

Washington DNR Timber Sales Program

**Updated information is being provided for **Walnut VDT and VRH Sort 8** timber sale documents as follows:**

**Documents amended:**

<b>Brief Description</b>	<b>DATE</b>
Notice of Sale and Contract: Updated the Species and Sort Specifications to the following:	7/14/16
HARDWOOD UTILITY (except cottonwood) 4" + SED	





## TIMBER NOTICE OF SALE

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Use the following rates for estimating taxable stumpage:

Harvest Cost = \$115.00 per MBF for sorts 01, 02, 03, 04, 05, 06 and 09, \$0.00 per Ton for sort and \$10.00 per Ton for sort 07.

Hauling Services Payment Rate per Ton  
= (Base Rate + Mileage Rate) x (Contractor's hauling bid factor)

Base Rate = \$2.35 per ton

Mileage Rate = ((\$0.16 x C miles) + (\$0.11 x A miles)) x Fuel Index Factor

ARRF = \$26.75 per MBF for sorts 01, 02, 03, 04, 05, 06, 07, 08 and 09.

Note: To calculate AARF rates per ton use the tons\mbf conversion factor in the table above.

**CONFIRMATION:** Each sort is subject to confirmation following auction. Sorts will not be confirmed until at least 10 days after auction. Final contract award is contingent upon the State's haul cost analysis. Actual haul route may vary and is subject to change at the State's discretion.

**SPECIAL REMARKS:** The successful Purchaser(s) will be required to purchase logs from the sale area upon delivery to their location specified in the bid submitted. Logs will be delivered to the Purchaser's delivery location by the State's contract harvester. Purchaser is responsible for weighing and scaling costs. All tonnage loads will be weighed and all mbf loads will be scaled at State approved locations. The State reserves the right to determine where logs are authorized to be scaled and weighed.

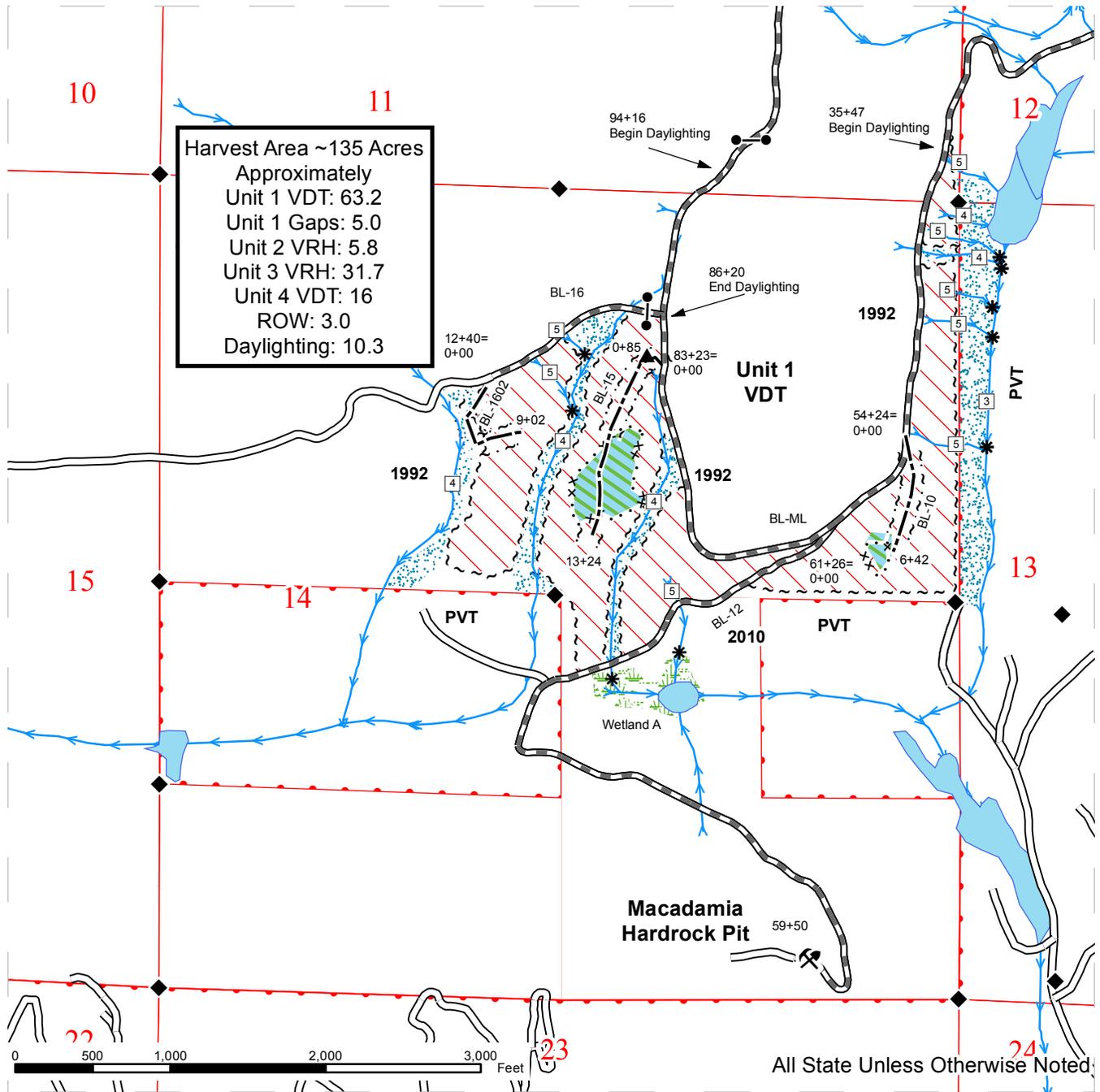
\*Note: Harvesting services bid opening is tentatively scheduled for 04/27/16, which will establish the Contractor's hauling bid factor. Fuel Index Factor is indexed quarterly by the State. Log deliveries are anticipated to be from August 2016 through December 9, 2016.

For more information regarding this log sort sale visit our web site:  
<http://www.dnr.wa.gov/programs-and-services/product-sales-and-leasing/timber-sales/timber-auction-packets>. If you have questions call Theresa Klepl at the Northwest Region Office at (360)856-3500 or Dave Richards at the Product Sales and Leasing Division Office in Olympia at (360)902-1365.

# TIMBER SALE MAP

**SALE NAME:** Walnut VDT and VRH Sorts  
**AGREEMENT#:** 92530  
**TOWNSHIP(S):** T36R03E  
**TRUST(S):** State Forest Transfer (1)

**REGION:** Northwest Region  
**COUNTY(S):** Skagit  
**ELEVATION RGE:** 524-1717 feet



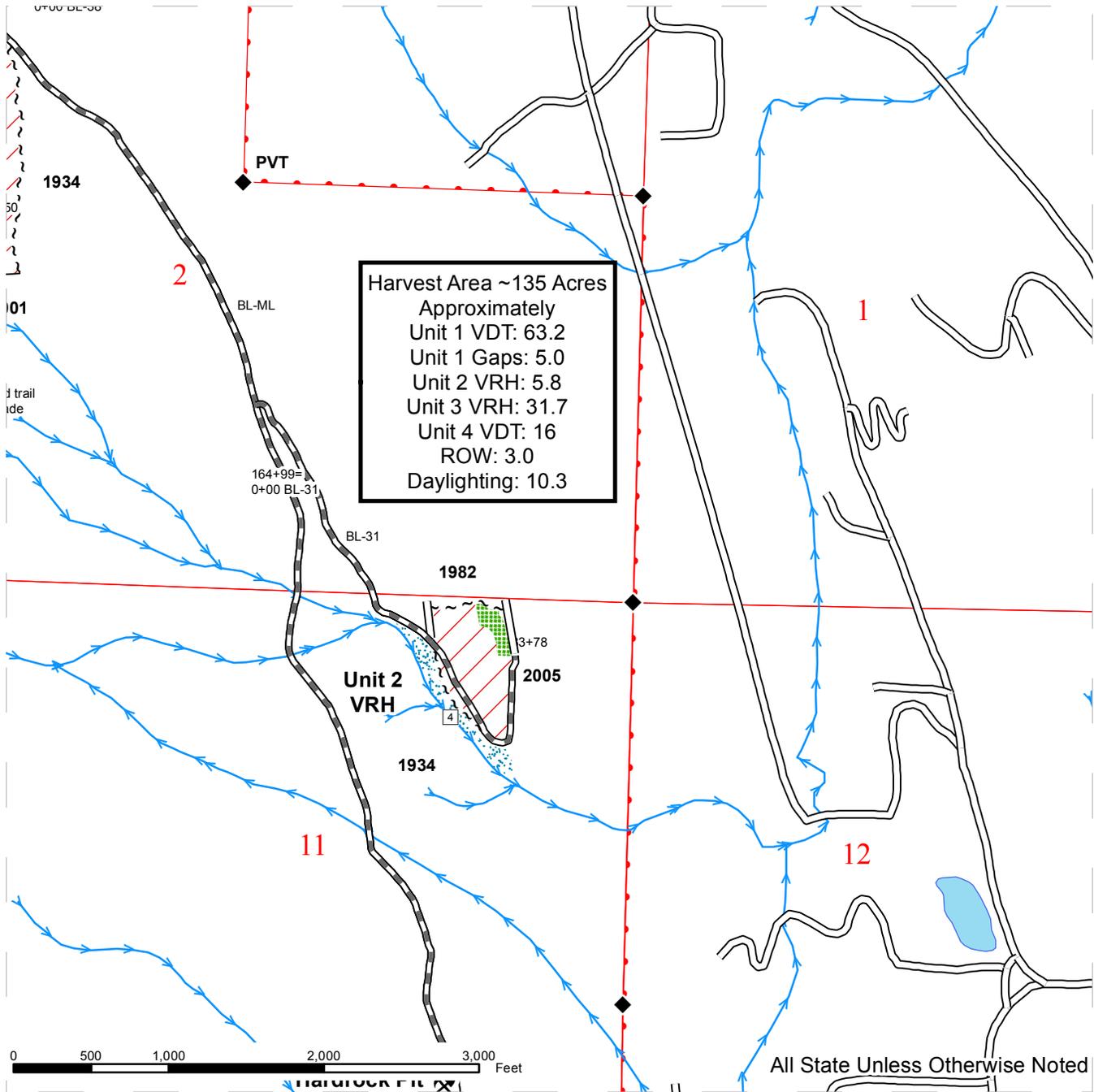
	Variable Retention Harvest		Riparian Mgt Zone		Streams
	Variable Density Thinning		Leave Tree Area		Stream Type
	Gap Cut Area		Wetland Mgt Zone		Stream Type Break
	Sale Boundary Tags		Existing Roads		Survey Corners
	Sale Boundary (No Tags)		Old Grades / Trails		Gate
	Right of Way Tags		Required Pre-Haul Maintenance		
	Special Mgt Area Tags		Required Construction		
			Optional Construction		



