

# Republic of Liberia

## Forestry Development Authority

*P.O. Box 10-3010  
Kappa House, Elise Saliby's Compound, Sinkor  
1000, Monrovia 10, Liberia*



*TIMBER SALES CONTRACT "A-8"  
Grand Cape Mount County*

*HOLDER:*

*Thunder Bird International Liberia Inc.  
Carey & Gurley Streets Intersection  
Monrovia, Liberia*

October 1, 2010

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<b>REPUBLIC OF LIBERIA FORESTRY DEVELOPMENT AUTHORITY</b>  <b>TIMBER SALES CONTRACT A-8</b>		<b>Company: Thunder Bird International Liberia, Inc.</b> <b>Jacob Akie Thomas Sr. Housing Estate</b> <b>Carey &amp; Gurley Streets Intersection</b> <b>Monrovia, Liberia</b> <b>West Africa</b>	
<b>Region: # 1</b>	<b>County:</b> Grand Cape Mount	<b>District:</b> Porkpa	<b>Contract Number:</b> TSC- 0009
<b>Forest Area:</b> TSC Area "8"		<b>Contract Signing Date:</b> October 1, 2010	<b>Termination Date:</b> September 30, 2012

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*Jacob Akie Thomas Sr.*  
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# Table of Contents

<i>PART A – SPECIFIC PROVISIONS</i> .....	2
A1 Location and Area.....	2
A2 – Area Map.....	3
A3 – Performance Bond .....	3
A4 – Land Rental Bid .....	3
A5 - Evidence of Access to Capital & Equipments.....	4
<i>PART B – STANDARD PROVISIONS</i> .....	4
<b>B1.0 – INTERPRETATION AND DEFINITIONS</b> .....	4
<b>B2.0 – GRANT</b> .....	8
B2.1 – Contract Area .....	8
B2.11 – Reservations .....	8
B2.2 – Termination Date.....	9
B2.3 – Assignment.....	9
<b>B3.0 – OBLIGATIONS OF CONTRACT HOLDER</b> .....	9
B3.1 – Pre-Felling Operations .....	9
B3.12 – Initial Social Agreements .....	9
B3.13 – Business Plan.....	9
B3.14 – Annual Operational Plan .....	10
B3.15 – Initial Performance Bond and First Annual Performance Bond .....	10
B3.2 – Responsible Employment and Management Practices.....	10
B3.21 – Safety .....	10
B3.22 – Health .....	10
B3.23 – Use of Local Labor.....	10
B3.3 – Responsible Environmental Practices .....	11
B3.4 – Laws and Regulations .....	11
B3.41 – Governing Law.....	11
B3.42 – Third-Party Beneficiaries .....	11
B3.43 – Harvesting Practices.....	11
B3.44 – Prohibited Transactions.....	11
B3.45 – False Statements and Material Misrepresentations .....	11
B3.46 – Indemnification and Liability.....	11
<b>B4.0 – RIGHTS OF HOLDE</b> .....	12
B4.1 – Occupancy of Surface and Easements.....	12
B4.11 – Public Lands Inside Contract Area.....	12

