** the issue for consideration by any mediation or arbitration is to be limited to whether the Delivered Price or the Delivered Price Review Mechanism in dispute (the "disputed item"), was a reasonable one in consideration of the factors set out in **clause 17** to be taken into account in determining the disputed item. To avoid any doubt any such arbitration may determine whether the Delivered Price or the Delivered Price Mechanism is a reasonable one having regard to the factors referred to in this clause above, but may not determine the Delivered Price or the Delivered Price Review Mechanism which is to apply.

29.8 If an arbitration regarding a disputed item determines the disputed item was unreasonable the disputed item will be void ab initio and Forests NSW must:

29.8.1 promptly redetermine the disputed Delivered Price or the Delivered Price Review Mechanism which will then apply from the first date the dispute item was originally intended to apply and in doing so must have regard to the determinations made by the Arbitrator;

29.8.2 refund to the Company any over payment made under the disputed item.

30. FRESH AGREEMENT

30.1 The Company may (provided the Company has not been in material breach of this Agreement) by written notice to Forests NSW not earlier than eighteen (18) months and not less than twelve (12) months before this Agreement terminates, request Forests NSW enter into a fresh agreement for a period of 5 years from the date this Agreement terminates.

30.2 Subject to the availability of Timber and the parties reaching agreement on:

30.2.1 the quantity of Timber which would be made available under a fresh agreement;

30.2.2 the Delivered Price (including the mechanism to vary the Delivered Price) under a fresh agreement;

Forests NSW may not refuse the request.

30.3 Subject to any variations necessary to give effect to the parties agreement on matters referred to in **clause 30.2** and to reflect any changes in the circumstances of the parties the fresh agreement shall be upon the same terms and conditions as set out herein with the exception of this **clause 30**.

31. WAIVER

31.1 Agreement by Forests NSW to an Annual Delivery Plan or Monthly Delivery Schedule or amendment thereto which provides for the Company to take less than the Annual Supply in any Year will not constitute a waiver of any obligation imposed, or right given, by this Agreement.

31.2 A party does not waive a right or power simply because it fails to exercise or delays exercising that right or power. A single exercise of a right or power does not prevent exercising it again or exercising any other right or power. A right or power may only be waived in writing signed by the party to be bound by the waiver.

32. VARIATION

- 32.1 This Agreement contains the total understanding of the parties.
- 32.2 None of the provisions of this Agreement may be varied, waived, discharged or released either at law or in equity, unless by the express consent of the parties in writing.

33. ASSIGNMENT

- 33.1 The Company may not without the prior written consent of Forests NSW assign its rights and responsibilities under this Agreement to any person provided that Forests NSW' consent will not be unreasonably withheld. Any Change in Control of the Company will be deemed to be an assignment of the Company's rights and entitlements under this Agreement.
- 33.2 The consent given by Forests NSW may be subject to the assignee executing all Agreements and other documents which Forests NSW reasonably requires.
- 33.3 All money due to Forests NSW under this Agreement must be paid before any assignment of it by the Company.

34. CHARGING THIS AGREEMENT

- 34.1 The Company must not mortgage, charge or encumber this Agreement or any part thereof including without limitation the proceeds of its sale, or any of the monies payable or to become payable to Forests NSW under this Agreement, without the consent in writing of Forests NSW, which subject to clause 34.2 will not unreasonably withhold consent.
- 34.2 Forests NSW may not withhold its consent if the person ("the mortgagee") taking a mortgage, charge or other encumbrance over this Agreement executes a Deed acknowledging and agreeing that Forests NSW has a pre existing right to any money due to Forests NSW under this Agreement which has not been paid by the Company and that these monies must be paid prior to the mortgagee exercising any of its rights under its mortgage, charge or other security in respect of this Agreement

35. INTEREST

- 35.1 In the event that the Company fails to pay any money due to Forests NSW when required to do so by this Agreement, interest will accrue on all unpaid money from the date of default until payment in full at the rate of interest per annum for the time being payable under Schedule J of the Supreme Court Rules (NSW).

36. NOTICE

- 36.1 Any notice required to be served under this Agreement may be served:
- 36.1.1 in the case of the Company:

Attention: General Manager
Weathertex Pty Ltd
PO Box 21
RAYMOND TERRACE NSW 2324
Phone 4980 3100
Fax 4980 3133

36.1.1 in the case of Forests NSW:

Attention: Director Commercial Services
Forests NSW of NSW
Locked Bag 23
Building 2
423 Pennant Hills Road
PENNANT HILLS NSW 2120
Phone (02) 9980 4100
Fax (02) 9484 1310

36.2 The parties may change the address for service of notice from time to time by notice in writing to the other party.

37. GOVERNING LAW

37.1 This Agreement is governed by the laws of New South Wales and the parties agree to the jurisdiction of the Courts of New South Wales.

38. SEVERABILITY

38.1 If any provisions of this Agreement are held to be invalid, illegal, or unenforceable by a Court or other tribunal of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions will not in any way be affected or impaired thereby.

39. CONFIDENTIALITY

39.1 No party will disclose the contents or terms of this Agreement or any information or documents received by it in connection with the negotiation of this Agreement or pursuant to the provisions of this Agreement without the prior written consent of the other parties, except to the extent that:

39.1.1 the information is available to the public generally;

39.1.2 that party is required to make the disclosure by law or to make any filing, recording or registration required by law;

39.1.3 the disclosure is necessary or advisable for the purpose of obtaining any consent, authorisation, approval or licence from any public body or authority;

39.1.4 it is necessary that the disclosure be made to any taxation or fiscal authority;


39.1.5 the disclosure is made on a confidential basis to the professional advisers of that party (including any industry association) for the purpose of obtaining advice in relation to this Agreement or the enforcement of this Agreement or otherwise for the purpose of consulting those professional advisers; or

39.1.6 the disclosure is required or desirable to be made in pursuance of any procedure for discovery of documents and any proceedings before any court, tribunal or regulatory body.

40. COSTS

40.1 The Company will bear all the expenses and costs of, and incidental to, the stamping of this Agreement.

40.2 Other than as provided in **clause 40.1** each party will bear its own costs of, and incidental to, the preparation, negotiation and execution of this Agreement.

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EXECUTED AS AN AGREEMENT

Alastair Howard
Acting Chief Executive Officer
(name)
(position)
have hereunto affixed the
Seal of the FORESTRY COMMISSION
OF NEW SOUTH WALES
in the presence of:
Robert White RAH



EXECUTED BY WEATHERTEX SUPPLY PTY LTD (ABN 14089261861)
BY [two of its directors] Or)
[a director and secretary)
or [its sole director)

Gordon Keith Michael
Secretary/Director GORDON KEITH MICHAEL Director
SOLE

SIGNED SEALED AND DELIVERED
by THE HONOURABLE IAN MACDONALD
Minister for Primary Industries
in and for the State of New South Wales
for and on behalf of the Crown (but not
so as to incur personal liability) in the
presence of:

Ian Macdonald
Minister for Primary Industries

David Ayres
Witness

SCHEDULE 1

SPECIFICATIONS

Pulpwood – Domestic - Weathertex

Species	<p>GROUP A:</p> <p>Blue Gum, Blackbutt, Peppermint, Flooded Gum, Grey Gum, Bloodwood, Grey Ironbark, Swamp Mahogany, White-topped box, Round-leaved Gum, Forest red gum, Brown Barrel, Yellow Box, Mountain Grey Gum, Grey Box, Red Ironbark, (in order of preference)</p> <p>GROUP B:</p> <p>Red Mahogany, Messmate, Manna Gum (viminalis), New England Blackbutt, Blue-leaved Stringybark, White Stringybark, Mountain Gum (dalrympleana).</p> <ul style="list-style-type: none"> ▪ Approximate tonnage of each species contained on each load must be recorded on the delivery docket ▪ White Mahogany is acceptable in whole loads providing logs are marked WMH and do not exceed 10% of input. <p>UNACCEPTABLE SPECIES:</p> <p>Spotted Gum, Silvertop Stringybark, Rough-barked Apple, Smooth-barked Apple, Scribbly Gum, Turpentine, Brush Box, Carbeen or unlisted species. White Mahogany is unacceptable in mixed loads.</p>
Minimum length	24dm
Diameter Range (dub)	60 cm maximum large end diameter 10cm minimum small end diameter
Straightness	Maximum bend 45cm over a 2 m length for logs less than 40cm centre diameter
Bark	All logs must be fully debarked
Defect	<p>Minimum 10cm wood thickness</p> <p>Heart defect 60% maximum</p> <p>Spiral Grain 1:10 maximum</p> <p>Limbs: maximum 1/3 of diameter & less than one limb every 2 m</p>

SCHEDULE 2
MAP OF AREA OF SUPPLY



weathertex3.pdf
(698 KB)

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AREA OF SUPPLY FOR WEATHEREX WOOD SUPPLY AGREEMENT

1:1,100,000

0 10 20 30 40 50 kms

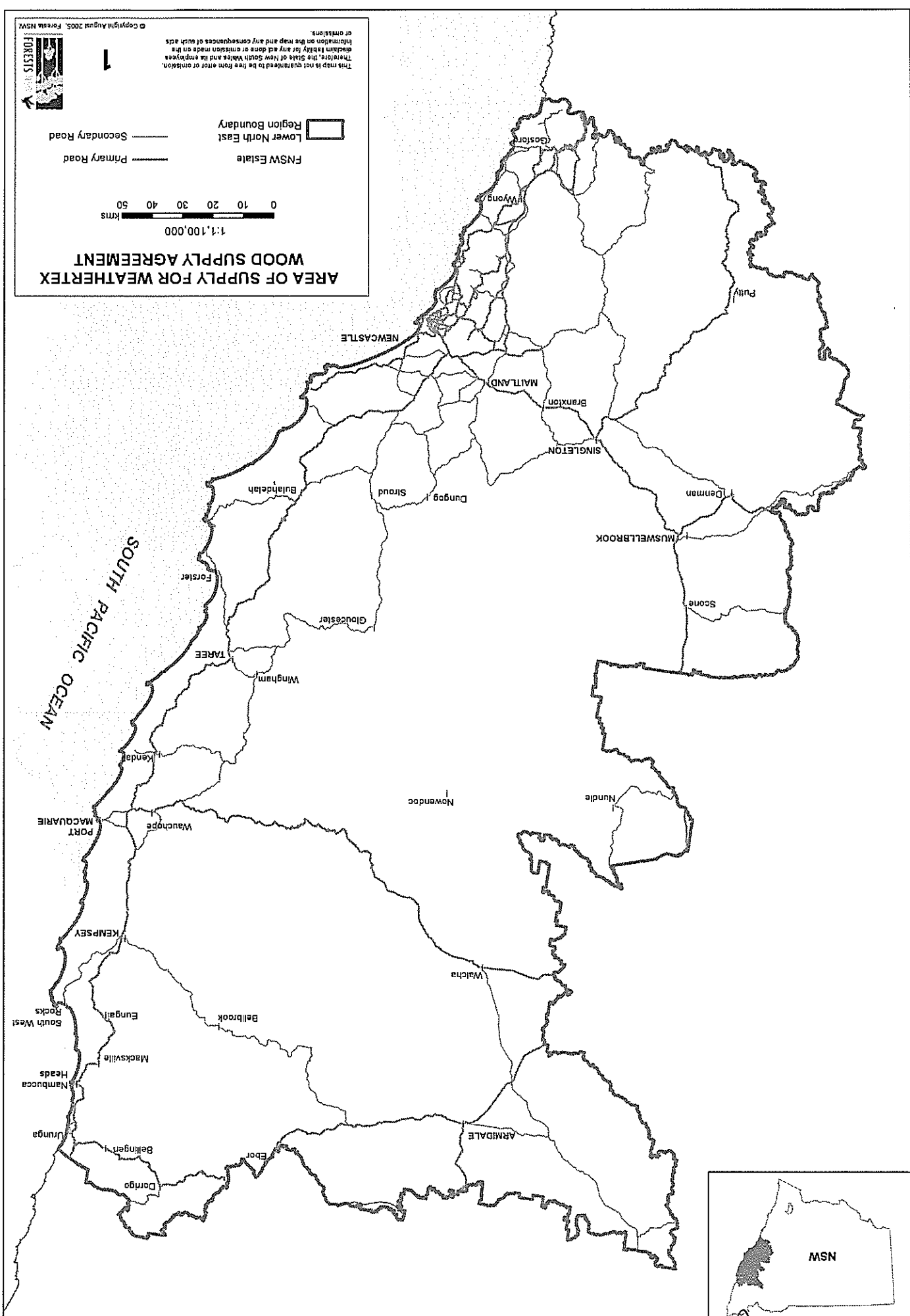
Primary Road
Secondary Road

FNSW Estate
Lower North East
Region Boundary

© Copyright August 2005, Forests NSW

FORESTS NSW

This map is not guaranteed to be free from error or omission. Therefore, the State of New South Wales and its employees, officers and agents accept no liability for any and all consequences of such acts or omissions.



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SCHEDULE 3

DELIVERED PRICE



Apart from GST, the Delivered Price is inclusive of all costs, fees and charges including all administrative costs, fees and charges of Forests NSW in relation to the transactions referred to in this Agreement.

A handwritten signature in black ink, appearing to be 'G. M. A.' or similar.

A handwritten signature in black ink, appearing to be 'ARM' or similar.

A small handwritten mark or signature in black ink.

SCHEDULE 4

DELIVERED PRICE REVIEW MECHANISM

Part 1: Definitions and interpretation

In this Schedule unless the context indicates to the contrary:

Cost Item means a factor relevant to the market value of Timber delivered at the Mill more particularly being any item set out in column 1 of Part 3;

Base Indicator Rate for a review means the Indicator Rate which was the Current Indicator Rate for the previous review except in the case of the first review where it means the value or status of the Indicator set out in column 3 of Part 3;

Current Indicator Rate means the Indicator Rate at the time a review of the Delivered Price is being conducted except in the case of Products 1 and 2 where it has the meaning set out in clause 6 of this Schedule;

Indicator means an Indicator of a Cost Item more particularly being any Indicator set out in column 2 of Part 3;

Indicator Rate means the value or status of an Indicator at a point in time;

Indicator Weighting means the weighting given to a Indicator for the purpose of calculating the weighted movement across all Indicators during a review more particularly being the weighting set out in column 4 of Part 3;

A reference to Part 3 means a reference to Part 3 of this Schedule as amended from time to time in accordance with this Agreement.