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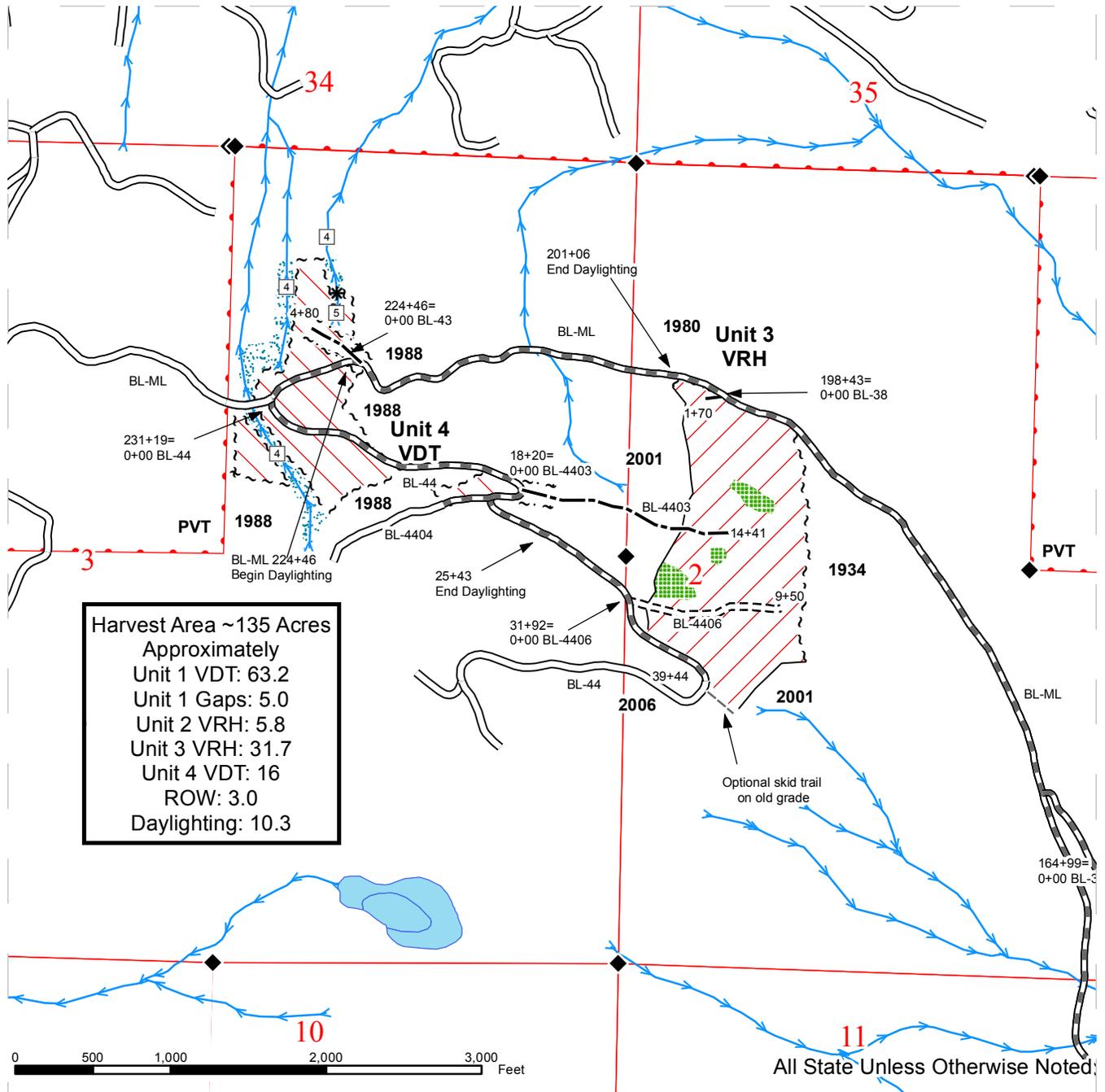
	Variable Retention Harvest		Riparian Mgt Zone		Streams
	Variable Density Thinning		Leave Tree Area		Stream Type
	Gap Cut Area		Wetland Mgt Zone		Stream Type Break
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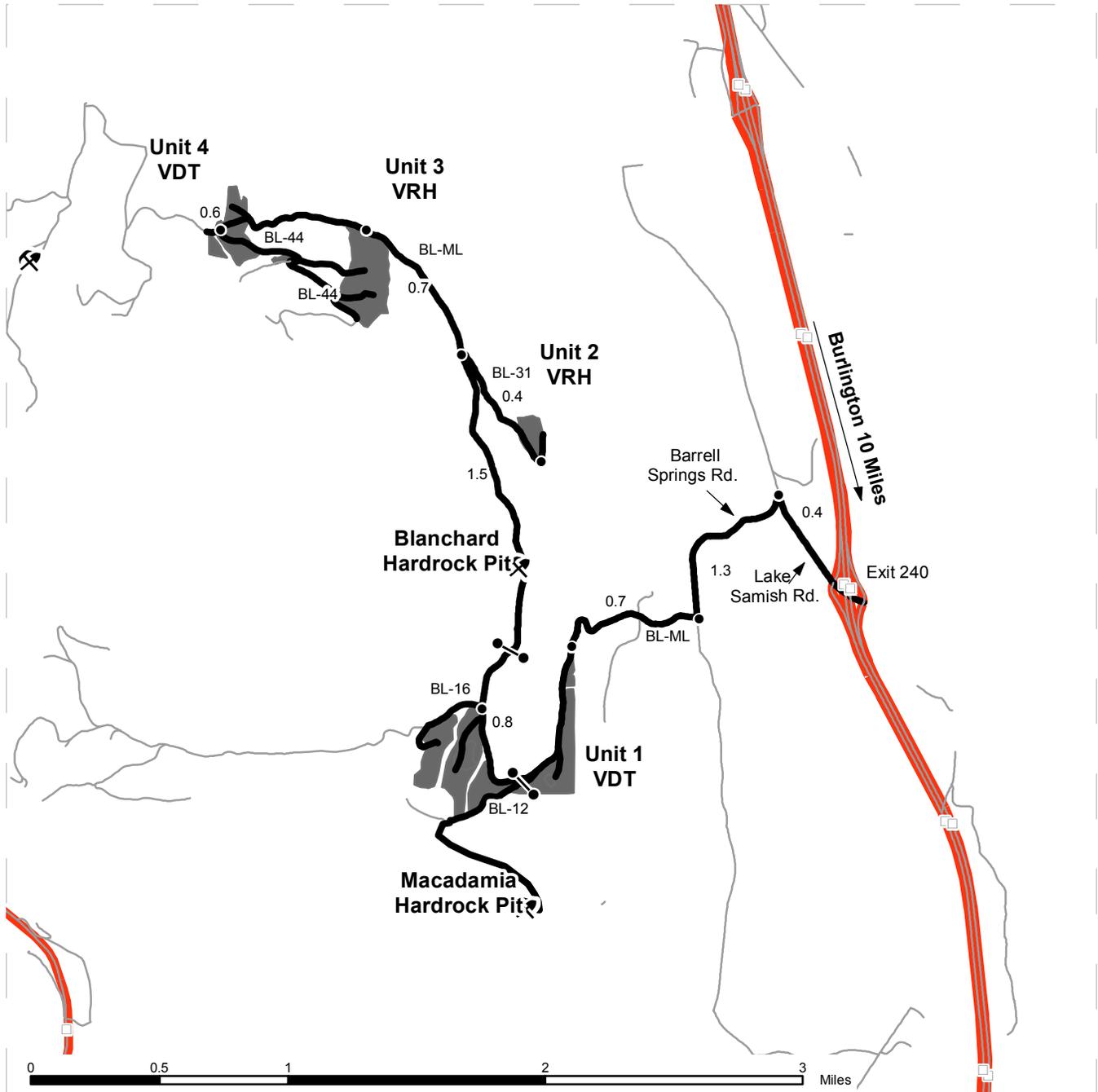
**Harvest Area ~135 Acres**  
 Approximately  
 Unit 1 VDT: 63.2  
 Unit 1 Gaps: 5.0  
 Unit 2 VRH: 5.8  
 Unit 3 VRH: 31.7  
 Unit 4 VDT: 16  
 ROW: 3.0  
 Daylighting: 10.3

- |                            |                               |                   |
|----------------------------|-------------------------------|-------------------|
| Variable Retention Harvest | Riparian Mgt Zone             | Streams           |
| Variable Density Thinning  | Leave Tree Area               | Stream Type       |
| Gap Cut Area               | Wetland Mgt Zone              | Stream Type Break |
| Sale Boundary Tags         | Existing Roads                | Survey Corners    |
| Sale Boundary (No Tags)    | Old Grades / Trails           | Gate              |
| Right of Way Tags          | Required Pre-Haul Maintenance |                   |
| Special Mgt Area Tags      | Required Construction         |                   |
|                            | Optional Construction         |                   |

# DRIVING MAP

**SALE NAME:** WALNUT VDT&VRH CH  
**AGREEMENT#:** 92530  
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**REGION:** Northwest Region  
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- Timber Sale Unit
- Highways
- Other Route
- Haul Route
- Milepost Markers
- Distance Indicator
- Existing Rock Pit

**DRIVING DIRECTIONS:**

Driving Directions:  
 From I-5, Take exit 240 west on Lake Samish Rd for 0.4 mile and take a left on Barrel Springs Rd. Continue for 1.3 mile and turn right on the BL-ML.

Unit 1: Continue on BL-ML for 0.7 miles to the start of unit, and an additional 0.8 to the end of the unit.  
 Unit 2: Continue for an additional 1.5 miles on the BL-ML to the BL-31, turn right and follow for 0.4 mile.  
 Unit 3: From the junction of the BL-ML and the BL-31, continue 0.7 mile to the unit.  
 Unit 4: From Unit 3, continue 0.6 mile on the BL-ML to the unit.