14FT

  
11/2

B4.12 – Use of Public Lands Outside Contract Area .....	12
B4.13 – Use of Private Lands .....	12
B4.14 – Other Activities Outside of Contract Area .....	13
B4.2 – Holder Improvements.....	13
B4.21 – Construction of Improvements.....	13
B4.22 – Approval Requirements.....	13
B4.23 – Right of Others to Use Facilities .....	14
B4.24 – Removal.....	14
B4.3 – Right to Take and Use Water .....	15
B4.4 – Use of Gravel, Sand, Clay, and Stone .....	15
B4.5 – Holder’s Agents.....	15
<b>B5.0 – REPRESENTATIVES AND COMMUNICATIONS .....</b>	<b>16</b>
B5.1 – Holder’s Representatives.....	16
B5.2 – Government Representatives.....	16
B5.3 – Government Inspection .....	17
B5.4 – Notices.....	17
B5.5 – Reports.....	17
B5.51 – Records Maintenance and Inspection (Generally) .....	17
B5.52 – Annual Reports.....	18
B5.53 – Other Reporting Requirements.....	18
B5.54 – Holder to Provide Documents Free of Charge .....	19
B5.55 – Broad Public Access to Information .....	19
<b>B6.0 – OPERATIONS.....</b>	<b>19</b>
B6.1 – Operations Generally.....	19
B6.11 – Annual Operational Plan .....	19
B6.12 – Annual Performance Bond.....	20
B6.13 – Annual Harvesting Certificate.....	21
B6.14 – Changes to Annual Operational Plan .....	21
B6.18 – Infrastructure and Works.....	22
B6.2 – Timber Specifications.....	22
B6.21 – Merchantable Trees .....	22
B6.22 – Minimum Diameter Limit .....	22
B6.23 – Felling and Utilization Standards.....	23
B6.24 – Tree Clearing.....	23
B6.25 – Construction Timber.....	23
B6.3 – Protection of Environment and Contract Area .....	23
B6.31 – Encroachment.....	23
B6.32 – Damage to Trees.....	24
B6.33 – Protection of Land Survey Monuments.....	24
B6.34 – Protection Measures for Plants, Animals, and Cultural Resources .....	24
B6.35 – Wildlife Management and Protection.....	25
B6.36 – Watercourse Protection .....	25
B6.37 – Erosion Prevention and Control .....	25
B6.38 – Prevention of Pollution.....	25
B6.4 – Practice of Silviculture .....	26
B6.41 – Conduct of Logging.....	26

KFT

  
112

B6.5 – Road Construction and Maintenance .....	26
B6.6 – Fire Precautions and Control.....	26
B6.61 – Fire Control .....	26
B6.62 – Fire Suppression Costs .....	27
B7.0 – Participation in Chain of Custody System .....	27
<b>B8.0 – FISCAL OBLIGATIONS.....</b>	<b>27</b>
B8.1 – Fees and Rental Bids .....	27
B8.11 – Land Rental Bid Payments .....	27
B8.12 - Stumpage Fee.....	27
B8.13 – Land Rental Fees .....	27
B8.14 – Forest Product Fees .....	28
B8.2 – Other Payment Rates .....	28
B9.0 – Timber Cut Through Mistake.....	28
B9.1 – Timber Damaged Without Negligence.....	28
B9.11 – Timber Unnecessarily Damaged or Negligently or Willfully Cut .....	28
B9.12 – Careless Falling or Extraction .....	28
B9.13 – Liquidated Damages.....	29
B9.2 – Payments .....	29
B9.21 – Designated Account .....	29
B9.22 – Accrual .....	29
B9.23 – Payment Guaranteed by Bond or Deposited Securities.....	29
B9.24 – Payments Not Received.....	29
B9.35 – Prohibitions .....	30
<b>B10.0 – PERFORMANCE AND SETTLEMENT .....</b>	<b>30</b>
B10.1 – Non-Waiver .....	30
B10.12 – Approval and Consent.....	31
B10.13 – Disputes and Claims.....	31
B10.14 – Contract Documents.....	31
B10.2 – Title and Liability.....	31
B10.21 – Title Passage.....	31
B10.22 – Liability for Loss.....	32
B10.23 – Force Majeure.....	32
B10.24 – Contract Interruption .....	33
B10.25 – Breach.....	33
B10.26 – Failure to Execute Contract.....	33
B10.27 – Termination for Breach .....	34
B10.28 – Termination for Breach Procedure .....	35
B10.3 – Periodic and Other Reviews .....	35
B10.31 – Annual Compliance Audit.....	36
B10.32 – Additional Audits .....	36
B10.4 – Settlement and Contract Closure .....	36
B10.41 – Settlement.....	36
B10.42 – Contract Closure.....	37
<i>SIGNATURE PAGE.....</i>	<i>Error! Bookmark not defined.</i>

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This Contract is entered into at the City of MONROVIA, County of MONTERRADO, Republic of Liberia, under the General Business Law, Title 14 of the Liberia Code of Law Revised, between the Government of the Republic of Liberia (GOVERNMENT), acting through the **Forestry Development Authority** hereinafter referred to as the **AUTHORITY**, and Thunder Bird International Liberia Inc., a company duly organized, existing, and doing business under the Laws of the Republic of Liberia, hereinafter referred to as the **CONTRACT HOLDER, OR HOLDER**.