Part 2 : Methodology

The following describes the method of varying the Delivered Price:

1. Ascertain the level of each Indicator in column 2 of Part 3, expressed in dollars and cents, percentage or as an index (as the case may be) current at the time of the review (the Current Indicator Rate). The Current Indicator Rate will be the Base Indicator Rate for the next review.
2. Ascertain the movement in each Indicator during the relevant review period by establishing percentage increase (or decrease) in the Indicator Rate (by comparing the Current Indicator Rate (see clause 1) to the Base Indicator Rate) and applying any weighting specified in column 2 to that percentage change. An example of the methodology is shown in the example below:
 - (a) assume movement in Item 2 Indicator Rate is from \$500 (Base Indicator Rate) to \$520 (Current Indicator Rate);
 - (b) Item 2 Indicator Rate change is therefore + 4%;
 - (c) weighting for Item 2 is 100% (from column 2 of Part 3);
 - (d) 100% of +4% is +4.0%.Therefore +4.0% is the movement in the Item 1 Indicator.
3. Calculate the weighted movement across all Indicators by applying the methodology below:
 - (a) multiply the movement in each Indicator (see clause 2) by the weighting in column 4 of Part 3 (eg the + 4.0% for Item 2 from clause 2 above is multiplied by the Indicator Weighting for Indicator 2, eg 40%, with the product being 1.6%);
 - (b) the sum of the products of each calculation referred to in clause 3(a) is the weighted movement across all Indicators.

4. The new Delivered Price determined under this review mechanism are calculated by applying the weighted movement across all Indicators (from clause 3 above) to the current Delivered Price as per the methodology in the example below:
 - (a) assume the weighted movement across all Indicators is +2.5%, and the existing Delivered Price is \$50.00;
 - (b) the new Delivered Price is $\$50.00 \times 1.025$ which equals \$51.25.
5. For the purposes of the next Delivered Price review ascertain new column 4 Part 3 Indicator Weighting for each Indicator by multiplying the then current column 4 Part 3 Indicator Weighting for each Indicator by the period movement in the relevant Indicator (see clause 2 above) and then dividing the result by the weighted movement across all Indicators (see clause 3 above). This will produce a new table of Indicator Weightings which sum to 100 percent. For example:
 - (a) assume Item 2 movement (see clause 2 above) is +4.0%, the weighted movement across all cost items is +2%, and the Indicator Weighting for Item 2 (from column 4 of Part 3) is 40%;
 - (b) then the new Indicator Weighting for Product 1 is calculated by the formula;
 - (c) $40\% \times 1.04 / 1.02$ which equals 40.78%.
6. For the purposes of calculating the movement in the Estimated Market Price for each of the Products which are the basis for the Indicators for Item 1 of the Cost Items the Current Indicator Rate will be the Estimated Market Price during the months of July August and September last occurring before the review being conducted.

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Part 3: Indicators and Weightings

Cost Item	Indicator	Indicator Rate at 1 July 2004	Weighting at 1 July 2004	Indicator Rate at 1 July 2006	Percentage Change	Contribution to total change	New Weighting at 1 July 2006
Item 1: Movement in end product prices	No Adjustment		20.00%				17.22%
Item 2: Logistics Fuel	100% of the movement in the Shell Terminal Gate Price - Sydney - Diesel L 500	Average for 12 month period up to 30 June 04		Average for 12 month period up to 30 June 06			
	Base Price *	\$0.4394		\$0.7519			
	Plus Federal Excise	\$0.3843		\$0.4014			
	Less 50% of the Diesel Fuel Rebate	\$0.1922		\$0.1907			
	Less 50% of the On Road Grant	\$0.0926		\$0.0926			
	Average Net Price	\$0.5390	20.00%	\$0.8700	61.41%	12.28%	27.79%
Item 3: Movement in Wages	Item 3: 100% of the movement in ABS Average Weekly Earnings full time adult ordinary time earnings in NSW	995.30	40.00%	1008.9	9.67%	3.87%	37.77%
Item 4: Fixed Costs	No adjustment		20.00%				17.22%
Total			100.00%			16.15%	100.00%

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SCHEDULE 5
CODE OF PROCEDURE



**CUSTOMER
CODE OF PROCEDURE
FOR
HARDWOOD MILL DOOR
SALES**

NORTH COAST

NOVEMBER 2005

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SECTION 1: MEASURING AND MARKING OF LOG PRODUCTS

1.1 MEASURING OF LOG PRODUCTS

1.1.1 Sale by volume

Forests NSW must ensure that Log Products which are sold by volume are measured in accordance with Table 1.

Table 1 : Log Measurement

PRODUCT	LENGTH	DIAMETER
Quota, smalls, veneer, and salvage	Actual length in decimetres rounded down to the next whole decimetre	Actual centre diameter underbark in centimetres rounded down to the next whole centimetre
Standard poles	Nominal length in decimetres rounded down to multiple of 15 decimetres	Groundline diameter underbark at 20dms, in millimetres
Piles and girders	Actual length in decimetres rounded down to the next whole decimetre	Toe diameter underbark in millimetres
Non-standard poles	Nominal length in decimetres	Groundline diameter underbark at 20dms, in millimetres

1.1.2 Sale by weight

Plantation Grade 3 veneer logs, salvage logs and pulpwood are the only products that can be sold by weight at this stage. Either a weighbridge or truck scales will be used to determine the product weight.

1.2 MARKING OF LOG PRODUCTS

1.2.1 Log Product Code

Forests NSW must ensure log products sold by weight are clearly marked using paint or crayon (where applicable) in accordance with Table 2. For products sold by volume, the product is recorded against the log tag, validated in the hand held and printed on the docket.

Table 2 : Log Product Code

PRODUCT	CODE
Veneer (by wgt)	Ø
Salvage	Z
Pulpwood	DOT IF >25CMS BUTT DIAM

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1.2.2 Species Code

Forests NSW must ensure the species code is clearly marked on salvage log products using paint or crayon (where applicable) in accordance with Table 3 below (except where otherwise agreed with customers). For products sold by volume, species is recorded against the log tag and printed on the docket as a three letter code (delivery docket symbol).

Table 3 : Species Code

SPECIES CODE	DELIVERY DOCKET SYMBOL	SPECIES
1	IBK	Ironbark
2	TWD	Tallowwood
3	GBX	Grey Box
4	BG	Blue Gum
5	STS	Silvertop Stringybark
6	SG	Spotted Gum
7	NEB	New England Blackbutt
8	BBT	Blackbutt
9	RM	Red Mahogany
10	MM	Messmate
11	FAS	Fastigata
12	VIM	Viminalis
13	DHS	Diehard Stringybark
14	BBX	Brushbox
15	TRP	Turpentine
16	GG	Grey Gum
17	WM	White Mahogany
18	WS	White Stringybark
19	FG	Flooded Gum
20	RG	Forest Red Gum
21	RLG	Round Leaf Gum (<i>Euc. deanei</i>)
23	BLW	Bloodwood
24	BLS	Blue Leaf Stringybark
25	PEP	Peppermint
26	QBX	Whitetopped box
27	RUM	Steel Box
28	SBA	Smoothbark Apple
29	SCG	Scribbly Gum
30	WG	White Gum (<i>Euc. Dunnii</i>)
31	YBX	Yellow Box
32	GMM	Gympie Messmate
33	SM	Swamp Mahogany

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1.2.3 Log Tagging

Forests NSW must ensure that all log products sold by volume are tagged, with the following data recorded against each tag:

- Species
- Product
- Length
- Diameter
- Log Grader
- Cpt/SF

This information will appear on printed E-dockets for each log along with the tag number.