**STATE OF WASHINGTON  
DEPARTMENT OF NATURAL RESOURCES**

**LOG SALE AND PURCHASE CONTRACT**

**AGREEMENT NO. 30-093663**

**SALE NAME: Walnut Sort 08**

**THE STATE OF WASHINGTON DEPARTMENT OF NATURAL RESOURCES, HEREINAFTER ACTING SOLELY, IN ITS PROPRIETARY CAPACITY, STATE, AND PURCHASER, AGREE AS FOLLOWS:**

**Section G: General Terms**

**G-001.2 Definitions**

The following definitions apply throughout this contract;

**Contract Administrator:** Region Manager's designee responsible for assuring that the contractual obligations of the Purchaser and Contractor are met.

**Contractor:** State-selected harvester responsible to perform all duties as required by the Harvesting Services Contract, including but not limited to timber harvesting, road construction, debris removal and piling, hauling and delivery of forest products for weighing and/or scaling, to the Purchasers of the timber sales Sorts.

**Delivery:** Occurs when logs or forest products meeting the sorting specifications arrive at the Purchasers destination, as described in the contract.

**Forest Product:** Any material derived from the forest for commercial use.

**Harvesting:** A general term, referring to the Contractor's various obligations under the Harvesting Services Contract.

Harvesting Services Contract: Contract between the Contractor and the State, which sets forth the procedures and obligations of the Contractor for completing the harvesting of timber, and the delivery of various log sorts to the State’s purchasers, and the payment obligations of the State, The Harvesting Services Contract will include a Road Plan for any road construction or reconstruction, where applicable.

Log Sale and Purchase Contract: Purchase Agreement between the State and Purchaser(s) of particular log sorts from the timber sale.

Purchaser: The company or individual that has entered a Log Sale Contract with the State for individual log sorts from the timber sale area. The Contractor must deliver the designated log sorts to this company or individual. Contractor will likely be delivering different log sorts to different purchasers under the Harvesting Services Contract.

State: The Washington State Department of Natural Resources, landowner and seller of forest products from the timber sale area. The State is represented by the Region Manager as designated on the contract signature page. Contractual obligations to the State are enforced by the Region Manager or the designated Contract Administrator.

**G-010.2 Products Sold and Sale Area**

Purchaser was the successful bidder on July 27, 2016 and sale was confirmed on \_\_\_\_\_. The State, as owner, agrees to sell and deliver to the Purchaser logs meeting the log sort specifications as described in the G-022.2 clause. Logs will be delivered from the WALNUT VDT and VRH Sorts Timber Sale described as parts of Sections 2, 3, 11, and 14 all in Township 36 North, Range 3 East W.M., in Skagit County.

**G-022.2 Sorting Specifications**

Purchaser shall accept and pay for delivery of log sorts by a state selected contractor to the designated Purchaser location that meets the following specifications:

Agreement No.	Sort #	Description	Destination
93663	8	HARDWOOD UTILITY (except cottonwood) 4" + SED	

Unless otherwise specified, no blue stain is allowed in Ponderosa pine.

**G-024.2 Manufacturing Standards**

All forest products except poles, produced and sold under this contract will be manufactured to maximize the amount of logs meeting preferred log lengths and to achieve the average log length listed.

Agreement No.	Sort #	Scaling Rule
93663	08	WS

Average Log Length	Preferred Log Lengths

"WS" indicates that west side scaling rules apply. Minimum trim is 8 inches per scaling segment for west side scaling rules. "ES" indicates that east side scaling rules apply. Minimum trim is 4 inches per scaling segment for east side scaling rules.

Poles produced under this contract will be manufactured to ANSI specifications (American National Standard Specifications and Dimensions for Wood Poles), in force at the time of signing this contract.

- a. Sweep will be limited to within the bole of the log as measured using a tape stretched between the centers of each end of the log.
- b. Logs approved by the state for peelers shall be chuckable with no more than a 2 inch diameter area of rot within a 5 inch diameter circle located at the center of either end of the log.
- c. Limbs and knots shall be cut flush, with no more than 15 percent of a log having limbs or knots over 2 inches in diameter extending more than 2 inches above the surface of the log.
- d.

#### **G-026.2 Log Delivery Destination**

Purchaser shall accept logs delivered to the destination as described in the G-022.2 clause. Purchaser may make a written request to the State for a change in log delivery destination or scaling or weighing location. If agreeable and in the best interest of the State, the State may approve the Purchaser's request. Written approval must be granted by the State prior to log delivery to a new destination or use of a new scaling or weighing facility.

Increased haul distance shall result in an increase in the P-028.2 log delivery payment rate in an amount to be calculated by the State. In no circumstance shall the payment rate for delivered logs be reduced as a result of a state approved delivery destination or scaling or weighing facility change.

Purchaser may refuse loads delivered to the wrong destination.

#### **G-027.2 Log Delivery Schedule and Conditions**

- a. Delivery hours - Purchaser agrees to accept logs from the Contractor at the Purchaser's delivery location during Purchaser's working hours or at least between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, except legal holidays unless otherwise agreed upon by the State.

- b. Improperly loaded trucks - It is understood and agreed that the Purchaser incurs no obligation to accept improperly or illegally loaded trucks in its facility. Any truck so loaded may be directed to vacate the yard and shall remain the responsibility of the harvesting contractor. The Purchaser shall notify the State within 24 hours of any load (s) rejected and specify the reasons why.
- c. Log Delivery Interruptions - Purchaser may schedule times in which delivery of logs will not be accepted. The Purchaser shall notify the Contract Administrator at least five (5) working days before the scheduled interruption or closure occurs. The duration of the log delivery interruption shall not exceed seven (7) consecutive working days or a total of ten (10) working days over the duration of the contract term. If Purchaser's scheduled delivery interruption exceeds contract requirements and causes the State harm, Purchaser will be in breach of contract and subject to liquidated damages as per the D-026.2 and D-027.2 clauses, unless Purchaser and the State have made a prior agreement in writing to mitigate potential harm to the State.
- d. Required Acceptance of Daily Load Deliveries and Notification - If the State is harmed by purchaser's refusal to accept up to DATA MISSING truck deliveries of any one sort per day, Purchaser will be in breach of contract and subject to damages as per the D-026.2 and D-027.2 clauses. A truck delivery is all the wood delivered including sorts on super trucks, mule trains and pups brought to the delivery point by a single truck. The Purchaser shall notify the Contract Administrator at least 48 hours in advance if:
  - 1. Purchaser intends to limit the number of truck deliveries accepted on any day to less than that listed above, or
  - 2. Purchaser intends to limit the number of truck deliveries accepted on any day to the number listed above.
- e. State Notification to Purchaser - The State will notify the Purchaser when it anticipates or schedules an interruption of deliveries and when it anticipates the number of truck deliveries on any day will exceed the number listed above.
- f. If payments are not received or, the State determines that the payment security has become unsatisfactory or, a demand is made against the payment security under the P-045.2 clause the State shall suspend deliveries until such time as the violation has been remedied. Any suspension of deliveries due to late payment or inadequate payment security will be considered a Log Delivery Interruption under (c) of this clause.

**G-030.2 Contract Term and Expiration Date**

Purchaser agrees to accept and pay for forest products delivered through the period ending January 6, 2017.

**G-054.2 Early Contract Termination**

The State may terminate this contract in whole or in part by giving fifteen (15) days written notice to the Purchaser when it is in the best interests of the State. If this contract is so terminated, the State shall be liable only for the return of that portion of the initial deposit that is not required for payment, and the return of unapplied payments. The State shall not be liable for damages, whether direct or consequential.

**G-056.2 Force Majeure**

No Party shall be liable for any failure to perform its obligations, other than payments due, where such failure is as a result of Acts of Nature (including fire, flood, earthquake, storm, or other natural disaster), war, act of foreign enemies, hostilities (whether war is declared or not), terrorist activities, government sanction, fire, labor dispute, strike or lockout.

Any Party asserting Force Majeure as an excuse shall have the burden of proving that reasonable steps were taken (under the circumstances) to minimize delay or damages caused by foreseeable events, that all non-excused obligations were substantially fulfilled, and that the other Party was timely notified of the likelihood or actual occurrence which would justify such an assertion, so that other prudent precautions could be contemplated.

In the event of Force Majeure, the State reserves the right to terminate this agreement in accordance with clause G-054.2 'Early Contract Termination'.

**G-060.2 Exclusion of Warranties**

The PARTIES AGREE that the IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE and ALL OTHER WARRANTIES EXPRESSED OR IMPLIED ARE EXCLUDED from this transaction and shall not apply to the goods to be harvested or sold. For example, THE FOLLOWING SPECIFIC MATTERS ARE NOT WARRANTED, and are EXCLUDED from this transaction:

- a. The MERCHANTABILITY of the forest products. The use of the term "merchantable" in any document is not intended to vary the foregoing.
- b. The CONDITION of the forest products. The forest products will be conveyed "AS IS."
- c. THE VOLUME, WEIGHT, QUANTITY, OR QUALITY, of the forest products to be harvested. The descriptions of the forest products to be conveyed, are estimates only, made solely for administrative and identification purposes. The timing of forest product deliveries.

d. Items contained in any other documents prepared for or by the State.

**G-065 Regulatory Disclaimer**

The State disclaims any responsibility for, or liability relating to, regulatory actions by any government agency, including actions pursuant to the Forest Practices Act, Ch. 76.09 RCW that may affect the operability of the timber sale.

**G-070.2 Limitation on Damage**

In the event of a breach of any provision of this contract by the State, the liability of the State shall be limited to return of the unused initial deposit and unapplied payments to the Purchaser. The State shall not be liable for any damages, whether direct, incidental, or consequential.

**G-112.2 Title**

The State hereby warrants that State is the owner of said logs and has the right to sell same, free of liens, encumbrances, or claims, but subject to trade restrictions promulgated in WAC 240-15-015. Purchaser assumes title and all risk and responsibility for said logs upon delivery.

**G-116.2 Sustainable Forestry Initiative® (SFI) Certification**

Forest products purchased under this contract are certified as being in conformance with the Sustainable Forestry Initiative program Standard under certificate number: BV-SFIS-US09000572.

**G-160.2 Agents**

The State's rights and duties will be exercised by the Region Manager at Sedro Woolley, Washington. The Region Manager will notify Purchaser in writing who is responsible for administering the contract. The Region Manager has sole authority to waive, modify, or amend the terms of this contract in the manner prescribed in clause G-180. No agent, employee, or representative of the State has any authority to bind the State to any affirmation, representation, or warranty concerning the logs conveyed beyond the terms of this contract.