**WHEREAS**, (1) Section 5.4 of the National Forestry Reform Law of 2006 authorizes the AUTHORITY to grant licenses for sound, long-term forest management, including inventories, preparation of management plans, and ANNUAL OPERATIONAL PLANS, through Timber Sale Contracts; (2) HOLDER wants to accept responsibilities for stewardship of public forest land and to purchase, cut, and remove timber from that land; (3) AUTHORITY, having initially advertised a concession auction at which no bidders expressed interest; now wants to, on a *Single-Source* basis, as approved by the Public Procurement and Concessions Commission vide letter dated 28<sup>th</sup> September, 2010 (Herein attached) issue HOLDER a license for sustainable management and harvest in the advertised area; and (4) HOLDER and AUTHORITY are willing to be bound by the terms set out in this Contract;

**Now, THEREFORE**, AUTHORITY and HOLDER agree as follows:

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This contract consists of two Parts: A – Specific Provisions, and B – Standard Provisions, together with contract area maps, plans specifications, and other attachments specified in the text of Parts a and B.

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Republic of Liberia  
**Public Procurement & Concessions Commission**  
Executive Mansion Grounds  
Capitol Hill, Monrovia, Liberia



09/28/2010 10:58 AM ppcc.gov.lr

10/09/2010 10:58 AM

Ref: PPCC/RL/AED/176/10

September 28, 2010

Hon. Moses D. Wogbeh, Sr.  
Managing Director  
Forestry Development Authority (FDA)  
Kuppe House  
Elie E. Saleeby Compound  
Monrovia, Liberia

Dear Hon. Wogbeh:

We acknowledge receipt of your letter reference MD/127/2010/-9 dated September 1, 2010, requesting the Public Procurement and Concessions Commission (PPCC) to grant "No Objection to the Forestry Development Authority (FDA) to Single Source Thunder Bird International, Liberia Inc. for Timber Sales Contract (A-8) located in Grand Cape Mount County.

The Commission, having done due diligence on Thunder Bird International, Liberia, Inc. and considering the reasons provided in your no objection request coupled with additional information provided, it interposes "No Objection" to the FDA Single Sourcing Thunder Bird International, Liberia, Inc. for TSC (A-8) located in Grand Cape Mount County.

Striving to achieve transparency, accountability, competition, fairness and value for money in public procurement, we remain.

Best regards.

Joseph S. Suah, Sr.  
Acting Executive Director

Regulating and Monitoring Compliance with the Public Procurement  
And Concession Act of Liberia

16 FT

## PART A – SPECIFIC PROVISIONS

### A1 – Location and Area

See Section B2.1 (Contract Area)

#### The Contract Area of 5,000 Hectares has the following Metes and Bounds Description:

Timber Sale Contract A-8/Thunder Bird International Liberia Inc., concession area lies within Latitudes 7°14'24" - 7°18'0" North of the equator and Longitudes 11°0'0" - 11°6'36" West of the Greenwich meridian and it is located in Grand Cape Mount County-Liberia.

Timber Sale Contract A-8 is 47 miles north of the Atlantic Ocean and 104 miles assessable by road to the Port of Monrovia.

Commencing at a point which serves as the conduit between Timber Sales Contract A-9, A-11 and A-8 (7°13'58.00"N-11°00' 14.69"W); thence a line runs N 74° W for 6,643 meters to a point; (7°14'59.31"N-11°03' 43.18"W); thence a line runs S 88° W for 5,715 meters to a point (7°14'54.25"N-11°06'49.00" W); thence a line runs N 57° E for 4,405 meters to a point (7°16'10.51" N-11° 04'47.43" W); thence a line runs N 4° E for 2,370 meters to the point (7°17'26.83"N-11°04'41.84"W); thence a line runs N 49° E for 2,999 meters to a point (7°18'30.57"N-11°03'28.07"W); thence a line runs S 71° E for 7,567 meters to a point (7°17'10.72"N-10°59'35.34"W); thence a line runs Due South for 223 meters to a point (7°17'03.29"N-10°59'35.34"W); thence a line runs S 69° W for 3,982 meters to a point (7°16'18.22" N-11°01'36.27" W); thence a line runs S 31° E for 4,991 meters to the point of COMMENCEMENT (7°13'58.00"N-11°00'14.69"W), Embracing 12,355 acres or 5,000 hectares of forest land and no more.