Barcode tags will be applied to the large end of log products with two staples, one at each end of the tag.

1.2.4 Hammer Branding of Grader Id

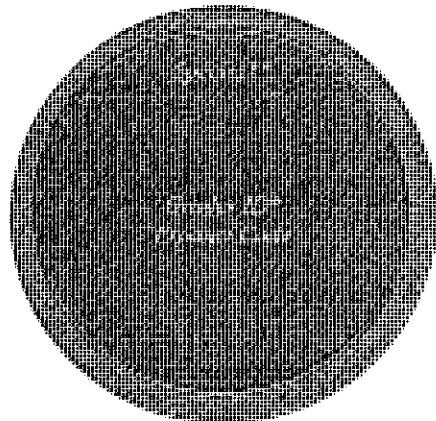
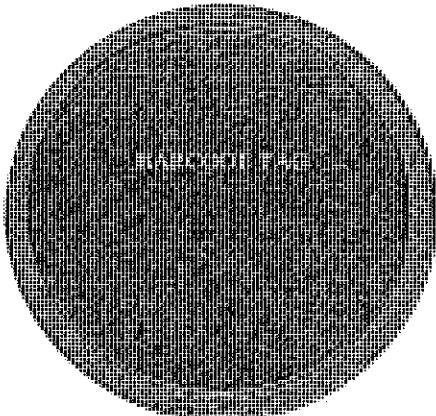
Log grader id will be hammer branded on logs sold by weight, except salvage and pulpwood/firewood logs with a butt diameter of less than 25cms. Log grader id will be the only information marked on these log products by hammer branding.

For products sold by volume, log grader is recorded against the log tag and the name of the log grader printed on the docket.

1.2.5 Log Marking Format

Logs will be marked at the large end in the format shown in Figure 1 or Figure 2. With log products sold by volume, all log details are recorded against the tag and these details are printed on the delivery docket. Log products sold by weight do not have a Barcode tag.

Figure 1 - Log Marking Format



For Products sold by weight:

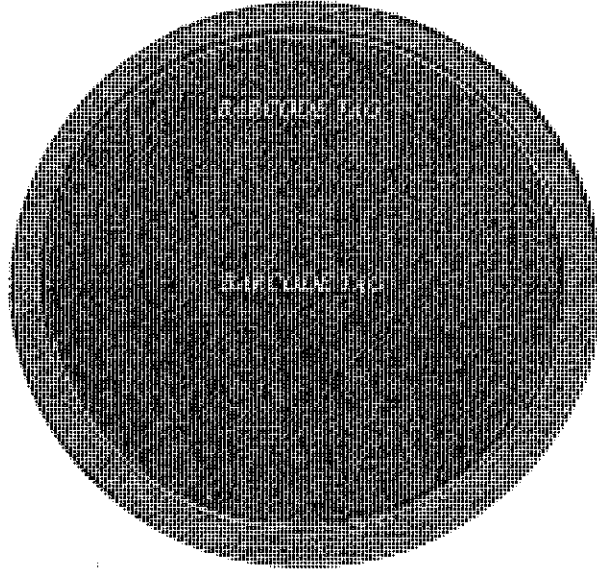
- * The log graders ID will not be included for logs with a butt diameter of <25cms underbark.
- ** Species code will only be included on salvage logs. However species code will not be included for salvage logs:
 - with a butt diameter of <25cms underbark
 - of Blackbutt species in the MNC; and
 - of plantation species, where the species for all logs is the same as that shown on the docket.

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Where a log is multi-graded, ie two products in the one log, both tags will be included on the large end of the log as shown in Figure 2 below. The estimate where the change in grade of a log is determined is to be marked on the log with a stripe of paint. No log will be sent with more than three grades.

Figure 2 - Log Marking Format – Multi-graded Logs



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SECTION 2: DELIVERY DOCKETS

Load details will be recorded on a Delivery Docket prior to removal of log products from the loading point and a copy of the Delivery Docket will be carried with the load. Delivery Dockets take the form of either an Electronic Docket (E-Docket) or a Manual Delivery Docket from a Delivery Docket Book. E-Dockets are the primary format. A printed E-docket as well as an electronic (I-button) copy will be carried with the load wherever possible. If a system failure occurs, Manual Delivery Dockets will be used as outlined in section 2.2 and will be re-recorded as E-Dockets.

COMPLETION OF DELIVERY DOCKETS

2.1 E-DOCKETS

Forests NSW must ensure that, prior to departure from the Loading Site, the following details are completed on the E-Docket:

- i) Manual Docket number (only where the E-Docket relates to a manual docket)
- ii) Customer/Destination
- iii) Fleet No (Haulage Contractor, Truck and Trailer Registration, Tare and number of axles)
- iv) Species
- v) Product
- vi) Length (where relevant)
- vii) Sub Location (log dump/stack number)
- viii) Log Count (where relevant)
- ix) Gross Weight (where relevant)

Where logs are to be accounted for by volume, the following additional details will be recorded for each log on the load:

- Barcode Tag Number
- Length (refer to Table 1)
- Diameter (refer to Table 1)
- Species Code (refer to Table 3)
- Product
- Log Grader

In the case of non-standard poles, the length, the number of poles of that length and the product will be entered on the E-Docket.

Forests NSW must ensure that the Haulage Contractor signs the E-Docket and that the E-Docket details are transferred to the Haulage Contractor's 'I-Button' successfully.

2.2 WHEN MANUAL DOCKETS ARE REQUIRED

Electronic delivery docketing (EDD) replaces the system of manual pre-printed delivery docket books. However in a few circumstances, loads will be recorded on a Manual Delivery Docket:

1. Where a Harvesting Contractor's HH is not available / operable at the time of loading;
2. Where a proposed load cannot be entered successfully on a Harvesting Contractor's HH
3. Where directed by FNSW, for example from a holding yard to another customer.

In the case of 1, for sale by volume, the Manual Delivery Docket will have the log's barcode number included. The number recorded shall be the barcode number commencing with the first digit greater than "0", ie 001AF3 will be recorded as 1AF3. These Manual Delivery Dockets will be re-recorded by the Harvesting Contractor as E-Dockets as soon as the Harvesting Contractor's HH is available.

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Where the Harvesting Contractor has re-entered the Manual Delivery Docket as an E-Docket, the manual delivery docket number will be entered on the E-docket. The E-Docket is to be printed and the original copy will be forwarded to the Customer with the next available load to the Customer.

The Harvesting Contractor will ensure that the E-Docket accurately reflects the original Manual Delivery Docket. If, in the process of entering the E-Docket, the Harvesting Contractor identifies an error on the Manual Delivery Docket, the Harvesting Contractor will enter the correct information on the E-docket.

In the case of 2, these Manual Delivery Dockets will be entered by Forests NSW.