The Purchaser agrees to notify the State in writing of their authorized representative at the log delivery destination who will be readily available and who shall be authorized to receive, on behalf of the Purchaser any instructions or notices given by the State in regard to performance under this contract, and any limits to this person's authority.

**G-180 Modifications**

Waivers, modifications, or amendments of the terms of this contract must be in writing signed by Purchaser and the State.

**G-190 Contract Complete**

This contract is the final expression of the Parties' agreement. There are no understandings, agreements, or representations, expressed or implied, which are not specified in this contract.

**G-200.2 Notice**

Notices required to be given under the following clauses shall be in writing and shall be delivered to the State or Purchaser's authorized agent or sent by certified mail to the Purchaser's post office address, so that their receipt may be acknowledged.

G-026.2 Log Delivery Destination

G-027.2 Log Delivery and Schedule Conditions

G-210.2 Violation of Contract

All other notices required to be given under this contract shall be in writing and delivered to their respective authorized agent or mailed to the Party's post office address. Parties agree to notify the other of any change of mailing address.

**G-210.2 Violation of Contract**

- a. If Purchaser violates any provision of this contract, the Contract Administrator, by written notice, may suspend delivery of further loads of forest products. If the violation is capable of being remedied, the Purchaser has five (5) days after receipt of suspension notice to remedy the violation. If the violation cannot be remedied (such as violation of WAC 240-15-015) or Purchaser fails to remedy the violation within five (5) days after receipt of a suspension notice, the State may terminate the rights of the Purchaser under this contract and collect damages as described in the damages clause in this contract.
- b. The State has the right to remedy the breach in the absence of any indicated attempt by the Purchaser or if Purchaser is unable, as determined by the State, to remedy the breach. Any expense incurred by the State shall be charged to Purchaser and shall be paid within thirty (30) days of receipt of billing.
- c. If Purchaser's violation is a result of a failure to make payment to the State when due, in addition to (a.) above, interest shall accrue on the unpaid balance at 12 percent per annum, beginning the date payment was due. The State may secure payments from the security provided.

**G-240.2 Dispute Resolution**

The following procedures apply in the event of a dispute regarding interpretation or administration of this contract and the parties agree that these procedures must be followed before a lawsuit can be initiated.

- a. In the event of a dispute, Purchaser must make a written request to the Region Manager for resolution prior to seeking other relief.
- b. The Region Manager will issue a written decision on Purchaser's request within five business days.

- c. Within five business days of receipt of the Region Manager's decision, the Purchaser may make a written request for resolution to the Deputy Supervisor - Uplands of the Department of Natural Resources.
- d. Unless otherwise agreed, the Deputy Supervisor - Uplands will hold a conference within 15 calendar days of the receipt of Purchaser's request for review of the Region Manager's written decision. Purchaser and the Region Manager will have an opportunity to present their positions. The Deputy Supervisor - Uplands will issue a decision within a reasonable time of being presented with both Parties' positions.

**G-252.2 Forest Excise Tax**

Purchaser shall be responsible for payment of all forest excise taxes pursuant to chapter 84.33 RCW.

**G-253.2 Harvesting Cost Information**

The State agrees to supply all harvesting cost information to the Purchaser for their consideration in payment of forest excise taxes.

**G-260 Venue**

This contract shall be governed by the laws of the State of Washington. In the event of a lawsuit involving this contract, venue shall be proper only in Thurston County Superior Court.

**G-330.2 Contract Review**

Purchaser may arrange with the Contract Administrator to review the provisions of this contract prior to the delivery of forest products.

**Section P: Payments and Securities****P-010 Initial Deposit**

Purchaser paid DATA MISSING initial deposit, which will be maintained pursuant to RCW 79.15.100(3). If the operating authority on this contract expires without Purchaser's payment of the full amount specified in the 'Payment for Forest Products' clause, the initial deposit will be immediately forfeited to the State, and will be offset against Purchaser's remaining balance due. Any excess initial deposit funds not needed to ensure full payment of the contract price, or not needed to complete any remaining obligations of the Purchaser existing after contract expiration, will be refunded to the Purchaser.

**P-028.2 Payment for Forest Products Delivered**

Purchaser agrees to pay the State for delivered forest products at the following rate:

\$0.00/Ton

Purchaser agrees to increase the above delivered payment rate as approved by the State in the event the location of delivery is changed per the G-026.2 clause.

**P-036.2 Missorts and Payment Reduction for Delivered Forest Products**

Forest Products delivered that do not meet the sorting specifications in G-022.2 where species are incorrect, are scaled over 1” outside the listed diameter specifications, or ponderosa pine with blue stain are considered mis-sorts.

However, when mis-sorted Forest Products amount to more than 3% of the total delivered sort volume, Purchaser may request approval for payment reduction for delivered volume exceeding the mis-sort threshold.

Requests for payment reduction must be submitted to the State in writing prior to contract expiration. Eligibility for mis-sort payment reduction is subject to State approval and shall be determined by the State’s delivered product analysis. Forest Products determined by the State eligible for mis-sort price reduction are not eligible for any other price adjustments.

Payment reduction for Forest Products deemed mis-sorted will be calculated as follows:

$$\text{Payment Reduction} = (B \times M) \times R$$

Where:

B = Bid rate from P-028.2 clause

M = Mis-sorted volume exceeding threshold excluding utility

R = Reduction factor

0.3 for mis-sort except for blue stain

0.4 for mis-sort related to blue stain

Third party scaling organization information is required to determine Scribner mbf for payment reduction purposes. Value will be derived from the applicable sort value as described in this contract.

Scale information for determining mis-sort payment reduction eligibility must be obtained from roll-out scale. Truck-ramp and/or bundle scaling information is not acceptable for determining eligibility.

Purchaser’s exclusive remedy for mis-sorts shall be the payment reduction described in this clause, notwithstanding other provisions in the Uniform Commercial Code

**P-037.2 Mismatch and Payment Reduction for Delivered Forest Products**

Forest Products delivered that do not meet preferred log length specifications or multiples or combinations of preferred lengths and Forest Products delivered not meeting minimum log quality specifications as described in the G-024.2 clause are considered mis-manufactured. Purchaser receiving mis-manufactured Forest Products is required to pay the State at the bid price under this contract.

However, when mis-manufactured Forest Products amount to more than 5% of the total delivered sort volume, Purchaser may request approval for payment reduction for delivered volume exceeding the mis-manufacture threshold.

Requests for payment reduction must be submitted to the State in writing prior to contract expiration. Eligibility for mis-manufacture payment reduction is subject to State approval and shall be determined by the State's delivered product analysis. Forest Products determined by the State eligible for mis-manufacture price reductions are not eligible for any other price adjustments.

Payment reduction for Forest Products deemed mis-manufactured will be calculated as follows:

$$\text{Payment Reduction} = (B \times M) \times (0.2)$$

Where:

B = Bid rate from P-028.2 clause

M = Mis-manufactured volume exceeding threshold excluding utility

Third party scaling organization information is required to determine Scribner mbf for payment reduction purposes. Value will be derived from the applicable sort value as described in this contract.

Scale information for determining mis-manufacture payment reduction eligibility must be obtained from roll-out scale. Truck-ramp and/or bundle scaling information is not acceptable for determining eligibility.

Purchaser's exclusive remedy for mis-manufacture shall be the payment reduction described in this clause, notwithstanding other provisions in the Uniform Commercial Code.

### **P-039.2 Tonnage Sort Payment Reduction Requirements**

Purchaser must provide a plan in writing, acceptable to the State, to acquire third party Scribner mbf scaling information in order to be eligible for a payment reduction for a tonnage sort according to clauses P-036.2 or P-037.2. Logs delivered and accepted by the Purchaser prior to the State's acceptance of Purchaser's written payment reduction plan are not eligible for payment reduction.

Failure of Purchaser to provide sample scale data in a timely, accurate and legible basis will void an approved sample scale plan.

An approved payment reduction plan can be voided at the sole discretion of the State.

For the purpose of tonnage sort payment reduction requests, preferred log lengths for tonnage sawlog sorts shall include the following plus any additional lengths identified in clause G-024.2:

Species Type	Preferred Lengths
Conifer Sorts	16', 20', 24', 26', 32', 40'
Hardwood Sorts	18', 20', 26', 28', 30', 36', 38', 40'

#### **P-040.2 Weighing and Scaling Costs**

Purchaser agrees to pay for all weighing costs for logs delivered regardless if logs are purchased on a weight or scale basis. In addition, Purchaser agrees to pay for all scaling costs for logs delivered on a scale basis. Purchaser also agrees to pay for all costs associated with the transmission and reporting of scale or weight data.

#### **P-045.2 Guarantee of Payment**

Prior to the delivery of forest products and at a date determined by the State, Purchaser shall guarantee payment to the State for products delivered by posting with the State an approved payment security. If the Purchaser has purchased more than one sort, the payment securities may be consolidated for all the sorts. Acceptable payment security includes cash, certificate of deposit assignment, payment bond, savings account assignment, or irrevocable bank letter of credit.

The amount of payment security shall be determined by the State. The amount of payment security shall represent at least 30 days value of forest product deliveries. Payment security for products delivered will be used to guarantee payment to the State for late or non-payments.

If at any time the State determines that the security has become unsatisfactory or a demand is made against the payment security, the Purchaser agrees to increase the amount or replace the security with one acceptable to the state within 5 business days. Failure to increase the amount or replace the security is considered a breach of contract.

#### **P-050.2 Billing and Payment Procedure for Forest Products Delivered**

The State will compute and forward to Purchaser a billing statement of charges for forest products delivered during the billing period at the delivered rate shown in P-028.2 clause. After receipt of the billing statement, Purchaser's payment must be received by the Department of Natural Resources on or before the due date shown on the billing statement. Purchaser agrees to make payment, payable to the Department of Natural Resources. Failure to pay on time for forest products delivered is considered a breach of contract.

Included with the billing statement will be a summary report for the billing period compiled by the State or their log and load reporting service.

The State will adjust final billings to account for any State approved payment reductions.

#### **P-080 Payment Account Refund**

Advance payments made under P-045 or P-045.2 remaining on account above the value for the charges shall be returned to Purchaser within 30 days following the final report

of charges. Refunds not made within the 30 day period will accrue interest at the interest rate, as established by WAC 332-100-030, computed on a daily basis until paid.

