



# **HARDWOOD TIMBER TERM AGREEMENT**

## **WALKERS SAWMILL PTY LIMITED**

**SOUTHERN REGION**

**JULY 2007**

*Walker*

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## HARDWOOD TIMBER TERM AGREEMENT

THIS AGREEMENT is made the *TWENTY SEVENTH* day of *SEPTEMBER* 2007

### 1. PARTIES

- 1.1 **THE FORESTRY COMMISSION OF NEW SOUTH WALES** a corporation constituted under the Forestry Act 1916 (NSW) trading as **FORESTS NSW** ('Forests NSW')
- 1.2 **WALKERS SAWMILL PTY LIMITED** (ABN 640 668 534 78) ('Company')
- 1.3 **THE STATE OF NEW SOUTH WALES** ('State of NSW')

### 2. DEFINITIONS AND INTERPRETATION

- 2.1 In this Agreement unless a contrary intention appears:

'Act' means the Forestry Act 1916 (NSW) and all regulations made under that Act;

'Allocation' for a Year means that quantity of Timber not exceeding the Maximum Supply for the Year but otherwise being the greater of:

- (a) 88.5% of the Annual Production of Timber for the Year; and  
 (b) 2,100 m3 of Timber;

'Annual Delivery Plan' means a schedule for the Year to which it applies setting out indicative information regarding the supply of Timber particularly the areas from which it is intended the Timber be harvested and the monthly volumes of delivery of Timber to the Delivery Site;

'Annual Production of Timber' for a Year means the total quantity of Timber produced by Forests NSW's for its customers from Forests NSW's harvesting operations in the Area of Supply during the Year;

'Area of Supply' means the Tumut Sub Region;

'Base Supply' means 90% of the Allocation;

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

'Code of Procedure' means Forests NSW Code of Procedure annexed as Schedule 4 as amended from time to time;

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

'Contract Harvesting' includes the felling, extraction, sorting, processing, grading, loading, hauling, and delivery of Timber to the Delivery Site and ancillary works including roading,

tracking, log dump construction and site rehabilitation by a Contractor engaged by Forests NSW;

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

**'Delivered Price'** means the price payable for Timber calculated in accordance with clause 15.2;

**'Delivery Charge'** means Forests NSW' charges, costs and expenses per tonne or cubic metre of Timber delivered to the Company calculated in accordance with clause 15;

**'Delivery Charge Schedule'** means the schedule of Delivery Charges set out in Schedule 2 as amended from time to time in accordance with this Agreement;

**'Delivery Site'** means the place specified in Schedule 8 as the Delivery Site and any other site the parties agree upon in writing;

**'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 (other than Forests NSW), war, sabotage, riot, civil disobedience, epidemic, disease, fire, explosion, failure of power supply, accident, natural disaster, calamity or unlawful act by other person, or any similar cause which prevents a party from performing its obligations (in whole or in part) under this Agreement;

**'Maximum Supply'** means 2,630m<sup>3</sup> of Timber as that quantity may be amended in accordance with clause 7.1;

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

**'Monthly Delivery Schedule'** means a schedule stating the volume of Timber to be delivered to the Delivery Site under Contract Harvesting and the areas from which the Timber will be harvested during the month to which it applies together with any special delivery requirements the Company may have for that month. The volume and area will be based on, but not bound to, the indicative information in the Annual Delivery Plan for that month, and should take into account the need for the Company to stockpile Timber to make provision for weather preventing Contracting Harvesting.

**'Overcut'** means the amount by which the actual quantity of Timber taken by the Company in any Year is greater than the Allocation;

**'Price Schedule'** means a schedule for calculating the Stumpage Price of Timber prepared by Forests NSW in accordance with the principles of The Price System annexed as Schedule 5;

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

**'Stumpage Price'** means the price set out in the Price Schedule for Timber as amended from time to time in accordance with this Agreement. The Stumpage Price is the royalty which would be payable by a person pursuant to section 30A of the Act if the Timber was taken by the person under a timber licence issued under the Act.

**'Term'** means the term of this Agreement;

**'The Price System'** means a state wide system for determining the price of timber in accordance with particular methodologies and principles adopted by Forests NSW and as may be varied from time to time;

**'Threshold Supply'** of the Allocation means 80 % of the Allocation;

**'Timber'** means the timber detailed in the Specifications;

**'Tumut Sub Region'** means the area described as the Tumut Sub Region on the map annexed as **Schedule 3**;

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

**'value added criteria'** means criteria either regarding the sawing, drying, dressing or other processing of Timber, or regarding the marketing of Timber, which adds value to the Timber;

**'Year'** means a period of twelve months commencing on 1 July in any year.

2.2 In this Agreement, unless the context requires otherwise:

- 2.2.1 a reference to the Act includes all amendments, regulations, rules, by-laws and proclamations under the Act;
- 2.2.2 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;
- 2.2.3 headings are for convenience only and do not affect the interpretation of this Agreement;
- 2.2.4 words importing the singular include the plural and vice versa;
- 2.2.5 words importing a gender include any gender;
- 2.2.6 a reference to a person includes a company, partnership, joint venture, association, corporation or other body corporate and any governmental agency;
- 2.2.7 a reference to any thing includes a part of that thing;
- 2.2.8 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;
- 2.2.9 a reference to a document includes all amendments or supplements or replacements or novations of that document;
- 2.2.10 a reference to a party to a document includes that party's successors and permitted assigns;

- 2.2.11 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;
- 2.2.12 a reference to dollars or \$ is a reference to the lawful currency of the Commonwealth of Australia.
- 2.2.13 a reference to the Minister is a reference to the Minister acting in his capacity as representative of the Crown in the right of the State of New South Wales but not as a statutory officer under the Act.

### **3. SCOPE OF AGREEMENT**

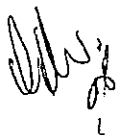
- 3.1 The Company carries on the business of sawmilling and the processing of hardwood timber and requires supplies of Timber to conduct its business.
- 3.2 Forests NSW will supply Timber to the Company and the Company must take and pay for the Timber supplied upon the terms and conditions set out in this Agreement.
- 3.3 The Company must pay Forests NSW the prices calculated in accordance with clause 15 for the Timber taken by the Company.
- 3.4 The State of NSW undertakes to ensure that Forests NSW has sufficient resources and the necessary capacity to supply Timber 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 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'.

### **4. DURATION OF AGREEMENT**

- 4.1 This Agreement will take effect from 1 July 2007 and will operate until 30 December 2020 unless determined at an earlier date under a provision of this Agreement.