2.3 MANUAL DELIVERY DOCKETS

Where a manual docket is required, Forests NSW must ensure that, prior to departure from the Loading Site, the following details are completed on the Delivery Docket:

- x) Customer/Location
- xi) Date
- xii) Time
- xiii) Region
- xiv) State forest
- xv) Harvesting Plan No
- xvi) Age Class (where relevant)
- xvii) Compartment
- xviii) Operation Type (Where relevant)
- xix) Product (Where relevant)
- xx) Grade (Where relevant)
- xxi) Species (Where relevant)
- xxii) Count (Where relevant)
- xxiii) Harvest , Load and Haulage Contractor
- xxiv) Truck & Trailer Registration Number
- xxv) Truck Type
- xxvi) Name of Truck Driver and Log Grader,
- xxvii) Gross, Tare and Net Weight (where weight sales are by truck scales) Tare weight will be predetermined at the commencement of each quarter on the basis of a certified weighbridge).

Where logs are to be accounted for by volume, the following additional details must be recorded for each log on the load:

- Length (refer to Table 1)
- Diameter (refer to Table 1)
- Species Code (refer to Table 3)
- Product Code (refer to Table 2)

These details will be written on the docket, from scanning each log and/or marking each log using paint or crayon with the relevant details. If this is not possible, the load will not be sent until an electronic docket can be completed.

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Where a manual docket is created, this will be re-entered as an e-docket by the crew or by Forests NSW where this is not possible. These e-dockets will include a cross reference to the manual docket number.

In the case of non-standard poles, the length, the number of poles of that length and the product code must be entered on the Delivery Docket.

2.4 RECEIPT OF DELIVERY

Upon receipt of a load of logs at the Delivery Site, where the Customer is receiving electronic copies of E-Dockets (eg via I-button), the Customer is responsible for ensuring the successful transfer of the E-Docket to the Customers HH from the Haulage Contractors I-Button. Verification of receipt is achieved through the process outlined in Section 2.7.

Printed copies of E-Dockets (or Manual Delivery Dockets) must be signed by the Customer and will be distributed in the following manner:

- xxviii) **ORIGINAL** – Customers Copy. This must be signed by the Customer and then returned to the Haulage Contractor for return to Forests NSW. Verification of receipt is achieved through the process outlined in Section 2.8.
- xxix) **DUPLICATE** – Forests NSW copy. Signed copy to be retained by the Haulage Contractor who will submit the docket to Forests NSW.
- xxx) **TRIPLICATE** – Haulage Contractors Copy. Signed copy will be retained by the Haulage Contractor.

2.5 DOCKET ERRORS

In the event of a Delivery Docket error being identified prior to Delivery, or at the Delivery Site prior to the truck which delivered the load departing the site, the necessary amendment on a:

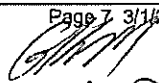
- E-Docket, must be registered as a dispute by the Customer through the Customers HH, unless the change being made relates to gross weight, in which case the truck drivers signature is required;
- Printed E-Docket only (or Manual Delivery Docket), must be made on the Delivery Docket and such changes initialed by the Customer's representative and the truck driver. The Haulage Contractor will then submit the duplicate copy of the docket to Forests NSW. The duplicate copy of the docket must be retained by the Customer for 60 days from the date of the docket.

Errors identified by the Customer after the truck driver has left the Delivery Site must be treated as a dispute - recorded through the Customers HH or on the Delivery Docket.

Errors relating to log grade are to be treated separately as a disputed log as these changes can only be made by a Forests NSW Officer (refer section 3.3).

2.6 DELIVERY OUTSIDE OF NORMAL DELIVERY HOURS

On the occasions where a mill representative is not available when the load is delivered and specifically where arrangements have been made for delivery outside of normal delivery hours, the Contractor may unload the timber and leave the Original copy of the Printed E-Docket (or Manual Delivery Docket) at a predetermined location.


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A mill representative is not available at thedelivery site outside the following times:

Day	Mill representative available
Monday	
Tuesday	
Wednesday	
Thursday	
Friday	
Saturday	
Sunday	
Public Holidays	

THESE LOADS MUST BE PLACED SEPARATELY FROM OTHER LOADS AND CLEARLY MARKED BY THE HAULAGE CONTRACTOR WITH THE DOCKET NUMBER, SO AS TO ENABLE ITS IDENTIFICATION BY A CUSTOMER REPRESENTATIVE.

ALL DETAILS OF THE DELIVERY DOCKET WILL BE COMPLETED BY THE HAULAGE CONTRACTOR EXCEPT FOR THE SIGNATURE OF THE CUSTOMER REPRESENTATIVE.

BY NO LATER THAN 3.00 PM ON THE FIRST WORKING DAY FOLLOWING DELIVERY A CUSTOMER REPRESENTATIVE WILL SIGN THE CUSTOMERS COPY OF THE DOCKET AND FAX IT TO FORESTS NSW.

2.7 SUBMISSION OF DOCKETS

Where the Customer is receiving:

- Printed E-Dockets (or Manual Delivery Dockets) – both copies of the Delivery Docket must be signed and the duplicate returned to the Harvesting Contractor for submission to Forests NSW.
- Electronic copies of E-Dockets (eg via I-button) - using a Modem Cradle, the Customer must "connect to base" every evening following delivery of logs, in order to download E-Docket data to the Forests NSW communications server.
- A freecall 1800 number is provided by Forests NSW for dial-up connection and must be used by the Customer. It is the Customers responsibility to ensure the transfer is completed successfully.
- Any problems with data transfer must be reported immediately to the Regional Trainer. Any corrections may require the Customer to 're-connect to base'.

The above procedures provide the means of verification of delivery and acceptance or otherwise of loads delivered.

Original copies of printed E-Dockets and any Manual Delivery Dockets must be retained by the Customer for a minimum of 60 days from the date of the docket, unless otherwise requested by Forests NSW.

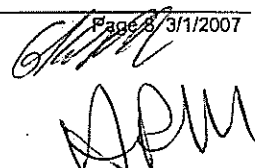
2.8 BASIS OF ACCOUNTS

E-dockets will form the primary basis of accounts, though manual dockets may also be used when required.

The outcome of docket errors and disputed logs / loads may be used to vary the information initially submitted on an E docket. In those cases the manual docket or the E-docket data as varied will be the basis of accounts.

Docket errors are errors made on the docket that do not affect the log or load details. Disputed logs/loads are errors on the docket that do.

2.9. CALCULATION OF VOLUME



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2.9.1 Sawlogs and Veneer logs

The volume of a sawlog is calculated using the formula below

$$V = L \times \pi \times D^2 / 4$$

Where V is volume in cubic metres

L is log length in metres rounded down to the next even decimetre

D is log diameter in metres

2.9.2 Poles

The volume of a pole is calculated using the formula below

$$V = ((L-2) \times \pi \times ((D - (L-2) / 2 \times (0.0072 + (0.11 \times (L-8) / 1000))) / 2)^2) + (2 \times \pi \times ((D + (0.02 + (0.6 \times (L-8) / 1000))) / 2)^2)$$

Where V is volume in cubic metres

L is pole length in metres

D is the groundline at 20dms from the large end diameter in metres

2.9.3 Piles and Girders

The volume of a pile and girder is calculated using the formula below

$$V = (((0.004167 \times L) + D) \times 0.5)^2 \times \pi \times L$$

Where V is volume in cubic metres

L is length in metres

D is small end diameter in metres

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SECTION 3. SALE BY WEIGHT

3.1 SALE BY WEIGHT USING TRUCK SCALES

Where logs are to be accounted for by weight as measured by truck scales, the following procedure must be followed:

3.1.1 Tare Weight

The tare weight of each truck/trailer combination delivering logs using the truck scale system will be calculated by Forests NSW from tare weight certificates provided by the Haulage Contractor. The tare weight certificates must be obtained from a weighbridge, which has current certification by the NSW Department of Fair Trading in the presence of a Forests NSW Officer

Haulage Contractors will be required to submit tare weight certificates to Forests NSW before commencing delivery and at quarterly intervals throughout the year.