## **Section L: Log Definitions and Accountability**

### **L-010.2 Forest Products Conveyed**

Forest products conveyed are logs or parts of logs delivered meeting the sorting criteria defined by clauses G-022.2 and G-024.2 of this contract

### **L-014.2 Sorts Delivered to Incorrect Destination**

Purchaser has agreed to purchase the sort as described in the G-022.2 clause. In the event a load from a different sort is delivered to Purchaser, Purchaser may reject the load. If Purchaser receives an incorrectly delivered load, they shall notify the State within 24 hours. If the Purchaser accepts the load, provisions in the P-035.2 or P-036.2 clause may apply.

### **L-071.2 Log and Load Reporting Service**

This contract may at the States discretion, require the services of a State approved third party log and load reporting service. Purchaser shall ensure log volume measurement, weight, or scale and weight data for each load is received by the log and load reporting service within 1 business day of logs being measured or weighed.

If during the term of this contract, the State discontinues use of the Log and Load Reporting Service, the State will notify the Purchaser in writing, and will approve an alternative log and load reporting process.

### **L-080 Scaling Rules**

Determination of volume and grade of any forest products shall be conducted by a state approved third party scaling organization and in accordance with the Westside log scaling and grading rules and Scribner Volume Table, revised July 1, 1972, contained in the Northwest Log Rules Eastside and Westside Log Scaling Handbook (developed and produced by the Northwest Log Rules Advisory Group) and in effect on the date of confirmation of this contract.

Special scaling specifications shall be noted on the State's Brand Designation form which is hereby incorporated to this contract by reference.

### **L-110 State Approval of Log Scaling and Weighing Locations**

Forest Product measurement and weighing facilities required by this contract must be approved by the State. Forest products sold under the contract which require log scaling shall be scaled, measured, or counted by a State approved third party log scaling organization. Forest products sold under the contract which require weighing shall be weighed at a location that meets Washington State Department of Agriculture approval.

Prior to forest products being hauled, the Contract Administrator must authorize in writing the use of State approved measurement and/or weighing facilities that are at or en-route to final destinations. Forest products from this sale shall be measured or weighed at facilities, which are currently approved for use by the State and are

currently authorized for this sale. The State reserves the right to verify load volume and weights with State employees or contractors at the State's own expense. The State reserves the right to revoke the authorization of previously approved measurement locations.

## **Section D: Damages**

### **D-010 Liquidated Damages**

The clauses in the DAMAGES section of this contract provide for payments by Purchaser to the State for certain breaches of the terms of this contract. These payments are agreed to as liquidated damages and not as penalties. They are reasonable estimates of anticipated harm to the State caused by Purchaser's breach. These liquidated damages provisions are agreed to by the State and Purchaser with the understanding of the difficulty of proving loss and the inconvenience or infeasibility of obtaining an adequate remedy. These liquidated damages provisions provide greater certainty for the Purchaser by allowing the Purchaser to better assess its responsibilities under the contract.

### **D-026.2 Damages for Delivery Interruptions and Load Non-Acceptance**

- a. Purchaser's failure to accept delivery of forest products due to an extended delivery interruption exceeding the limits as described in the G-027.2 (c) clause, results in substantial injury to the State. The Purchaser shall pay the State liquidated damages at a rate of \$1,000.00 per each day of breach, until breach is remedied.
- b. Unless Purchaser and the State have made a prior agreement in writing, Purchaser's failure to accept at least the number of delivered loads as described in the G-027.2 (d) clause, results in substantial injury to the State. The Purchaser shall pay the State liquidated damages at a rate of \$200 per each truck delivery not accepted, until breach is remedied.

### **D-027.2 Failure to Accept Forest Products Sold**

Purchaser's failure to accept all or part of the forest products sold in this agreement prior to expiration or completion of the contract results in substantial injury to the State. Except for reasons other than 'Force Majeure' (G-056.2), either section a. or b. below will apply as determined by the State.

- a. When Purchaser's refusal to accept forest products does not prevent further harvesting operations, or forest products can be re-sold to another buyer acceptable to the State, Purchaser shall be liable for and pay State for actual damages plus costs, as determined by the State associated with the administration and re-sale of forest products not accepted by Purchaser under the terms of this contract.
- b. When Purchaser's refusal to accept forest products causes a stoppage of the State's harvesting operations and prevents the State from further harvest of the sale area, the actual damage to the State and associated costs are difficult to

assess. The remaining value of all the forest products left in the sale area once the stoppage occurs is not readily ascertainable. Purchaser's failure to perform disrupts the State's management plans. Therefore, Purchaser agrees to pay the State as liquidated damages, a sum calculated using the following formula:

$$LD = (.35V - I) + C + A - P$$

Where:

- LD = Liquidated Damages  
 V = The stumpage value remaining in the sale area at the date of work stoppage. This will be determined by multiplying the contract bid rate contained in the P-028.2 clause for all sorts originating in the sale area, by the State's estimate of the remaining volume, less the cost of harvesting and delivery associated with each sort.  
 I = Initial Deposit  
 C = Costs associated with required harvesting services and road construction services prior to work stoppage but not amortized or paid.  
 A = Administrative fee = \$2,500.00  
 P = Advance payments received exceeding the value of logs delivered under this contract.

The above formula reflects the Purchaser's forfeiture of the initial deposit in accordance with clause P-010 by deducting the initial deposit from the amount owed. In no event shall the liquidated damages be less than zero. Interest on the liquidated damage is owed from the date of the work stoppage until final payment, calculated using the following formula:

$$\text{Interest} = r \times LD \times N$$

Where:

r = daily equivalent of an annual interest at current interest rate as established by WAC 332-100-030.

N = Number of days from work stoppage to time of payment

### **D-030.2 Inadequate Log Accountability**

Failure to provide weighing and third party scaling information result in substantial injury to the State. The potential loss of accountability is not readily ascertainable. These contractual breaches result in an increase in the potential for the delivery of forest products for which the State receives inadequate payment and causes an increase in the State's administration costs associated with this contract. The actual costs of these breaches are difficult to assess.

For these reasons, Purchaser's payments for forest product delivery under this contract will be increased in the following amounts, as liquidated damages, to compensate the State for these breaches: \$250.00 each time a load weight is not provided as required by the contract, and \$250.00 each time load scale data is not determined and provided by a State approved third party scaling organization in accordance with this contract.

IN WITNESS WHEREOF, the Parties hereto have entered into this contract.

STATE OF WASHINGTON  
DEPARTMENT OF NATURAL RESOURCES

\_\_\_\_\_  
Purchaser

\_\_\_\_\_  
Jean Fike  
Northwest Region Manager

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Address:

CORPORATE ACKNOWLEDGEMENT

STATE OF \_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_

\_\_\_\_\_ to me known to be the \_\_\_\_\_ of the corporation

that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of the corporation, for the uses and purposes therein mentioned, and on oath stated that (he/she was) (they were) authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
Notary Public in and for the State of

\_\_\_\_\_  
My appointment expires \_\_\_\_\_

**STATE OF WASHINGTON  
DEPARTMENT OF NATURAL RESOURCES**

**LOG SALE AND PURCHASE CONTRACT**

**AGREEMENT NO. 30-094310**

**SALE NAME: Walnut Sort 09**

**THE STATE OF WASHINGTON DEPARTMENT OF NATURAL RESOURCES, HEREINAFTER ACTING SOLELY, IN ITS PROPRIETARY CAPACITY, STATE, AND PURCHASER, AGREE AS FOLLOWS:**

**Section G: General Terms**

**G-001.2 Definitions**

The following definitions apply throughout this contract;

**Contract Administrator:** Region Manager's designee responsible for assuring that the contractual obligations of the Purchaser and Contractor are met.

**Contractor:** State-selected harvester responsible to perform all duties as required by the Harvesting Services Contract, including but not limited to timber harvesting, road construction, debris removal and piling, hauling and delivery of forest products for weighing and/or scaling, to the Purchasers of the timber sales Sorts.

**Delivery:** Occurs when logs or forest products meeting the sorting specifications arrive at the Purchasers destination, as described in the contract.

**Forest Product:** Any material derived from the forest for commercial use.

**Harvesting:** A general term, referring to the Contractor's various obligations under the Harvesting Services Contract.

Harvesting Services Contract: Contract between the Contractor and the State, which sets forth the procedures and obligations of the Contractor for completing the harvesting of timber, and the delivery of various log sorts to the State’s purchasers, and the payment obligations of the State, The Harvesting Services Contract will include a Road Plan for any road construction or reconstruction, where applicable.

Log Sale and Purchase Contract: Purchase Agreement between the State and Purchaser(s) of particular log sorts from the timber sale.

Purchaser: The company or individual that has entered a Log Sale Contract with the State for individual log sorts from the timber sale area. The Contractor must deliver the designated log sorts to this company or individual. Contractor will likely be delivering different log sorts to different purchasers under the Harvesting Services Contract.

State: The Washington State Department of Natural Resources, landowner and seller of forest products from the timber sale area. The State is represented by the Region Manager as designated on the contract signature page. Contractual obligations to the State are enforced by the Region Manager or the designated Contract Administrator.

**G-010.2 Products Sold and Sale Area**

Purchaser was the successful bidder on July 27, 2016 and sale was confirmed on \_\_\_\_\_. The State, as owner, agrees to sell and deliver to the Purchaser logs meeting the log sort specifications as described in the G-022.2 clause. Logs will be delivered from the WALNUT VDT and VRH Sorts Timber Sale described as parts of Sections 2, 3, 11, and 14 all in Township 36 North, Range 3 East W.M., in Skagit County.

**G-022.2 Sorting Specifications**

Purchaser shall accept and pay for delivery of log sorts by a state selected contractor to the designated Purchaser location that meets the following specifications:

<b>Agreement No.</b>	<b>Sort #</b>	<b>Description</b>	<b>Destination</b>
94310	9	RA Sawlog 7"	

Unless otherwise specified, no blue stain is allowed in Ponderosa pine.

**G-024.2 Manufacturing Standards**

All forest products except poles, produced and sold under this contract will be manufactured to maximize the amount of logs meeting preferred log lengths and to achieve the average log length listed.