### **5. THE ALLOCATION**

- 5.1 Forests NSW must supply the Allocation to the Company each Year from the Area of Supply.
- 5.2 In any Year the Company may take more or less than the Allocation in accordance with the following conditions:
  - 5.2.1 in any Year the quantity of Timber taken by the Company must not exceed 110 percent of the Allocation;
  - 5.2.2 in any Year the minimum quantity of Timber taken during that Year must not be less than 90 percent of the Allocation;
  - 5.2.3 at the end of any Year the aggregate of Overcuts must not exceed the aggregate of Undercuts by greater than 10% of the Allocation;
  - 5.2.4 at the end of any Year the aggregate of Undercuts must not exceed the aggregate of Overcuts by greater than 10% of the Allocation;
  - 5.2.5 the Company gives:



- (a) not less than 6 months advance notice in writing to Forests NSW of an intended Overcut; and
- (b) not less than 3 months advance notice in writing to Forests NSW of an intended Undercut.

5.3 The Company is not entitled to an Undercut or Overcut except in accordance with the conditions set out in **clause 5.2**.

## 6. METHOD OF SUPPLY

6.1 Forests NSW must supply Timber by conducting Contract Harvesting and delivering the Timber to the Delivery Site.

## 7. SHORTFALL

7.1 If for reasons other than default on Forests NSW part or Force Majeure the Company takes less than the Base Supply for two consecutive Years during the term of this Agreement Forests NSW may, after prior consultation with the Company amend the Maximum Supply to the average taken during those two Years.

7.2 If for reasons other than default on Forests NSW part or Force Majeure the Company:

7.2.1 takes less than 80% of the Allocation for two consecutive Years during the Term; or

7.2.2 takes less than 70 per cent of the Allocation in any Year,

Forests NSW may terminate this Agreement under the provisions of **clause 23**.

7.3 If for reasons other than default on Forests NSW part or Force Majeure the Company fails in any Year to take at least the Base Supply of the Allocation and Forests NSW does not terminate this Agreement under **clause 7.2**:

7.3.1 the Company must pay Forests NSW within 90 days after the end of the Year the sum of money equal to the difference between the Stumpage Price that would have been payable had the Company taken the Base Supply of the Allocation and the Stumpage Price paid or payable for the quantity of Timber actually taken by the Company for that Year. Any sum payable by the Company under this clause is payable as pre-estimated and liquidated damages and not as a penalty;

7.3.2 if in any Year in which the Company makes a payment under **clause 7.3.1** the Company takes a quantity of Timber in excess of the Base Supply of the Allocation, the Stumpage Price payable by the Company for the quantity of Timber above the Base Supply for that Year will be reduced to take account of any sum paid or payable under **clause 7.3.1**; and

7.3.3 the amount of any reduction in price allowed under **clause 7.3.2** must not exceed the sum that would have otherwise been payable for the quantity of Timber above the Base Supply at the price applicable for that Year.

7.4 If in any Year for reasons other than default on Forests NSW part or Force Majeure the Company takes less than the Threshold Supply of the Allocation the Company must pay Forests NSW within 90 days after the end of the Year the sum of money equal to 35% of the difference between the Delivery Charges that would have been payable had the Company taken the Threshold Supply and the Delivery Charges paid or payable for the quantity of Timber actually taken by the Company in that Year.

- 7.5 The parties acknowledge that the Company's obligation to pay liquidated damages under **clause 7.4** has been inserted in this Agreement to offset a reciprocal liability Forests NSW may have under Contract Harvesting agreements with its Contractors. Forests NSW will use reasonable endeavours to limit its said reciprocal liability under the relevant Contract Harvesting agreements as a result of the Company's failure to take Timber under this Agreement. Despite **clause 7.4** the Company's liability under that clause may not exceed the reciprocal liability Forests NSW has under the relevant Contract Harvesting agreements for the same relevant Year.
- 7.6 Any sum payable by the Company under **clause 7.4** (subject to **clause 7.5**) is payable in addition to the obligation to pay damages under **clause 7.3**, and as pre-estimated and liquidated damages and not as a penalty.
- 7.7 In the calculation of any liquidated damages under this **clause 7** it must be assumed that the Stumpage Price or the Delivery Charge due on the Timber not taken during the relevant Year is the average Stumpage Price or the average Delivery Charge as the case may be, paid or payable for the Timber which was taken during that Year.
- 7.8 Notwithstanding any provision of this **clause 7** the Company must take all Timber delivered to it in accordance with the Monthly Delivery Schedules.

## **8. ANNUAL DELIVERY PLAN AND MONTHLY DELIVERY SCHEDULES**

- 8.1 The parties must confer as soon as practicable after the date of this Agreement and negotiate in good faith to reach agreement on Annual Delivery Plan for the remainder of the Year. In default of agreement within 21 days of commencing negotiations the Annual Delivery Plan will be determined by Forests NSW.
- 8.2 No later than 30 April in each Year of this Agreement the parties must confer in good faith and reach agreement on an Annual Delivery Plan for the following Year. The Annual Delivery Plan must make provision for stockpiling by the Company to make provision for wet weather preventing Contract Harvesting. In default of agreement by that date the Annual Delivery Plan will be determined by Forests NSW.
- 8.3 No later than 7 days prior to the commencement of each calendar month the parties must confer in good faith and reach agreement on a Monthly Delivery Schedule for that month. In default of agreement the Monthly Delivery Schedule for that month will be determined by Forests NSW.
- 8.4 If the Company has any special requirements regarding delivery of Timber in any particular week not already provided for in a Monthly Delivery Schedule, it may request Forests NSW to comply with the special requirements by giving not less than one weeks notice in writing.
- 8.5 Having due regard to the practicalities Forests NSW will use reasonable endeavours to comply with any request under **clause 8.4**.
- 8.6 Forests NSW must use its best endeavours to ensure that the Allocation for the Year is delivered substantially in accordance with the Monthly Delivery Schedules for that Year and otherwise at regular intervals and in regular volumes.
- 8.7 Agreement by Forests NSW to an Annual Delivery Plan or Monthly Delivery Schedule or amendment thereto which provides for less than the Base Supply being taken by the Company in any Year will not constitute a waiver of any obligation imposed or right given by this Agreement.



- 8.8 For the purposes of determining whether Forests NSW has complied with its obligations to supply Timber (and determining whether the Company has complied with its obligations to take Timber) Forests NSW will be deemed to have supplied that quantity of Timber it is ready and able to deliver to the Delivery Site and not any lesser quantity which it actually supplies:
- 8.8.1 at the request of the Company;
  - 8.8.2 as a consequence of lawful suspension of deliveries under this Agreement.