Tare weights are to be certified measured using the normal running truck and trailer configuration (ie all bolsters, spare tyres and chains) and with a full tank of fuel.

Each truck and trailer combination will have a 4 digit Fleet Number which will relate to the Truck and Trailer Registration, total number of axles and agreed tare. This Fleet Number will be recorded on a sticker/card on the inside of the windscreen or the inside door of each truck.

3.1.2 Routine Weighing

Prior to the departure from the Loading Site each truckload of logs shall have the relevant details including the source of the logs recorded on a Delivery Docket. In addition the tare weight of the truck shall be recorded on the Delivery Docket.

The truck, following loading at the dump, is required to stop at the next available level and firm site, so that the gross weight can be determined. The time required before an accurate gross weight can be determined from the truck scales varies but generally is advised to be 5 minutes.

For E-Dockets the gross weight and the calculated net weight shall then be radioed back to the Harvesting Contractors crew. For Printed E-Dockets (or Manual Delivery Dockets) the gross weight and the calculated net weight shall also be recorded on the Delivery Docket. The site on which the gross weight is determined must be within 1Km of the log dump, unless otherwise negotiated with a Forests NSW Officer.

On arrival at the customer/location and prior to the commencement of unloading, the truck driver must request the Customer to verify the gross weight recorded on the delivery docket by comparing it to that shown on the truck scales.

If the difference between the gross weight recorded on the Delivery Docket and the gross weight shown on the truck scales at the Delivery Site is greater than one percent (of the gross weight recorded on the Delivery Docket), the gross weight shown at the Delivery Site shall be recorded on the Delivery Docket. The initial gross weight recorded in the forest shall be crossed out on a Printed E-Docket (or Manual Delivery Docket).

Any change to the gross weight resulting from the verification at the Delivery Site in accordance with the above will require the resultant net weight to be altered. Any such changes to the gross weight and net weight must be signed by both the truck driver and a Customer representative.

Where a full load of one product is not available the load may be made up with another Log Product. In this case an interim gross weight is recorded after the first product has been loaded and the final gross weight after both products have been loaded. Both the gross weights and the net weights of each product must be clearly indicated on separate Delivery Dockets. No more than two Log Products per load may be carried.

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3.1.3 Verification of Truck Scales and Audit Procedures

FORESTS NSW MUST ENSURE THAT EACH TRUCK MUST OBTAIN A WEIGHBRIDGE DOCKET TO VERIFY THE GROSS WEIGHT OF ONE LOAD EACH MONTH. THE E-DOCKET NUMBER IS TO BE WRITTEN ON THE WEIGHBRIDGE DOCKET AND THE WEIGHT DOCKET SUBMITTED TO FORESTS NSW. FOR A MANUAL DELIVERY DOCKET, THE WEIGHBRIDGE DOCKET IS TO BE ATTACHED TO THE ORIGINAL COPY OF THE DELIVERY DOCKET.

Truck scale weights as read at the weighbridge which are inconsistent with weighbridge recordings for gross weight by more than one percent must have weighbridge dockets attached to the Delivery Docket (or the E-Docket number written on each weighbridge ticket) of every subsequent load until the required level of accuracy is obtained.

In the event that the truck scales are not verified to be within one percent of the weighbridge reading the gross weight recorded by the weighbridge will be used for accounting purposes. Otherwise the weights recorded on the Delivery Docket will be used.

Forests NSW may direct any load to be checked on a certified weighbridge at any time. Where the variation in gross weight as measured by truck scales and as measured by public weighbridge exceeds +/- 1%, the certified weigh bridge measurement will be accepted and the

- E-Docket number written on the weighbridge docket and the weight docket submitted to Forests NSW; or
- weighbridge docket attached to the original copy of the Manual Delivery Docket for forwarding to Forests NSW by the Haulage Contractor.

3.1.4 Inoperable Truck Scales

If truck scales become inoperable or inaccurate, alternate methods of accounting for the load will be made between Forests NSW and the Customer.

Alternate methods of accounting may include weighbridge measure or log volume measure.

3.2 SALE BY WEIGHT USING WEIGHBRIDGES

3.2.1 Use of Weighbridges en route to a Delivery Site

Where loads to a customer are occasionally weighed on a weighbridge en route to the Customer (rather than using truck scales) the following process applies:

- The gross weight of the truck, trailer and load is to be recorded on an approved printed receipt at the weighbridge and the weight receipt carried with the load; and
- For a Printed E-Docket (or Manual Docket) the gross weight is to be recorded on the Delivery Docket and weight receipt attached to the Docket. Originals will be submitted to Forests NSW by the Haulage Contractor; and
- For an E-Docket, immediately after the E-Docket is transferred to the Customers HH, the Customer must record the new gross weight and weight receipt number on the Customers HH.

3.2.2 Weighbridges at the Delivery Site

The gross weight of the truck, trailer and load is to be recorded through an approved HH on arrival at the Delivery Site or an approved printed receipt.

Where there is a HH at the weighbridge the Haulage Contractor must ensure that the E-Docket is transferred successfully from the I-Button to the HH at the Gross weighing, and that the I-Button is read again at the Tare weighing.

Where weights are recorded on an approved printed receipt, the tare weight of the truck and the trailer and the net weight of the load is to be printed on the receipt referred to above following the unloading of the truck. The tare weight, gross weight and net weight are to be recorded on the Delivery Docket and a copy of the weighbridge docket is to be attached to the original copy of the Delivery Docket.

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SECTION 4. DISPUTED LOGS

4.1 DISPUTED LOGS

A disputed log is a log where the Customer disagrees with either the log details or the grade of the whole or part of the log.

The Customer, if disagreeing with log details or grade, must notify Forests NSW of the disputed log within three business days of the delivery of the log. Notification for logs received on a:

- E-Docket – will be through the Customer's HH with the E-Docket data downloaded through a Modem Cradle to Forests NSW Server. For products sold by weight acceptance or dispute is recorded against the load, not individual logs. For products sold by volume individual logs may be accepted or disputed and if the latter a reason for the dispute recorded (see Table 5). If the Customer anticipates that individual logs may be in dispute, then the Customer should retain the load in the "loads in progress list" (ie not accept the load) until individual logs have been scanned and accepted/disputed. Once a load is accepted, individual logs cannot be disputed through the Customers HH.
- Loads received on a Customers HH but not accepted or disputed within 8 calendar days, will register automatically as accepted. After that time that load cannot be disputed through the Customers HH.
- Printed E-Docket (or Manual Delivery Docket) – will be on the Delivery Docket, with a reason for the dispute recorded (see Table 5) and the Docket faxed to Forests NSW.