<b>Agreement No.</b>	<b>Sort #</b>	<b>Scaling Rule</b>
94310	09	WS

Average Log Length	Preferred Log Lengths
26	

"WS" indicates that west side scaling rules apply. Minimum trim is 8 inches per scaling segment for west side scaling rules. "ES" indicates that east side scaling rules apply. Minimum trim is 4 inches per scaling segment for east side scaling rules.

Poles produced under this contract will be manufactured to ANSI specifications (American National Standard Specifications and Dimensions for Wood Poles), in force at the time of signing this contract.

- a. Sweep will be limited to within the bole of the log as measured using a tape stretched between the centers of each end of the log.
- b. Logs approved by the state for peelers shall be chuckable with no more than a 2 inch diameter area of rot within a 5 inch diameter circle located at the center of either end of the log.
- c. Limbs and knots shall be cut flush, with no more than 15 percent of a log having limbs or knots over 2 inches in diameter extending more than 2 inches above the surface of the log.
- d.

#### **G-026.2 Log Delivery Destination**

Purchaser shall accept logs delivered to the destination as described in the G-022.2 clause. Purchaser may make a written request to the State for a change in log delivery destination or scaling or weighing location. If agreeable and in the best interest of the State, the State may approve the Purchaser's request. Written approval must be granted by the State prior to log delivery to a new destination or use of a new scaling or weighing facility.

Increased haul distance shall result in an increase in the P-028.2 log delivery payment rate in an amount to be calculated by the State. In no circumstance shall the payment rate for delivered logs be reduced as a result of a state approved delivery destination or scaling or weighing facility change.

Purchaser may refuse loads delivered to the wrong destination.

#### **G-027.2 Log Delivery Schedule and Conditions**

- a. Delivery hours - Purchaser agrees to accept logs from the Contractor at the Purchaser's delivery location during Purchaser's working hours or at least between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, except legal holidays unless otherwise agreed upon by the State.
- b. Improperly loaded trucks - It is understood and agreed that the Purchaser incurs no obligation to accept improperly or illegally loaded trucks in its facility. Any truck so loaded may be directed to vacate the yard and shall

remain the responsibility of the harvesting contractor. The Purchaser shall notify the State within 24 hours of any load (s) rejected and specify the reasons why.

- c. Log Delivery Interruptions - Purchaser may schedule times in which delivery of logs will not be accepted. The Purchaser shall notify the Contract Administrator at least five (5) working days before the scheduled interruption or closure occurs. The duration of the log delivery interruption shall not exceed seven (7) consecutive working days or a total of ten (10) working days over the duration of the contract term. If Purchaser's scheduled delivery interruption exceeds contract requirements and causes the State harm, Purchaser will be in breach of contract and subject to liquidated damages as per the D-026.2 and D-027.2 clauses, unless Purchaser and the State have made a prior agreement in writing to mitigate potential harm to the State.
- d. Required Acceptance of Daily Load Deliveries and Notification - If the State is harmed by purchaser's refusal to accept up to DATA MISSING truck deliveries of any one sort per day, Purchaser will be in breach of contract and subject to damages as per the D-026.2 and D-027.2 clauses. A truck delivery is all the wood delivered including sorts on super trucks, mule trains and pups brought to the delivery point by a single truck. The Purchaser shall notify the Contract Administrator at least 48 hours in advance if:
  1. Purchaser intends to limit the number of truck deliveries accepted on any day to less than that listed above, or
  2. Purchaser intends to limit the number of truck deliveries accepted on any day to the number listed above.
- e. State Notification to Purchaser - The State will notify the Purchaser when it anticipates or schedules an interruption of deliveries and when it anticipates the number of truck deliveries on any day will exceed the number listed above.
- f. If payments are not received or, the State determines that the payment security has become unsatisfactory or, a demand is made against the payment security under the P-045.2 clause the State shall suspend deliveries until such time as the violation has been remedied. Any suspension of deliveries due to late payment or inadequate payment security will be considered a Log Delivery Interruption under (c) of this clause.

### **G-030.2 Contract Term and Expiration Date**

Purchaser agrees to accept and pay for forest products delivered through the period ending January 6, 2017.

**G-054.2 Early Contract Termination**

The State may terminate this contract in whole or in part by giving fifteen (15) days written notice to the Purchaser when it is in the best interests of the State. If this contract is so terminated, the State shall be liable only for the return of that portion of the initial deposit that is not required for payment, and the return of unapplied payments. The State shall not be liable for damages, whether direct or consequential.

**G-056.2 Force Majeure**

No Party shall be liable for any failure to perform its obligations, other than payments due, where such failure is as a result of Acts of Nature (including fire, flood, earthquake, storm, or other natural disaster), war, act of foreign enemies, hostilities (whether war is declared or not), terrorist activities, government sanction, fire, labor dispute, strike or lockout.

Any Party asserting Force Majeure as an excuse shall have the burden of proving that reasonable steps were taken (under the circumstances) to minimize delay or damages caused by foreseeable events, that all non-excused obligations were substantially fulfilled, and that the other Party was timely notified of the likelihood or actual occurrence which would justify such an assertion, so that other prudent precautions could be contemplated.

In the event of Force Majeure, the State reserves the right to terminate this agreement in accordance with clause G-054.2 'Early Contract Termination'.

**G-060.2 Exclusion of Warranties**

The PARTIES AGREE that the IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE and ALL OTHER WARRANTIES EXPRESSED OR IMPLIED ARE EXCLUDED from this transaction and shall not apply to the goods to be harvested or sold. For example, THE FOLLOWING SPECIFIC MATTERS ARE NOT WARRANTED, and are EXCLUDED from this transaction:

- a. The MERCHANTABILITY of the forest products. The use of the term "merchantable" in any document is not intended to vary the foregoing.
- b. The CONDITION of the forest products. The forest products will be conveyed "AS IS."
- c. THE VOLUME, WEIGHT, QUANTITY, OR QUALITY, of the forest products to be harvested. The descriptions of the forest products to be conveyed, are estimates only, made solely for administrative and identification purposes. The timing of forest product deliveries.
- d. Items contained in any other documents prepared for or by the State.

**G-065 Regulatory Disclaimer**

The State disclaims any responsibility for, or liability relating to, regulatory actions by any government agency, including actions pursuant to the Forest Practices Act, Ch. 76.09 RCW that may affect the operability of the timber sale.

**G-070.2 Limitation on Damage**

In the event of a breach of any provision of this contract by the State, the liability of the State shall be limited to return of the unused initial deposit and unapplied payments to the Purchaser. The State shall not be liable for any damages, whether direct, incidental, or consequential.

**G-112.2 Title**

The State hereby warrants that State is the owner of said logs and has the right to sell same, free of liens, encumbrances, or claims, but subject to trade restrictions promulgated in WAC 240-15-015. Purchaser assumes title and all risk and responsibility for said logs upon delivery.

**G-116.2 Sustainable Forestry Initiative® (SFI) Certification**

Forest products purchased under this contract are certified as being in conformance with the Sustainable Forestry Initiative program Standard under certificate number: BV-SFIS-US09000572.

**G-160.2 Agents**

The State's rights and duties will be exercised by the Region Manager at Sedro Woolley, Washington. The Region Manager will notify Purchaser in writing who is responsible for administering the contract. The Region Manager has sole authority to waive, modify, or amend the terms of this contract in the manner prescribed in clause G-180. No agent, employee, or representative of the State has any authority to bind the State to any affirmation, representation, or warranty concerning the logs conveyed beyond the terms of this contract.

The Purchaser agrees to notify the State in writing of their authorized representative at the log delivery destination who will be readily available and who shall be authorized to receive, on behalf of the Purchaser any instructions or notices given by the State in regard to performance under this contract, and any limits to this person's authority.

**G-180 Modifications**

Waivers, modifications, or amendments of the terms of this contract must be in writing signed by Purchaser and the State.

**G-190 Contract Complete**

This contract is the final expression of the Parties' agreement. There are no understandings, agreements, or representations, expressed or implied, which are not specified in this contract.

**G-200.2 Notice**

Notices required to be given under the following clauses shall be in writing and shall be delivered to the State or Purchaser's authorized agent or sent by certified mail to the Purchaser's post office address, so that their receipt may be acknowledged.

G-026.2 Log Delivery Destination

G-027.2 Log Delivery and Schedule Conditions

G-210.2 Violation of Contract

All other notices required to be given under this contract shall be in writing and delivered to their respective authorized agent or mailed to the Party's post office address. Parties agree to notify the other of any change of mailing address.

**G-210.2 Violation of Contract**

- a. If Purchaser violates any provision of this contract, the Contract Administrator, by written notice, may suspend delivery of further loads of forest products. If the violation is capable of being remedied, the Purchaser has five (5) days after receipt of suspension notice to remedy the violation. If the violation cannot be remedied (such as violation of WAC 240-15-015) or Purchaser fails to remedy the violation within five (5) days after receipt of a suspension notice, the State may terminate the rights of the Purchaser under this contract and collect damages as described in the damages clause in this contract.
- b. The State has the right to remedy the breach in the absence of any indicated attempt by the Purchaser or if Purchaser is unable, as determined by the State, to remedy the breach. Any expense incurred by the State shall be charged to Purchaser and shall be paid within thirty (30) days of receipt of billing.
- c. If Purchaser's violation is a result of a failure to make payment to the State when due, in addition to (a.) above, interest shall accrue on the unpaid balance at 12 percent per annum, beginning the date payment was due. The State may secure payments from the security provided.

**G-240.2 Dispute Resolution**

The following procedures apply in the event of a dispute regarding interpretation or administration of this contract and the parties agree that these procedures must be followed before a lawsuit can be initiated.

- a. In the event of a dispute, Purchaser must make a written request to the Region Manager for resolution prior to seeking other relief.
- b. The Region Manager will issue a written decision on Purchaser's request within five business days.

- c. Within five business days of receipt of the Region Manager's decision, the Purchaser may make a written request for resolution to the Deputy Supervisor - Uplands of the Department of Natural Resources.
- d. Unless otherwise agreed, the Deputy Supervisor - Uplands will hold a conference within 15 calendar days of the receipt of Purchaser's request for review of the Region Manager's written decision. Purchaser and the Region Manager will have an opportunity to present their positions. The Deputy Supervisor - Uplands will issue a decision within a reasonable time of being presented with both Parties' positions.

#### **G-252.2 Forest Excise Tax**

Purchaser shall be responsible for payment of all forest excise taxes pursuant to chapter 84.33 RCW.