**9. AMENDMENT OF ANNUAL DELIVERY PLAN OR MONTHLY DELIVERY SCHEDULES**

- 9.1 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 Allocation 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.

**10. ACCEPTANCE OF DELIVERY**

- 10.1 The Company must accept Timber delivered by Forests NSW:
- 10.1.1 to the Delivery Site substantially in accordance with the Monthly Delivery Schedule; and
  - 10.1.2 during the hours specified in **Schedule 6** as the delivery hours.
- 10.2 The parties acknowledge the benefits in terms of transport efficiency in allowing delivery of Timber over longer hours than specified in **Schedule 8**. The parties agree to cooperate to facilitate extended delivery hours wherever possible.
- 10.3 The Company must promptly unload timber delivered to it in accordance with this Agreement.
- 10.4 The Company must ensure that all unloading operations at the Delivery Site are performed in a safe manner in accordance with the relevant Occupational Health and Safety legislation.

**11. TITLE AND RISK**

- 11.1 Ownership of the Timber taken by the Company will pass to the Company on payment for the Timber by the Company to Forests NSW.
- 11.2 The risks of ownership of the Timber will pass to the Company when the Company takes delivery of it.

**12. SPECIFICATIONS**

- 12.1 The Company must accept any timber which conforms with the Specifications and forms part of the Allocation.
- 12.2 Timber will be deemed to conform to the Specifications if the Company has accepted delivery of the Timber.

- 12.3 The Company will not be entitled to dispute that it has accepted delivery of the Timber if it is and accepted at the gate of the Mill and the Company does not dispute it conforms to the Specifications in accordance with **clause 12.4**.
- 12.4 If the Company disputes timber delivered by Forests NSW conforms to the Specifications, the Company will advise Forests NSW of the dispute as soon as practicable and within a maximum of five (5) working days of delivery of the timber and set the timber aside for inspection and adjudication by a suitably qualified Forests NSW officer.
- 12.5 In case of any dispute the determination of conformity by an appropriately qualified officer of Forests NSW will be final and binding on the Company.

### **13. DETERMINATION OF QUANTITY OF TIMBER**

- 13.1 The method of determination of the quantity of Timber upon which price is payable under this Agreement will be as set out in the Code of Procedure. The Code of Procedure may be amended by Forests NSW as may be considered necessary by Forests NSW from time to time but Forests NSW will consult with and take into account any comments of the Company before any amendments are effected or implemented.
- 13.2 If the Company provides a weighbridge or other measuring device approved by Forests NSW, the Company must maintain and verify the weighbridge or other device as required by the manufacturer's specifications.
- 13.3 Forests NSW may from time to time undertake an independent verification of the operation and accuracy of the weighbridge or other device.

### **14. STUMPAGE PRICE**

- 14.1 The Stumpage Prices at the commencement of this Agreement shall be calculated by reference to the categories and quantities of the Timber taken by the Company applied to the rates set out in the Price Schedule.
- 14.2 Forests NSW may amend or vary the Price Schedule from time to time following a review by Forests NSW of the various components of the Price Schedule or following a review of the Price System.
- 14.3 In conducting a review of the Price Schedule Forests NSW:
- 14.3.1 will be subject at all times to the requirements of the Act;
  - 14.4.2 must conform with the methodologies and principles set out in The Price System; and
  - 14.4.3 may consider various pricing elements including (without limitation) the commercial value and best prices reasonably obtainable for various types and categories of available timber.
- 14.5 A Price Schedule which is varied or amended by Forests NSW following a review may be implemented at any time during a Year provided Forests NSW gives not less than 28 days prior written notice to the Company of the varied or amended Price Schedule.

- 14.6 Forests NSW may review and vary The Price System from time to time. In performing any review of The Price System Forests NSW will at all times be subject to the policies and directions of the State of NSW.
- 14.7 Forests NSW will provide to the Company a copy of The Price System as it applies at the effective date of this Agreement and will promptly forward a copy of The Price System to the Company if varied or amended following a review.

## 15. DELIVERED PRICES

- 15.1 The prices payable by the Company for Timber delivered to the Company under this Agreement will be the Delivered Prices.
- 15.2 The Delivered Prices payable by the Company will be the total of:
- 15.2.1 the Stumpage Prices; and
  - 15.2.2 the Delivery Charges applicable at the time of delivery.
- 15.3 The Delivery Charges at the commencement of this Agreement are as specified in the Delivery Charge Schedule.
- 15.4 In each year no sooner than July and no later than 30 September Forests NSW and the Company must confer to review the Delivery Charge and must negotiate in good faith to reach agreement on amendments to the Delivery Charge to apply for the following DC Year. In default of an agreement on the required amendments by one week prior to the commencement of the following Year Forests NSW may determine the amendments if any to apply. Forests NSW must amend the Delivery Charge in accordance with the agreement of the parties or the determination of Forests NSW as the case may be, and the amended Delivery Charge will apply from the first day of the following DC Year. If the review is not completed by that date any amendment or variation arising from the review must be implemented retrospectively to that date. For the purposes of this clause 15.4 a DC Year is the 12 month period commencing on 1 October in a year.
- 15.5 Any review of the Delivery Charge by Forests NSW and the Company must take into account:
- 15.5.1 changes in the level of the costs of conducting Contract Harvesting which have occurred during the preceding 12 month period, as determined by the mechanism set out in **Schedule 7**; and
- At the request of either party the review must also take into account:
- 15.5.2 Changes in the physical circumstances of harvesting, including yield per hectare, timber piece size, slope and ground conditions, forecasted to apply in the relevant Year when compared to those physical circumstances forecasted in the last review to apply in the Year prior to the relevant Year;
  - 15.5.3 Changes in the physical circumstances of haulage, including average lead distance to the Delivery Site, delivery hours and unloading times at the Delivery Site, forecasted to apply in the relevant Year when compared to those physical circumstances forecasted in the last review to apply in the Year prior to the relevant Year;
  - 15.5.4 the market rates for the various items of work comprising the Contract Harvesting under this Agreement provided:
    - (a) those rates are comparable, having regard to the type of Timber produced and the physical circumstances of harvesting and haulage referred to in **clauses 15.5.2 and 15.5.3**;