The disputed log must be set aside in a place that it can be readily and safely inspected.

Table 5 : Reasons for Dispute

Dispute Description	Means (depending on species and specifications)
Log missing (LM)	A log recorded on the Delivery Docket is not on the load.
Log extra (LX)	A log on the load is not recorded on the Delivery Docket.
Docket Error (DE)	Some docket information is wrong (not necessarily log related).
Measurement (M)	Measurements are wrong or load or proportion of load does not satisfy diameter or length specification.
Species (SP)	Species ID is wrong.
Servicing (SV)	Machine damage or poor servicing.
Crooked/Sweep (CS)	Query grade due to crookedness/sweep or load or proportion of load does not satisfy sweep specification. Includes double sweep or change of direction.
Lumps, Limbs & Knots (LLK)	Query grade due to lumps, limbs or knots, or load or proportion of load does not satisfy knot specification.
Centre Defect (CD)	Query grade due to centre defect such as rings & pipe, rot, grub holes or dry heart (Cypress).
Insect Damage (ID)	Query grade due to non termite related insect damage. Eg Ambrosia.
Gum Vein (GV)	Query grade due to gum related defect (other than Centre defect). Eg loose gum vein in alpine ash and gum pockets in blue gum.
Spiral Grain (SG)	Query grade due to spiral grain or load or proportion of load does not satisfy spiral grain specification.

A Forests NSW Officer will inspect the log within five working days of being notified wherever practical.

Where the Forests NSW Officer determines that the disputed timber fails to meet the Specifications or that there has been an error on the Delivery Docket, action as determined in Table 6 below will occur. Where the Forests NSW Officer determines that the disputed timber fails to meet the Specifications and the customer refuses to accept the log, Forests NSW will request the Harvesting contractor to arrange for the log to be picked up and delivered to an alternative delivery site. Where this is not practical, Forests NSW will make alternative arrangements. Any logs so redirected will require a new Delivery Docket to cover the delivery as set out in this Code. The action required is set out in Table 6.

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Any dispute over a decision made by a Forests NSW Officer regarding disputed logs should be referred to the Regional Log Supply Manager for resolution.

Table 6 - Disputed log actions

DOCKET OR LOG GRADING ISSUES		ACTIONS				
Problem	Details	Remark and tag log	Complete 'Assessment of Disputed Logs' form	Arrange to shift log(s)	Complete a new docket	Recalculation of payment to harvesting contractor
Docket	Log measurement information incorrect		Yes			Yes
	Load weight information incorrect		Yes			Yes
	Logs incorrectly tallied		Yes			Yes
Log Marking	Incorrect Marking	Yes	Yes			Yes
Regrading	Change grade or reject	Yes	Yes			Yes
	Re-servicing	Yes	Yes			Yes
Redirection	Redirected following regrading	Yes	Yes	Yes	Yes	Yes
	Rejects loaded and delivered by haulier		Yes	Yes	Yes	Yes

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SECTION 5. E-DOCKET FIELD EQUIPMENT AND SOFTWARE

5.1 RESPONSIBILITIES FOR FIELD EQUIPMENT & SOFTWARE

Forests NSW has purchased the software under a perpetual limited licence from New Zealand Forest Research Institute Limited. All Contractors and Customers with field equipment must sign the Software Users Agreement appended to this Code of Procedure and abide by the conditions of the Agreement at all times.

Care, maintenance and/or replacement of Field Equipment is the responsibility of the User. Users must note and adhere to the "Safety Precautions" detailed in the Operators Manual (refer pages after CONTENTS in the Manual). Users must carry an adequate stock of batteries and other consumables at all times sufficient to operate the Field Equipment for at least one (1) week.

5.2 RESOLUTION OF PROBLEMS WITH FIELD EQUIPMENT OR SOFTWARE

In the event of Field Equipment or related Software failing to operate in part or in full, to the extent possible the owner of the equipment must determine what the problem is and resolve it. If it is not possible to resolve the problem or the Field Equipment has been lost/damaged, the Customer must contact Forests NSW Regional trainer as soon as possible.

The Regional trainer will provide assistance in determining the nature of the problem and if necessary seek further advice from the Help Desk or System Manager. If possible, the Customer will endeavour to resolve the problem on site with the Regional Trainer.

If the problem relates to the:

- Field Equipment and cannot be resolved/repared on site, the Regional Trainer will advise the System Manager and make arrangements for repair of the Field Equipment. The cost of repairs and any associated freight/insurance is the responsibility of the owner of the Field Equipment in question. If possible the Regional Trainer will arrange a spare as a swap-out until the Users Field Equipment can be repaired.
- Software and cannot be resolved on site, a Work Around will be established until the problem can be resolved. The Customer can adopt the Work Around procedure until such time that the problem is resolved. If not, alternate delivery arrangements may be arranged until a spare becomes available or the Field Equipment is returned.

5.3 PROCESS FOR DELIVERIES IN EVENT OF FIELD EQUIPMENT BREAKDOWN/LOSS

Until the problem can be resolved or a spare located, in the event of a failure/loss of functionality of a:

- (a) Printers (Harvesting Contractor) – deliveries will continue as normal, with a copy of the e-docket on an I-button and a manual docket as an interim hardcopy of the docket. E-Dockets can be emailed/faxed automatically to the Customer once downloaded from the Harvesting Contractor's HH to Forests NSW.
- (b) Print Quality – Printed E-dockets must be re-printed if not clearly legible and provided to the truck driver. Where this is due to the printer ribbon (ie faded), printer ribbons must be changed and the docket re-printed to provide a legible original to the customer.
- (c) HH (Harvesting Contractor) – deliveries will continue using manual paper dockets.
- (d) HH (Customer) – deliveries will continue with Printed E-Dockets.
- (e) Modem Cradle – deliveries will continue as normal, data can be downloaded using any other modem cradle available (Contractor, Customer or Forests NSW).
- (f) I-Button – Haulage Contractors are to carry a spare at all times. Else deliveries will continue with Printed E-Dockets. E-Dockets will be automatically emailed or faxed to the Customer once downloaded from the Harvesting Contractor's HH to Forests NSW.
- (g) Scanner – deliveries will continue as normal with barcode numbers manually entered in HH's.



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- (h) Tacking Stapler/Staples/Barcodes – the Harvesting Contractor is to carry at least 5 days supply of these items at all times. Logs sold by volume are not to be delivered without tags. Some allowances will be made for the odd tag lost in transit.

5.4 PROVISION OF SPARE FIELD EQUIPMENT

Provision of spare Field Equipment is first and foremost the responsibility of Users. Users should choose whether spares are carried and how many. Any spares carried by Users are at the cost of the User.

Initially Forests NSW will carry a limited number of spare Field Equipment. Forests NSW will make this spare Field Equipment available, at Forests NSW discretion and in accordance with the following priorities:

1. Forests NSW
2. Contractors
3. Companies.

Should a Forests NSW spare be issued, it may at Forests NSW discretion, be withdrawn and re-issued to another User in consultation with the existing User.

Any items of spare Field Equipment supplied to Users by Forests NSW are to be returned to Forests NSW in good working order as soon as the original or a replacement item of Field equipment is made available to the User. Should spare items of Field Equipment provided by Forests NSW be damaged or destroyed, replacement/repair of the item(s) will be at the cost of the User.