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## **A5. Evidence of Access to Capital and Equipment**

Within 90 days of the signing of this contract, CONTRACT HOLDER will supply to the AUTHORITY:

- A. Evidence of access to at least US\$250,000 in funds available for use in executing this contract during the first six months of the contract life;
- B. Evidence of access to a D6 or machine of similar capabilities available not later than August 25, 2011 for use in executing this contract, this being in addition to the equipment to which the CONTRACT HOLDER has demonstrated access in earlier submissions to the AUTHORITY;
- C. Evidence that the provider (s) of funds and / or equipment has sufficient capital to meet its/their respective obligations to the CONTRACT HOLDER

Failure of the CONTRACT HOLDER to meet these requirements in a form acceptable to the AUTHORITY will represent an event of default

## **PART B – STANDARD PROVISIONS**

This Part is organized into Articles, Sections, and Subsections. These are numbered in accordance with the following scheme: Article B1.0, Section B1.1, and Subsection B1.11. References to an Article include all Sections and Subsections within that Article and references to a Section include all Subsection within that Section. Cross-references within this contract cite the reference number of the applicable Article, Section, and Subsection. Descriptive headings used are not to be considered in determining the rights and obligations of the parties.

The Standard Provisions in this Part are subject to Specific Provisions of the contract stated in Part A. When appropriate, Specific Provisions established in Part A are cited by reference number.

### ***B1.0 – INTERPRETATION AND DEFINITIONS***

The following rules of interpretation govern this Contract, unless the Contract expressly provides otherwise:

- (i) All written plans, certificates, approvals, communications, and notices required under this Contract must be in English.
- (ii) All monetary amounts in this Contract are stated in United States dollars. All MONETARY OBLIGATIONS are payable in United States dollars.
- (iii) All references in this Contract to statutes, regulations, and codes of practice incorporate the material as it may be from time to time amended. If the material is repealed, the reference is to the material that replaces the repealed material, as determined by the CONTRACTING OFFICER.
- (iv) There are no oral provisions to this Contract; the whole agreement is in writing. At the time of signing, this document reflects the whole agreement.

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- (v) Future modifications or additions to this Contract must be in writing.
- (vi) This Contract does not create any sort of agency, partnership, joint venture, or other business entity.
- (vii) Time is of the essence. That means that if this Contract goes before a court, the court should honor the time limits and deadlines in this Contract as firm unless the parties agree to waive them.
- (viii) If a court determines that some part of this Contract is invalid, the parties want the court to strike only the offending provision and not the entire Contract.
- (ix) Each party wants to keep a legally valid "original" of the signed Contract. Therefore, the parties are signing two duplicate original versions of this Contract. If a court is ever asked to admit the text of this Contract into evidence, the parties ask the court to consider either duplicate original document to be acceptable proof of the Contract.
- (x) Descriptive headings used in this Contract are not to be considered in determining the rights and obligations of the parties.
- (xi) "Includes" as used in this Contract means "includes but is not limited to."

Except for the following terms, which are capitalized in this Contract and defined below, terms in this Contract have their common contextual definition. In case of dispute, CONTRACTING OFFICER may interpret terms in accordance with accepted terminologies of the forestry profession.

*AGENT*, when used to describe persons acting on behalf of *HOLDER*, includes employees and independent contractors. "Independent contractors" as used here comprises the entire chain of *PERSONS* linked by contract, subcontract, or employment through an independent contractor.

*ANNUAL HARVESTING CERTIFICATE* means a certificate issued by *AUTHORITY* in accordance with Section B6.13.

*ANNUAL OPERATIONAL PLAN* means the plan required under Section B6.11.

*AUTHORITY* means the Forestry Development Authority (FDA).

*AWARD NOTICE DATE* means the date that the tentative contract award notice is given to the winning bidder.