- (b) the party tabling rates as relevant must verify them to the reasonable satisfaction of the other party;
  - (c) any comparison between market rates and Delivery Charges must take into account the cost to Forests NSW of administering and managing Contract Harvesting associated with this Agreement,
- 15.6 If the Company disputes that an amendment to the Delivery Charge determined by Forests NSW is, when compared to the matters referred to in **clause 15.5.4**, fair reasonable and competitive, the provision of **clause 24** will apply to the dispute. The Company may not dispute a Delivery Charge determined by Forests NSW unless it relies on information it has provided to Forests NSW under **clause 15.5.4** prior to Forests NSW making the determination.
- 15.7 In January of each of the 5<sup>th</sup> and the 10th full Year after the commencement of this Agreement the parties must meet to review in good faith the matters set out under **clause 15.5** and to reach agreement if possible regarding amendments to those matters (if any) necessary to ensure they result in amendments to the Delivery Charge which are reasonable in relation to the requirements of **clause 15.9** including:
  - 15.7.1 the addition of other matters to be taken into account;
  - 15.7.2 the deletion or modification of existing considerations;
  - 15.7.3 amendments to the mechanism set out in **Schedule 7** to vary the weight given to any cost factor or indicator by the mechanism;
  - 15.7.4 amendments to the mechanism set out in **Schedule 7** to include any cost factor;
  - 15.7.5 the replacement of the mechanism set out in **Schedule 7**; or
  - 15.7.6 Any or all of the above.
- 15.8 In the event the parties are unable to reach agreement on appropriate amendments referred to in **clause 15.7** by the end of March following the commencement of the review Forests NSW may determine the amendments it considers necessary and implement those amendments in time to be taken in account in the review of the Delivery Charge Schedule to apply in the following Year. If the Company disputes any such amendment **clause 24** will apply and for the purposes of **clause 24.6** the matters to be taken into account in determining the amendments are whether they are reasonable relation to the requirements of **clause 15.9**.
- 15.9 Delivery Charges determined under this **clause 15** must be fair, reasonable and competitive.
- 15.10 Forests NSW must provide the Company with written advice regarding the Delivery Charge as amended from time to time prior to applying the Delivery Charge.
- 16. GOODS AND SERVICES TAX**
- 16.1 Stumpage Prices, Delivery Charges Delivered Prices 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.
- 16.2 If GST is or will be imposed on a supply made under or in connection with this Agreement, the supplier may, to the extent that the consideration otherwise provided for that supply under this agreement is not stated to already include an amount in respect of GST on the supply:
  - 16.2.1 increase the consideration otherwise provided for that supply under this Agreement by the amount of that GST; or
  - 16.2.2 otherwise recover from the recipient the amount of that GST.

- 16.3 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 .
- 16.4 The supplier must reduce the consideration provided for a supply under this Agreement (excluding any amount in respect of GST on the supply) having regard alone to the direct and indirect impact of the New Tax System changes in a manner consistent with Part VB of the Trade Practices Act 1974 (Cth) and any guidelines made under that Act, whether or not that Act and the guidelines would otherwise apply to the supplier.
- 16.5 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.
- 16.6 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.
- 16.7 If the consideration for a supply under this Agreement is to be adjusted by reference to movements in any index, such as the Consumer Price Index:
- 16.7.1 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;
- 16.7.2 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, the recipient 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 the supplier and the recipient 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;
- 16.7.3 the person appointed will act as an expert and not an arbitrator;
- 16.7.4 the expert's decision is final and binding on the parties; and
- 16.7.5 the supplier and the recipient must each pay one half of the expert's fee (including expenses) in relation to the decision.
- 16.8 In this clause:
- 16.8.1 **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;
- 16.8.2 **GST** includes any replacement or subsequent similar tax;
- 16.8.3 **GST Act** means A New Tax System (Goods and Services Tax) Act 1999 (Cth);
- 16.8.4 **New Tax System changes** has the same meaning as in the Trade Practices Act 1974 (Cth); and
- 16.8.5 **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.

16.8.6 Terms defined in the GST Act have the same meaning in this clause unless provided otherwise.

## 17. PAYMENT

- 17.1 Forests NSW will issue monthly invoices for the Timber taken by the Company in accordance with this Agreement. Invoices issues in relation to Timber must itemise the Stumpage Prices and Delivery Charges separately.
- 17.2 The Company must pay each invoice within 14 days of its issue.
- 17.3 If the Company fails to pay an invoice on the due date, Forests NSW may suspend the Company's right to obtain Timber under this Agreement until payment is made.
- 17.4 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, and Forests NSW has no alternative sale for the Timber, Forests NSW may estimate the quantity of that Timber and issue an invoice to the Company for the costs incurred by Forests NSW up to and including the date where the Timber is rejected. Any such invoice will be deemed to be an invoice for Timber delivered to the Company and the provisions of clauses 17.2 and 17.3 will apply to it.

## 18. INDEMNITY AND INSURANCE

- 18.1 The Company indemnifies Forests NSW against all actions, proceedings, claims, demands and expenses by any person in respect of or arising out of the performance by the Company of its obligations under this Agreement other than any action, proceedings, claims, demands or expenses arising out of any negligent act or omission of Forests NSW.
- 18.2 The Company will take out and maintain Public Liability Insurance under a policy approved by Forests NSW in an amount not less than \$10 million.
- 18.3 Forests NSW indemnifies the Company against all actions, proceedings, claims, demands and expenses by any person (other than a party to this Agreement) in respect of or arising out of the performance by Forests NSW of its obligations under this Agreement other than any action, proceedings, claims, demands or expenses arising out of any negligent act or omission of the Company.

## 19. SALE OF TIMBER TO OTHER PERSONS

- 19.1 Forests NSW reserves the right to:
- 19.1.1 supply Timber and other timber from within the Area of Supply; or
- 19.1.2 issue licences to obtain Timber, timber, products or forest materials within the Area of supply;
- to any other person.
- 19.2 The Company may from time to time sell the Timber it takes under this Agreement and which it owns to any person without the need for processing the Timber.
- 19.3 If the Company sells Timber under clause 19.2 the Company must provide Forests NSW with details in writing of the volume by log category of sales and the identity of the purchaser within 60 days after the end of each Year.