#### **G-253.2 Harvesting Cost Information**

The State agrees to supply all harvesting cost information to the Purchaser for their consideration in payment of forest excise taxes.

#### **G-260 Venue**

This contract shall be governed by the laws of the State of Washington. In the event of a lawsuit involving this contract, venue shall be proper only in Thurston County Superior Court.

#### **G-330.2 Contract Review**

Purchaser may arrange with the Contract Administrator to review the provisions of this contract prior to the delivery of forest products.

### **Section P: Payments and Securities**

#### **P-010 Initial Deposit**

Purchaser paid DATA MISSING initial deposit, which will be maintained pursuant to RCW 79.15.100(3). If the operating authority on this contract expires without Purchaser's payment of the full amount specified in the 'Payment for Forest Products' clause, the initial deposit will be immediately forfeited to the State, and will be offset against Purchaser's remaining balance due. Any excess initial deposit funds not needed to ensure full payment of the contract price, or not needed to complete any remaining obligations of the Purchaser existing after contract expiration, will be refunded to the Purchaser.

#### **P-028.2 Payment for Forest Products Delivered**

Purchaser agrees to pay the State for delivered forest products at the following rate:

\$0.00/MBF

\$20/mbf for Utility logs (Adjusted Gross).

Purchaser agrees to increase the above delivered payment rate as approved by the State in the event the location of delivery is changed per the G-026.2 clause.

**P-036.2 Missorts and Payment Reduction for Delivered Forest Products**

Forest Products delivered that do not meet the sorting specifications in G-022.2 where species are incorrect, are scaled over 1” outside the listed diameter specifications, or ponderosa pine with blue stain are considered mis-sorts.

However, when mis-sorted Forest Products amount to more than 3% of the total delivered sort volume, Purchaser may request approval for payment reduction for delivered volume exceeding the mis-sort threshold.

Requests for payment reduction must be submitted to the State in writing prior to contract expiration. Eligibility for mis-sort payment reduction is subject to State approval and shall be determined by the State’s delivered product analysis. Forest Products determined by the State eligible for mis-sort price reduction are not eligible for any other price adjustments.

Payment reduction for Forest Products deemed mis-sorted will be calculated as follows:

$$\text{Payment Reduction} = (B \times M) \times R$$

Where:

B = Bid rate from P-028.2 clause

M = Mis-sorted volume exceeding threshold excluding utility

R = Reduction factor

0.3 for mis-sort except for blue stain

0.4 for mis-sort related to blue stain

Third party scaling organization information is required to determine Scribner mbf for payment reduction purposes. Value will be derived from the applicable sort value as described in this contract.

Scale information for determining mis-sort payment reduction eligibility must be obtained from roll-out scale. Truck-ramp and/or bundle scaling information is not acceptable for determining eligibility.

Purchaser’s exclusive remedy for mis-sorts shall be the payment reduction described in this clause, notwithstanding other provisions in the Uniform Commercial Code

**P-037.2 Mismatch and Payment Reduction for Delivered Forest Products**

Forest Products delivered that do not meet preferred log length specifications or multiples or combinations of preferred lengths and Forest Products delivered not meeting minimum log quality specifications as described in the G-024.2 clause are considered mis-manufactured. Purchaser receiving mis-manufactured Forest Products is required to pay the State at the bid price under this contract.

However, when mis-manufactured Forest Products amount to more than 5% of the total delivered sort volume, Purchaser may request approval for payment reduction for delivered volume exceeding the mis-manufacture threshold.

Requests for payment reduction must be submitted to the State in writing prior to contract expiration. Eligibility for mis-manufacture payment reduction is subject to State approval and shall be determined by the State's delivered product analysis. Forest Products determined by the State eligible for mis-manufacture price reductions are not eligible for any other price adjustments.

Payment reduction for Forest Products deemed mis-manufactured will be calculated as follows:

$$\text{Payment Reduction} = (B \times M) \times (0.2)$$

Where:

B = Bid rate from P-028.2 clause

M = Mis-manufactured volume exceeding threshold excluding utility

Third party scaling organization information is required to determine Scribner mbf for payment reduction purposes. Value will be derived from the applicable sort value as described in this contract.

Scale information for determining mis-manufacture payment reduction eligibility must be obtained from roll-out scale. Truck-ramp and/or bundle scaling information is not acceptable for determining eligibility.

Purchaser's exclusive remedy for mis-manufacture shall be the payment reduction described in this clause, notwithstanding other provisions in the Uniform Commercial Code.

### **P-038.2 Average Log Length and Payment Reduction**

If the average log length for all logs delivered under this contract is less than the average log length specified in the table in clause G-024.2, The amount of allowable payment reduction shall be calculated by multiplying the payment rate in P-028.2 by the total volume delivered, and the difference between the average length of logs delivered and the average log length specified in G-024.2, times 1% as follows:

$$\text{Log Length Payment Reduction} = (B \times V \times L) \times (.01)$$

Where:

B = Bid rate from P-028.2 clause

V = total delivered log Volume

L = Length in feet below specified average (rounded to nearest

1/10th)

Third party scaling organization information is required to determine Scribner mbf and Average log length for payment reduction purposes. Average log length is determined on a piece count basis. Value of log length price reduction will be derived from the applicable sort value as described in this contract.

Scale information for determining Average log length for payment reduction eligibility must be obtained from roll-out scale. Truck-ramp and/or bundle scaling information is not acceptable for determining eligibility.

Purchaser's exclusive remedy for below average log lengths shall be the payment reduction described in this clause, notwithstanding other provisions in the Uniform Commercial Code.

#### **P-040.2 Weighing and Scaling Costs**

Purchaser agrees to pay for all weighing costs for logs delivered regardless if logs are purchased on a weight or scale basis. In addition, Purchaser agrees to pay for all scaling costs for logs delivered on a scale basis. Purchaser also agrees to pay for all costs associated with the transmission and reporting of scale or weight data.

#### **P-045.2 Guarantee of Payment**

Prior to the delivery of forest products and at a date determined by the State, Purchaser shall guarantee payment to the State for products delivered by posting with the State an approved payment security. If the Purchaser has purchased more than one sort, the payment securities may be consolidated for all the sorts. Acceptable payment security includes cash, certificate of deposit assignment, payment bond, savings account assignment, or irrevocable bank letter of credit.

The amount of payment security shall be determined by the State. The amount of payment security shall represent at least 30 days value of forest product deliveries. Payment security for products delivered will be used to guarantee payment to the State for late or non-payments.

If at any time the State determines that the security has become unsatisfactory or a demand is made against the payment security, the Purchaser agrees to increase the amount or replace the security with one acceptable to the state within 5 business days. Failure to increase the amount or replace the security is considered a breach of contract.

#### **P-050.2 Billing and Payment Procedure for Forest Products Delivered**

The State will compute and forward to Purchaser a billing statement of charges for forest products delivered during the billing period at the delivered rate shown in P-028.2 clause. After receipt of the billing statement, Purchaser's payment must be received by the Department of Natural Resources on or before the due date shown on the billing statement. Purchaser agrees to make payment, payable to the Department of Natural Resources. Failure to pay on time for forest products delivered is considered a breach of contract.

Included with the billing statement will be a summary report for the billing period compiled by the State or their log and load reporting service.

The State will adjust final billings to account for any State approved payment reductions.

#### **P-080 Payment Account Refund**

Advance payments made under P-045 or P-045.2 remaining on account above the value for the charges shall be returned to Purchaser within 30 days following the final report of charges. Refunds not made within the 30 day period will accrue interest at the interest rate, as established by WAC 332-100-030, computed on a daily basis until paid.

### **Section L: Log Definitions and Accountability**

#### **L-010.2 Forest Products Conveyed**

Forest products conveyed are logs or parts of logs delivered meeting the sorting criteria defined by clauses G-022.2 and G-024.2 of this contract

#### **L-014.2 Sorts Delivered to Incorrect Destination**

Purchaser has agreed to purchase the sort as described in the G-022.2 clause. In the event a load from a different sort is delivered to Purchaser, Purchaser may reject the load. If Purchaser receives an incorrectly delivered load, they shall notify the State within 24 hours. If the Purchaser accepts the load, provisions in the P-035.2 or P-036.2 clause may apply.

#### **L-071.2 Log and Load Reporting Service**

This contract may at the States discretion, require the services of a State approved third party log and load reporting service. Purchaser shall ensure log volume measurement, weight, or scale and weight data for each load is received by the log and load reporting service within 1 business day of logs being measured or weighed.

If during the term of this contract, the State discontinues use of the Log and Load Reporting Service, the State will notify the Purchaser in writing, and will approve an alternative log and load reporting process.

#### **L-080 Scaling Rules**

Determination of volume and grade of any forest products shall be conducted by a state approved third party scaling organization and in accordance with the Westside log scaling and grading rules and Scribner Volume Table, revised July 1, 1972, contained in the Northwest Log Rules Eastside and Westside Log Scaling Handbook (developed and produced by the Northwest Log Rules Advisory Group) and in effect on the date of confirmation of this contract.

Special scaling specifications shall be noted on the State's Brand Designation form which is hereby incorporated to this contract by reference.

**L-110 State Approval of Log Scaling and Weighing Locations**

Forest Product measurement and weighing facilities required by this contract must be approved by the State. Forest products sold under the contract which require log scaling shall be scaled, measured, or counted by a State approved third party log scaling organization. Forest products sold under the contract which require weighing shall be weighed at a location that meets Washington State Department of Agriculture approval.

Prior to forest products being hauled, the Contract Administrator must authorize in writing the use of State approved measurement and/or weighing facilities that are at or en-route to final destinations. Forest products from this sale shall be measured or weighed at facilities, which are currently approved for use by the State and are currently authorized for this sale. The State reserves the right to verify load volume and weights with State employees or contractors at the State's own expense. The State reserves the right to revoke the authorization of previously approved measurement locations.

**Section D: Damages****D-010 Liquidated Damages**

The clauses in the DAMAGES section of this contract provide for payments by Purchaser to the State for certain breaches of the terms of this contract. These payments are agreed to as liquidated damages and not as penalties. They are reasonable estimates of anticipated harm to the State caused by Purchaser's breach. These liquidated damages provisions are agreed to by the State and Purchaser with the understanding of the difficulty of proving loss and the inconvenience or infeasibility of obtaining an adequate remedy. These liquidated damages provisions provide greater certainty for the Purchaser by allowing the Purchaser to better assess its responsibilities under the contract.