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SECTION 6: REVIEW AND AMENDMENT OF THIS CODE OF PROCEDURE

Forests NSW may, after consultation with the Customer, review and amend any aspect of this Code of Procedure from time to time as determined by Forests NSW.

Schedule of Amendments [Copies Attached]

Amendment No.	Date	Clauses Amended

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WRM *sp*

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7. ACKNOWLEDGMENT OF AGREEMENT

The Forestry Commission of New South Wales Trading as Forests NSW and

.....
Hereby agree to this Code of Procedure.

For and on behalf of
Forestry Commission of NSW
Trading as Forests NSW
Date: _____

For and on behalf of
.....
Date: _____


WPM



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SECTION 7: DEFINITION OF TERMS

Customer	:	Means the principal of a sawmill or other processing plant to which the log products entered upon a Delivery Docket are to be delivered.
Delivery Docket	:	Means a sequentially numbered docket for recording the details of each truck load of logs as set out in Clauses 2.1 and 2.2. Either an E-Docket or a Manual Delivery Docket.
EDD		Electronic Delivery Docketing system.
E-Docket		Means a sequentially numbered delivery docket created on a Hand Held for recording the details of each truck load of logs as set out in Clause 2. It may be printed and/or transferred electronically via an I-Button, modem or other electronic means.
Field Equipment		Hardware used to create E-Dockets or support the process of printing or electronic transfer of same.
Gross Weight		Weight of the truck in tonnes, trailer and driver with a load of Logs.
HH		Means a "PSION Workabout" hand held field computer, used for creation of E-Dockets and entry of production/stock information by Harvesting Contractors and for receipt of E-Dockets by Companies.
I-Button		A small electronic device used for transferring E-Dockets from the Harvesting Contractor's Hand Held to the Haulage Contractor and from the Haulage Contractor to a Customer's Hand Held.
Loading Site	:	Means the point from which log product is loaded onto a haulage vehicle
Logs		Hardwood logs meeting specifications as set out in the Wood Supply Agreement with the Customer.
Manual Delivery Docket		Means a sequentially numbered paper docket for recording the details of each truck load of logs. Load details are handwritten on a paper docket from a Delivery Docket Book.
Net Weight		Difference between gross weight and tare weight in tonnes.
Printed E-Docket		A printed copy of an E-Docket.
Regional Log Supply Manager		Means the Forests NSW employee with responsibility for managing delivered log sales to Customers in each region.
Regional Office		Means Forests NSW Central Region Regional Office located at Wauchope
Regional Trainer		Means Forests NSW Regional Trainer, Central Region.
Signature		Means a handwritten signature on a paper or printed Delivery Docket or for an E-Docket an electronic signature effected through an I-button or Hand Held representing the signatory. Signed/Sign has a corresponding meaning.
Forests NSW	:	Means the Forests NSW Regional Office of the Region from which the load was obtained, or other office agreed with Forests NSW.
Forests NSW Officer	:	Means an employee of Forests NSW.
Tare Weight		Weight of the unloaded truck in tonnes with the trailer on the ground, driver, and fuel tanks half full.
Users		Contractors or Companies using Field Equipment for the creation, transfer or receipt of E-Dockets.
Volume		True underbark volume of Logs in cubic metres.
Work Around		Means a temporary solution to a software problem with EDD that enables continued use of the System but which does not have a material adverse impact on the performance or functionality of the System.

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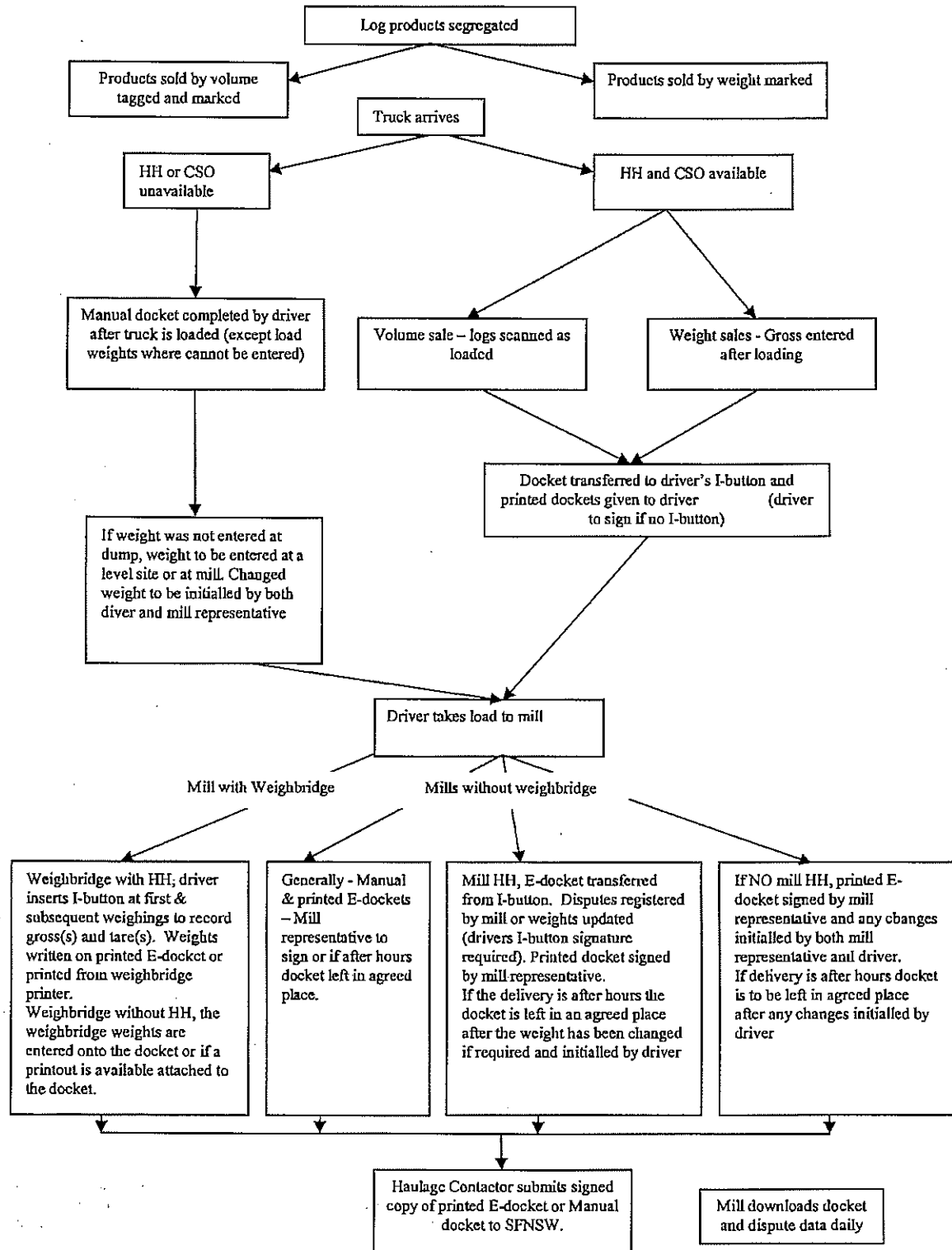
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Flow diagram for E-Docketing



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Handwritten signatures and initials:
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