## 20. SECURITY

- 20.1 Forests NSW may at its sole discretion require the Company to provide security for the purpose of ensuring the due and proper performance of the Company's obligations under this Agreement ('security').
- 20.2 If Forests NSW requires the Company to provide security the Company must provide the security in the amount determined by Forests NSW from time to time which must not exceed a sum equivalent to 15% of the Delivered Price of the Allocation for the Year then being ('secured amount').
- 20.3 Forests NSW will give the Company written notice of any amount determined or redetermined under clause 20.2 or any adjustment to or variation of the secured amount that may be determined by Forests NSW under the provisions of this clause 20 including any additional security required under clause 20.8 to maintain the level determined under this clause 20.
- 20.4 The Company must lodge, adjust or vary the secured amount or provide additional security within 14 days of the receipt of a notice from Forests NSW under clause 20.3.
- 20.5 The security must:
- 20.5.1 be in the form of cash, bonds or inscribed stock issued by the Australian Government or the Government of a State or Territory of Australia, an unconditional undertaking in a form approved by Forests NSW given by a financial institution or insurance company approved by Forests NSW; and
- 20.5.2 be lodged within fourteen (14) days of the execution of this Agreement.
- 20.6 If the security is not transferable by delivery, it must be accompanied by an executed transfer or other documentation sufficient to effect transfer of the security. The costs (including stamp duty) of any transfer or retransfer must be borne by the Company.
- 20.7 Forests NSW may at any time and without notice to the Company, draw upon the secured amount to meet any loss or damages arising from the Company's failure to perform any of its obligations under this Agreement.
- 20.8 If Forests NSW draws on the secured amount under this Agreement but does not terminate this Agreement as a result of any breach, then the Company must provide additional security so that the secured amount is maintained at the level determined under this clause 20.
- 20.9 Forests NSW may suspend the Company's rights to take any Timber if the Company fails to lodge the security or provide additional security or to vary or adjust the secured amount within the time required by any notice to the Company under this clause 20.
- 20.10 Forests NSW must release the security to the Company within six months of the date of termination of this Agreement if no money is then due to Forests NSW or any earlier date that may be otherwise agreed.

## 21. FORCE MAJEURE

- 21.1 If the Company is prevented from taking or accepting Timber or from carrying on production of sawn timber by Force Majeure and:
- (a) the Force Majeure was not caused by any act or omission on the part of the Company or any employee or agent of the Company;
  - (b) the Company had taken all practicable precautions to prevent the Force Majeure; and
  - (c) 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 ability to meet its obligations have been adversely affected by the Force Majeure.
- 21.2 Where the Company makes an application under clause 21.1, Forests NSW will negotiate with the Company in good faith to review the Allocation taking into account the functions and obligations of Forests NSW under this Agreement and the Act and the requirements for the Company to do all things practicable to mitigate the effect of the Force Majeure.
- 21.3 If Forests NSW is prevented from performing all or any of its obligations under this Agreement by reason of Force Majeure:
- 21.3.1 the Company will have no claim against Forests NSW under this Agreement, to the extent that the non-performance is due to the Force Majeure;
  - 21.3.2 if Forests NSW is unable to resume the performance of its obligations within a period of 12 months from the date of the occurrence of the Force Majeure or the date when the occurrence of the Force Majeure first became apparent (the 'relevant date') either party may terminate this Agreement by written notice. The right to give notice under this clause must be exercised within a period of 15 months from the relevant date and in this regard time will be of the essence; and
  - 21.3.3 Forests NSW may allocate any Timber which is available to the Company and other persons in a manner which reflects Forests NSW functions and obligations under the Act and accords with any directions of the Minister.
- 21.4 A party affected by Force Majeure must give initial notice of the existence or occurrence of the Force Majeure as soon as is practicable to do so and in any case it must provide a more detailed notice within 28 days of the 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.

## 22. LEGAL RESPONSIBILITY AND LIMITATION OF LIABILITY

- 22.1 Where the Company is prevented from taking Timber as a result of any breach of this Agreement:
- 22.1.1 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
  - 22.1.2 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
  - 22.1.3 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.
- 22.2 Where Forests NSW or the State of NSW is in breach of this Agreement by reason of any failure to supply Timber any loss suffered by the Company will be limited to the lesser of;



- 22.2.1 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 supply) from the most economic alternative source; or
- 22.2.2 the Company's loss of profits, but may not otherwise include consequential losses.

### 23. DEFAULT OR INSOLVENCY

- 23.1 If the Company or Forests NSW breaches or repudiates this Agreement, nothing in this clause will prejudice the right of either party to recover damages or exercise any other right.
- 23.2 If the Company commits a material breach of this Agreement and Forests NSW considers that damages may not be an adequate remedy, Forests NSW may give the Company a written notice to show cause. Material breaches include without limitation:
- 23.2.1 failing to accept Timber in breach of **clause 10**;
- 23.2.2 failing to make payments in breach of **clause 17**;
- 23.2.3 failing to provide security or additional security or to adjust or vary the secured amount in breach of **clause 20**;
- 23.2.4 purporting to assign the whole or any part of this Agreement without the approval of the Minister in breach of **clauses 30 and 31**;
- 23.2.5 failing to comply with conditions imposed by the Minister pursuant to **clause 26** of this Agreement;
- 23.2.6 failing to comply with **clauses 27, 28, or 29**.
- 23.3 A notice under **clause 23.2** must:
- 23.3.1 state that it is a notice under **clause 23.2** of this Agreement;
- 23.3.2 specify the alleged material breach;
- 23.3.3 require the Company to show cause in writing why Forests NSW should not exercise its right to terminate under **clause 23.4**;
- 23.3.4 specify the time and date by which the Company must show cause (which must not be less than 14 days); and
- 23.3.5 specify the place at which cause must be shown.
- 23.4 If by the time specified in a notice under **clause 23.2** the Company fails to show reasonable cause why Forests NSW should not exercise its right of termination, Forests NSW may by notice in writing to the Company terminate this Agreement.
- 23.5 If the Company:
- 23.5.1 informs Forests NSW in writing or its creditors generally that it is insolvent;
- 23.5.2 commits an act of bankruptcy;
- 23.5.3 has a bankruptcy petition presented against it;
- 23.5.4 is made bankrupt;
- 23.5.5 a meeting of creditors of the Company is called with a view to:
- (a) entering a scheme of arrangement or composition with creditors; or
- (b) placing the Company under administration;
- 23.5.6 the Company enters a scheme of arrangement or composition with creditors;
- 23.5.7 a resolution is passed at a meeting of creditors to place the Company under administration;
- 23.5.8 the Company is placed under administration;