**D-026.2 Damages for Delivery Interruptions and Load Non-Acceptance**

- a. Purchaser's failure to accept delivery of forest products due to an extended delivery interruption exceeding the limits as described in the G-027.2 (c) clause, results in substantial injury to the State. The Purchaser shall pay the State liquidated damages at a rate of \$1,000.00 per each day of breach, until breach is remedied.
- b. Unless Purchaser and the State have made a prior agreement in writing, Purchaser's failure to accept at least the number of delivered loads as described in the G-027.2 (d) clause, results in substantial injury to the State. The Purchaser shall pay the State liquidated damages at a rate of \$200 per each truck delivery not accepted, until breach is remedied.

**D-027.2 Failure to Accept Forest Products Sold**

Purchaser's failure to accept all or part of the forest products sold in this agreement prior to expiration or completion of the contract results in substantial injury to the State. Except for reasons other than 'Force Majeure' (G-056.2), either section a. or b. below will apply as determined by the State.

- a. When Purchaser's refusal to accept forest products does not prevent further harvesting operations, or forest products can be re-sold to another buyer acceptable to the State, Purchaser shall be liable for and pay State for actual damages plus costs, as determined by the State associated with the administration and re-sale of forest products not accepted by Purchaser under the terms of this contract.
- b. When Purchaser's refusal to accept forest products causes a stoppage of the State's harvesting operations and prevents the State from further harvest of the sale area, the actual damage to the State and associated costs are difficult to assess. The remaining value of all the forest products left in the sale area once the stoppage occurs is not readily ascertainable. Purchaser's failure to perform disrupts the State's management plans. Therefore, Purchaser agrees to pay the State as liquidated damages, a sum calculated using the following formula:

$$LD = (.35V - I) + C + A - P$$

Where:

- LD = Liquidated Damages  
V = The stumpage value remaining in the sale area at the date of work stoppage. This will be determined by multiplying the contract bid rate contained in the P-028.2 clause for all sorts originating in the sale area, by the State's estimate of the remaining volume, less the cost of harvesting and delivery associated with each sort.  
I = Initial Deposit  
C = Costs associated with required harvesting services and road construction services prior to work stoppage but not amortized or paid.  
A = Administrative fee = \$2,500.00  
P = Advance payments received exceeding the value of logs delivered under this contract.

The above formula reflects the Purchaser's forfeiture of the initial deposit in accordance with clause P-010 by deducting the initial deposit from the amount owed. In no event shall the liquidated damages be less than zero. Interest on the liquidated damage is owed from the date of the work stoppage until final payment, calculated using the following formula:

$$\text{Interest} = r \times LD \times N$$

Where:

r = daily equivalent of an annual interest at current interest rate as established by WAC 332-100-030.

N = Number of days from work stoppage to time of payment

**D-030.2 Inadequate Log Accountability**

Failure to provide weighing and third party scaling information result in substantial injury to the State. The potential loss of accountability is not readily ascertainable. These contractual breaches result in an increase in the potential for the delivery of forest products for which the State receives inadequate payment and causes an increase in the State's administration costs associated with this contract. The actual costs of these breaches are difficult to assess.

For these reasons, Purchaser's payments for forest product delivery under this contract will be increased in the following amounts, as liquidated damages, to compensate the State for these breaches: \$250.00 each time a load weight is not provided as required by the contract, and \$250.00 each time load scale data is not determined and provided by a State approved third party scaling organization in accordance with this contract.

IN WITNESS WHEREOF, the Parties hereto have entered into this contract.

STATE OF WASHINGTON  
DEPARTMENT OF NATURAL RESOURCES

\_\_\_\_\_  
Purchaser

\_\_\_\_\_  
Jean Fike  
Northwest Region Manager

Date: \_\_\_\_\_  
Address: \_\_\_\_\_

Date: \_\_\_\_\_

CORPORATE ACKNOWLEDGEMENT

STATE OF \_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_

\_\_\_\_\_ to me known to be the \_\_\_\_\_ of the corporation

that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of the corporation, for the uses and purposes therein mentioned, and on oath stated that (he/she was) (they were) authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
Notary Public in and for the State of

\_\_\_\_\_  
My appointment expires \_\_\_\_\_

## Cruise Narrative

<b>Sale Name:</b> Walnut Sorts VDT/VRH	<b>Region:</b> Northwest
<b>Agree. #:</b> 30-092530	<b>District:</b> Baker
<b>Lead cruiser:</b> Dave Richards	<b>Completion date:</b> 7/5/2016
<b>Other cruisers on sale:</b> Ken McGee (R/W 2)	

**Unit acreage specifications:**

Unit #	Cruised acres	Cruised acres agree with sale acres? Yes/No	If acres do not agree explain why.
3	31.7	Y	
R/W2	10.3	Y	

**Unit cruise specifications:**

Unit #	Sample type (VP, FP, ITS,100%)	Expansion factor (BAF, full/half)	Sighting height (4.5 ft, 16 ft.)	Grid size (Plot spacing or % of area)	Plot ratio (cruise:count)	Total number of plots
3	VP	Full 20.00	4.5	200 x 200 ft	All cruise	30
R/W2	VP	Full 27.78	4.5	Every 2,112 ft	All cruise	9

**Sale/Cruise Description:**

<b>Minor species cruise intensity:</b>	
<b>Minimum cruise spec:</b>	5.0 inch top or 40% of form point. 8" min. DBH. Not less than 10 BF
<b>Avg ring count by sp:</b>	DF = <input style="width: 50px;" type="text"/> WH = <input style="width: 50px;" type="text"/> SS = <input style="width: 50px;" type="text"/>
<b>Leave/take tree description:</b>	Cruise all alder in unit 3.
<b>Other conditions</b>	This is a partial cruise of the Walnut Sort sale for alder only.

**Field observations:**

The alder cruised in this sale was located primarily in Unit 3, although there is some additional alder located in the daylighting (R/W 2). There may be additional alder found in the remaining units of the sale although no attempt was made to verify the alder volume that was reported in the original cruise. All alder in the sale will be included with the alder in units R/W2 and 3.

**Grants:** 01-100% \_\_\_\_\_

**Prepared by:** Dave Richards

**Title:** Chief check cruiser

**CC:**

Log Stock Table - MBF

T36N R03E S02 Ty0003 31.70

Project: WALNUTRA  
Acres 31.70

Page 1  
Date 7/5/2016  
Time 9:05:42AM

Spp	S T	So rt	Gr de	Log Len	Gross MBF	Def %	Net MBF	% Spc	Net Volume by Scaling Diameter in Inches													
									2-4	5-5	6-6	7-7	8-10	11-11	12-15	16-19	20-99	99-99	99-99	99+		
RA		D	1S	24	2	10.7	2	2.5								2						
RA		D	1S	30	6	8.6	5	7.2								5						
RA		D	2S	16	1	9.1	1	1.1							1							
RA		D	2S	24	2	17.6	2	2.1							2							
RA		D	2S	30	12	10.8	11	15.4							4	7						
RA		D	2S	40	16	4.2	15	20.7							15							
RA		D	3S	30	8	6.4	7	9.8					3	4								
RA		D	3S	40	2	16.7	2	2.4					2									
RA		D	4S	20	5	2.4	4	6.1				1	1		2							
RA		D	4S	21	1		1	1.8			1	0										
RA		D	4S	22	2		2	2.2				2										
RA		D	4S	23	1		1	1.1			1											
RA		D	4S	25	1		1	1.0				1										
RA		D	4S	28	1		1	.7			1											
RA		D	4S	29	1		1	1.1			1											
RA		D	4S	30	7	4.9	7	9.8				4	2	1								
RA		D	4S	33	1		1	1.7			1											
RA		D	PU	12	2		2	2.3				0				2						
RA		D	PU	20	2		2	2.8						2								
RA		D	PU	21	1		1	1.2			1	0										
RA		D	PU	22	0		0	.4				0										
RA		D	PU	23	1		1	1.2			1											
RA		D	PU	24	1		1	1.1			1											
RA		D	PU	25	0		0	.5				0										
RA		D	PU	26	1		1	1.4				0	1									
RA		D	PU	27	0		0	.5					0									
RA		D	PU	30	0		0	.5				0										
RA		D	PU	31	1		1	1.2				0	0									
RA		Totals			76	5.8	72	100.0			7	2	10	8	5	26	14	2				
Total		All Species			76	5.8	72	100.0			7	2	10	8	5	26	14	2				

**T36N R03E S11 TROW2** **T36N R03E S11 TROW**  
**Twp Rge Sec Tract Type Acres Plots Sample Trees** **Page 1**  
**36N 03E 11 WALNUT CH ROW2 10.30 9 22** **Date 7/5/2016**  
**Time 10:46:44AM**

Spp	T	S	So	Gr	Log	Gross MBF	% Def	Net MBF	% Spc	Net Volume by Scaling Diameter in Inches									
										2-3	4-5	6-7	8-9	10-11	12-13	14-15	16-19	20-23	24-29
DF		D	2S	32		2		2	7.5					2					
DF		D	3S	30		3		3	10.7				1	1					
DF		D	3S	40		16	5.7	15	64.2			6	6	4					
DF		D	4S	22		1	16.3	1	2.2		0	0							
DF		D	4S	25		0		0	1.2			0							
DF		D	4S	40		1	50.0	0	1.1		0								
DF		D	PU																
DF		D	PU	9															
DF		D	PU	10															
DF		D	PU	14		0		0	.8		0								
DF		D	PU	15		2		2	7.1		2								
DF		D	PU	18		0		0	.9			0							
DF		D	PU	28		1		1	4.2		1								
DF		Totals				25	5.2	24	78.3		4	7	7	5	2				
RA		D	3S	30		4		4	58.6					4					
RA		D	4S	23		0		0	4.1		0								
RA		D	4S	30		2		2	30.2		1		1						
RA		D	PU																
RA		D	PU	22		0		0	7.1		0								
RA		Totals				6		6	20.1		1		1	4					
RC		D	4S	33		1		1	100.0		1								
RC		Totals				1		1	1.7		1								
Total All Species						32	4.1	31	100.0		5	7	8	9	2				

Total sort volumes:\*

Sort 8 Utility Hdwd 2"+ = 18 mbf

Sort 9 Alder sawlog 7" dib + = 64 mbf

\* Volume shown are from units 3 and daylighting units only. Additional alder volume may be found in the remaining units.