- 23.5.9 an administrator of the property or part of the property of the Company is appointed;
- 23.5.10 an application is made to a Court for the winding up of the Company and not stayed within 14 days;
- 23.5.11 a winding up order is made in respect of the Company; or
- 23.5.12 execution is levied against the Company by creditors, debenture holders or trustees or under a floating charge.
- Forests NSW may, without giving a notice to show cause, terminate this Agreement by notice in writing to the Company.
- 23.6 If Forests NSW commits a material breach of this Agreement and the Company considers that damages may not be an adequate remedy, the Company may give Forests NSW a written notice to show cause. Material breaches include without limitation:
- 23.6.1 failing to supply the Allocation for each Year in breach of clause 5;
- 23.6.2 failing to process any application requesting an assignment of this agreement in breach of clauses 25 or 26.
- 23.7 A notice by the Company under clause 23.6 must:
- 23.7.1 state that it is a notice under clause 23.6 of this Agreement;
- 23.7.2 specify the alleged material breach;
- 23.7.3 require Forests NSW to show cause in writing why the Company should not terminate this Agreement;
- 23.7.4 specify the time and date by which Forests NSW must show cause (which must not be less than 14 days); and
- 23.7.5 specify the place at which cause must be shown.
- 23.8 If by the time specified in a notice under clause 23.6 Forests NSW fails to show reasonable cause why the Company should not exercise its right of termination, the Company may by notice in writing to Forests NSW terminate this Agreement.

## 24. RESOLUTION OF DISPUTES - MANDATORY MEDIATION AND ARBITRATION

- 24.1 If a dispute or difference between the parties arises out of or in connection with this Agreement or concerning the interpretation or operation of any provision of this Agreement (except clause 20) which cannot be settled by the parties within fourteen (14) days, the parties agree that they must endeavour to settle the dispute or difference by mediation before having recourse to arbitration. The mediator must be a person agreed by the parties or failing agreement a party may request the Australian Commercial Disputes Centre (ACDC) to appoint a mediator and the mediator will be so appointed.
- The mediator must conduct proceedings under this clause in accordance with the Guidelines for Commercial Mediation of the ACDC. During the course of any mediation each party must be represented by a person having authority to agree to a resolution of the dispute.
- 24.2 In the event that the dispute has not been settled within twenty eight (28) days or such other period as agreed to in writing between the parties, after the appointment of the mediator, the dispute or difference must be submitted to arbitration.

Any arbitration must be conducted by a person acceptable to the parties but if the parties are unable to agree to the appointment of an acceptable person within fourteen (14) days of one party giving the others a written nomination of a suitable person or persons, then a party may request the President for the time being of the Institute of Arbitrators, Australia, to appoint an arbitrator and the arbitrator will be so appointed. Any arbitration must be undertaken in accordance with, and subject to, The Institute of Arbitrators Australia Rules for the Conduct of Commercial Arbitration.

- 24.3 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.
- 24.4 Any mediation or arbitration must be held in Sydney, NSW and either party may be represented by a legal practitioner.
- 24.5 Nothing in this **clause 24** shall prejudice the right of the party to seek urgent injunctive or declaratory relief in a Court in respect of any matter arising under this Agreement.
- 24.6 In so far as the provisions of this **clause 24** apply to **clauses 14 or 15**, the issue for consideration by any arbitration or litigation is to be limited to whether the Delivered Price, the Stumpage Price, the Delivery Charge, or the mechanism set out in **Schedule 7** (as the case may be) in dispute (the "Disputed Item"), was a reasonable one considering the factors and principles set out in those clauses to be taken into account in determining the Disputed Item and, otherwise met the requirements for the Dispute Item set out in that clause.
- 24.7 If an arbitration or litigation regarding a Disputed Item determines that Forests NSW determination of a Disputed Item was unreasonable or did not comply with the requirements for the Disputed Item set out in those clauses, then Forests NSW must:
- 24.7.1 promptly re-determine the disputed Delivered Price, Stumpage Price or other such Disputed Item which will then apply from the first date the Dispute Item was originally intended to apply; and
- 24.7.2 refund to the Company any over payment made under the Disputed Item with interest calculated pursuant to **clause 31**.

## 25. ASSIGNMENT

- 25.1 The Company may not without the prior approval of the Minister assign its rights and entitlements under this Agreement in whole or part to any person.
- 25.2 If the Company is a corporation, any change in control of the Company (or if the Company is a subsidiary, any change in control of its holding company) will be deemed to be an assignment of the Company's rights and entitlements under this Agreement. For the purpose of this Clause 'change in control' means change in control of more than 50% of the shares with the right to vote in general meetings of the corporation.
- 25.3 If the Company wishes to assign the whole or any part of this Agreement it must make a written application to Forests NSW requesting an assignment and must provide all details and information concerning the assignee and the effect of the assignment as may be reasonably required by Forests NSW.

- 25.4 The Company must pay all debts due and payable to Forests NSW under this Agreement before any assignment (in whole or part) of this Agreement.
- 25.5 Upon receipt of any request for an assignment of the whole or any part of this Agreement, Forests NSW must process the application in accordance with **clause 31** provided the Company has supplied any details and information required by Forests NSW under **clause 30.3**.
- 25.6 The Company must ensure that any assignee executes all agreements and other documents which Forests NSW may reasonably require to record or effect any assignment including an undertaking to remedy or rectify any existing material breach.

## 26. MINISTER'S APPROVAL FOR AN ASSIGNMENT

- 26.1 Forests NSW must consider any application requesting an assignment of the whole or part of this Agreement and recommend to the Minister the action that the Minister should take on the application. The Minister will have regard to any recommendation of Forests NSW but is not bound by any recommendation.
- 26.2 The Minister may determine an application requesting an assignment of the whole or part of this Agreement by granting the application (either unconditionally or subject to conditions of the kind set out in **clause 26.3**) or by refusing the application. An application may only be refused on the following grounds:
- 26.2.1 the Company fails to satisfy such value added criteria as have been adopted by the Minister;
  - 26.2.2 such grounds as may be prescribed by regulations under the Act; or
  - 26.2.3 such grounds as the Minister considers relevant having regard to the need to promote a competitive timber industry and to prevent misuse of market power.
  - 26.2.4 At the time the application is made the Company has committed a material breach which has not been remedied or rectified including without limitation any failure to make payment to Forests NSW as required under **clause 21** of this Agreement.
- 26.3 The Minister may impose (without limitation) the following kinds of conditions on an application requesting an assignment of the whole or part of this Agreement:
- 26.3.1 a condition requiring the Company or any assignee to take action to comply with or satisfy value added criteria as have been adopted by the Minister;
  - 26.3.2 a condition requiring the Company or any assignee to prepare, and submit to the Minister, a business plan ('designated business plan') setting out the Company's or any assignee's policies, practices and procedures for the implementation or maintenance of any value added criteria;
  - 26.3.3 a condition requiring the Company or any assignee to furnish to the Minister (at the times and for the periods as the Minister may decide) information the Minister may require to enable the Minister to determine whether or not the Company or the assignee has satisfied or is complying with any value added criteria or is conducting its business in accordance with a designated business plan; and
  - 26.3.4 in the event the Company has committed a material breach which has not been remedied or rectified including without limitation any failure to make payment to Forests NSW as required under **clause 17** of this Agreement, a condition requiring any assignee to undertake the rectification or remediation of the material breach including the payment in full of any accrued debts due and owing to Forests NSW.

## 27. VALUE ADDED PERFORMANCE

- 27.1 The Company must during the Term meet the value added criteria for the forestry industry as have been adopted by the Minister from time to time and of which the Company has received reasonable notice in order to meet the value added criteria. For the purpose of this clause 27 notice of the value added criteria includes notice of any guidelines issued on the Minister's behalf indicative of the type of value added criteria the Minister is proposing to adopt.
- 27.2 The Company acknowledges that any strategic plan developed by the hardwood sawmilling industry in NSW in conjunction with Forests NSW and the Forest Products Association of NSW during the Term, is likely to contain an over-riding aim to continually improve the profitability of the hardwood industry in NSW. The Company acknowledges that one of the means by which this may occur is by ensuring that quality standards for the production and marketing of sawn hardwood products are developed and adhered to by the hardwood sawmilling industry in NSW.
- 27.3 In accordance with the acknowledgments referred to in clause 27.2, the Company must ensure in relation to sawn timber produced from Timber taken under this Agreement (Timber Products) for domestic markets:
- 27.3.1 that the Timber Products meet the relevant requirements, including tolerances, specified in the relevant part(s) of Australian Standard, Timber - Hardwood - Sawn and Milled Products, (AS 2796 Parts 1, 2 & 3);
- 27.3.2 that otherwise the marketing (including delivery, presentation, promotion, provision of services and pricing) of the Timber Products does not, in the reasonable opinion of Forests NSW, bring the standing and value of sawn hardwood products produced in NSW into disrepute.
- 27.4 The Company must consult with Forests NSW regarding the marketing (including delivery, presentation, promotion, provision of services and pricing) of Timber Products intended for international markets.
- 27.5 The Company agrees to work cooperatively with Forests NSW to continually identify and investigate reasonable processing, networking and/or market development opportunities that will increase the average value of their end products.
- 27.6 If requested by Forests NSW at any time during the Term, the Company must submit Forests NSW all records, information and data necessary to enable Forests NSW to assess whether the Company has satisfied the value added criteria as have been adopted by the Minister or its other obligations under this clause 27. The Company must afford Forests NSW all reasonable assistance and must provide all further details as may be reasonably required by Forests NSW.

## 28. TRAINING OBLIGATIONS

- 28.1 In this clause 28:  
 "Enterprise Training Plan" means a plan prepared by a Registered Training Organisation designed to address the training needs of the employees of the Company based on nationally

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endorsed competency standards, in accordance with the Forest and Forest Products Industry Training Package;

“Forest and Forest Products Industry Training Package” means the Forest and Forest Products Industry Training Package formally endorsed by the Australian National Training Authority (ANTA) in January 2001

“Registered Training Organisation” means a training organisation, registered with a State training authority (ie. NSW Department of Education and Training), with the Forest and Forest Products Industry Training Package included in their scope of registration.

- 28.2 The Company must submit an Enterprise Training Plan to the Forestry Policy Unit of the Department of Information Technology and Management by 30 April 2003.
- 28.3 The Company must report to the Forest Policy Unit by 30 April 2004 on actions taken to implement the Enterprise Training Plan. This report is to include details of the number of employees who have commenced and/or completed training, the training undertaken, and the number of employees who have achieved nationally recognised qualifications in accordance with the Enterprise Training Plan.

## 29. CHARGING THIS AGREEMENT

- 29.1 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 may withhold consent in its absolute discretion.
- 29.2 The Company must as soon as practicable after execution of this Agreement register of this Agreement on the Company's register of charges and must maintain the registration until Forests NSW consents in writing to its removal.

## 30. VARIATION

- 30.1 This Agreement comprises the entire understanding of the parties.
- 30.2 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.

## 31. INTEREST

- 31.1 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).

## 32. NOTICE

- 32.1 Any notice required to be served under this Agreement may be served at the address specified for the party specified in **Schedule 8**.

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

**33. GOVERNING LAW**

33.1 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.

**34. SEVERABILITY**

34.1 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.

**35. GENERAL**

35.1 A party terminating this Agreement as a result of a failure or default of the other party may only claim damages for any loss resulting from the failure or default if the claim for damages is not excluded under this Agreement.

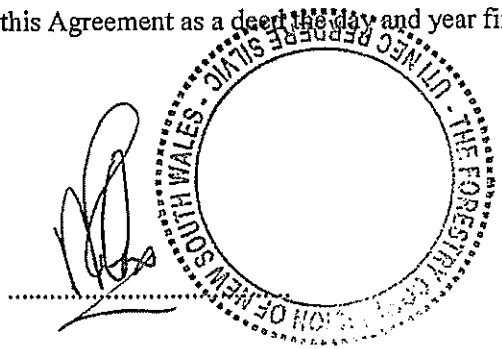
**36. CONFIDENTIALITY**

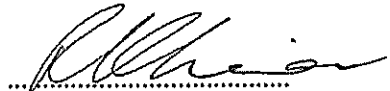
36.1 No party will disclose the contents or terms of this Agreement or any information or documents received by it in connection with the negotiation of this Agreement or pursuant to the provisions of this Agreement without the prior written consent of the other parties, except to the extent that:

- 36.1.1 the information is available to the public generally;
- 36.1.2 that party is required to make the disclosure by law or to make any filing, recording or registration required by law;
- 36.1.3 the disclosure is necessary or advisable for the purpose of obtaining any consent, authorization, approval or licence from any public body or authority;
- 36.1.4 it is necessary or expedient that the disclosure be made to any taxation or fiscal authority;
- 36.1.5 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
- 36.1.6 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.
- 36.1.7 the disclosure is made on a confidential basis to a potential financier of the party, purchaser of the party or shares in the party, or assignee of the party's interest in this Agreement.

IN WITNESS whereof the parties hereto have executed this Agreement as a deed the day and year first hereinbefore written.


I, **NICK ROBERTS** )  
Chief Executive Officer )  
have hereunto affixed the )  
Seal of the **FORESTRY COMMISSION** )  
**OF NEW SOUTH WALES** )  
in the presence of: )



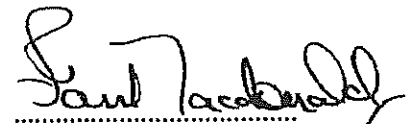
  
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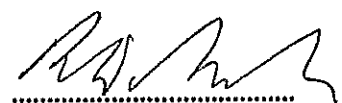
Executed by )  
**WALKERS SAWMILL PTY LIMITED** )  
By [two directors] [director and secretary] or )  
[sole director] )

  
.....  
director

  
.....  
director/secretary

**SIGNED SEALED AND DELIVERED )**  
by **THE HONOURABLE** )  
**IAN MACDONALD MLC** )  
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: )

  
.....  
Minister for Primary Industries

  
.....  
Witness





**SCHEDULE 1  
SPECIFICATION**

**Alpine Ash Quota Sawlogs – High Quality Small**

**SPECIES:** Eucalyptus delegatensis sawlogs suitable for sawmilling and meeting the specifications for size and defect set out hereunder:

**MINIMUM LOG SIZE:**

**Diameter:** 30 cm centre diameter under bark (cdub)

**MAXIMUM LOG SIZE:**

**Diameter:** 39 cm cdub

**LENGTH:**

**Minimum Length:** 2.4 m

**QUALITY:** The measurement of defect for the purpose of calculating the maximum defect percent will be in accord with the Hardwood Log Measurement Manual as approved by Forests NSW

<b>DUB (cm)</b>	<b>Max Pipe (cm)</b>	<b>Max Defect (%)</b>
30	6	29
32	8	31
34	12	35
36	14	39
38	16	42

*ALS*  
2

**SCHEDULE 2  
DELIVERY CHARGE SCHEDULE**

(As at 1 July 2007)

Supply Area	\$/m <sup>2</sup> ex GST
Bago/Maragle	Note 1
Buccleuch	Note 1

Note 1: As advised in writing to the company, 6 August 2007



## Schedule 3

MAP of AREA OF SUPPLY

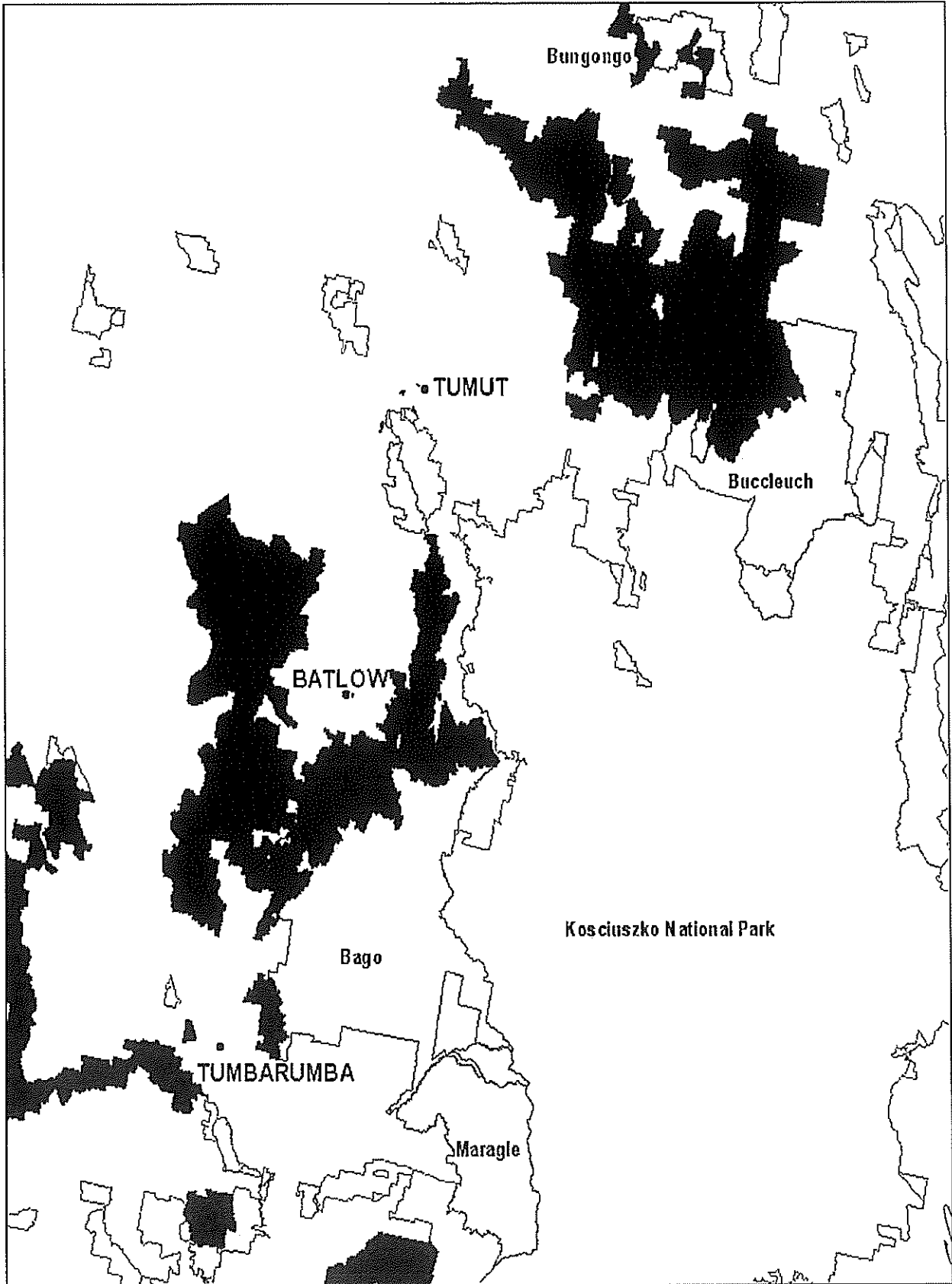
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of



FORESTS NSW  
SOUTHERN REGION  
**LOCALITY MAP**  
Tumut Sub-Region



0 10 20 Kilometers

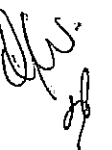


**BOUNDARIES**

- Southern Region (Tumut sub-region) Forest Estate
- Hume Region Forest Estate
- National Park Estate

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**SCHEDULE 4  
CODE OF PROCEDURE**

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