*BOARD OF DIRECTORS* means the Board of Directors of *AUTHORITY*.

*BREAST HEIGHT* means a point on a tree 1.36 meters above the average ground level or, if there is a buttress, 30 centimeters above the convergence of the buttress.

*BUSHMEAT* means meat of wild animals killed for subsistence or commercial purposes.

*CHAIN OF CUSTODY* means the path of custodianship followed by *LOGS*, *TIMBER*, and *WOOD PRODUCTS* through harvesting, transportation, interim storage, processing, distribution, and export, from source of origin to end use. Chain of Custody continues despite changes of state – for example, changes resulting from cutting, processing, splitting, or sorting.

*CHAIN OF CUSTODY SYSTEM* means the set of procedures and mechanisms used to track and monitor *CHAIN OF CUSTODY*.

*CLAIM* means a written demand by one of the parties seeking the payment of money, adjustment or interpretation of contract terms, or other relief, under or relating to this Contract.

*CONTRACT AREA* means the area described in Specific Provision A1.

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*CONTRACT EFFECTIVE DATE* means the date upon which this Contract satisfies the requirements of Section 5.4 (f) of the National Forestry Reform Law of 2006 that the Contract be both signed by the HOLDER and the AUTHORITY.

*CONTRACTING OFFICER* means an AUTHORITY officer to whom AUTHORITY has delegated the power and duty to administer this Contract, including but not limited to inspection and enforcement of the Contract, under Section B5.2.

*CONTROL* means the power to exercise, directly or indirectly, a controlling influence over the management, policies, or activities of an individual or business concern, whether through ownership of voting securities, through one or more intermediary individuals or business concerns, or otherwise. In all events, "control" shall be deemed to include ownership, directly or indirectly, of an aggregate of 10 percent or more of either the voting power or the equity interests.

*EPA* means the Environmental Protection Agency.

*FEE* means any sum charged in conformance with Section 14.2 of the National Forestry Reform Law of 2006.

*FELLING EFFECTIVE DATE* means the date on which AUTHORITY certifies that the HOLDER has completed all PRE-FELLING OPERATIONS.

*FOREST PRODUCT* means any material derived from FOREST RESOURCES, including but not limited to flora, fauna, and micro-organisms that may be exploited for social, economic, or other benefits.

*FOREST RESOURCES* means anything of practical, commercial, social, religious, spiritual, recreational, educational, scientific, subsistence, or other potential use to a human that exists in the forest environment, not limited to flora, fauna, or micro-organisms.

*GOVERNMENT* means the government of the Republic of Liberia and includes all branches, subdivisions, instrumentalities, authorities, and agencies.

*HARVESTING BLOCK* means an area for TIMBER harvest identified in an ANNUAL OPERATIONAL PLAN under Section B6.11.

*HOLDER (or CONTRACT HOLDER)* means the PERSON entering into this Contract with AUTHORITY and receiving a license to harvest TIMBER under this Contract.

*INFRASTRUCTURE* means non-movable assets, including:

- (i) Transportation and communication facilities, including roads, bridges, railroads, airports, landing strips and landing pads for aircraft, garages, canals, pipelines, and radio, telephone, and telegraph facilities;
- (ii) Port facilities, including docks, harbors, piers, jetties, breakwaters, terminal facilities, warehouses, and equipment for loading and unloading;
- (iii) Electrical power, water, and sewage facilities, including water supply systems and water drains for disposal of plant wastes and sewage;
- (iv) Public welfare facilities, including schools, clinics, hospitals, and public halls; and
- (v) Miscellaneous facilities built in connection with the operation of the foregoing, including offices, employee housing, machine shops, foundries, repair shops, and warehouses.

*LOG* means a portion of a tree, with or without side limbs and bark removed, otherwise substantially intact and intended for further processing.

*MERCHANTABLE LOG* means a LOG capable of being processed into WOOD PRODUCTS of commercial value, however:

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(i) If a tree was not bucked to assure as much volume as possible, merchantable contents are assessed as if it had been properly bucked.

(ii) The LOG is not merchantable if one-third or more of its volume is subject to major defects. "Major defects" includes heart shake, ring shake, heart decay, holes, shatters, dry rot, parasitic damage, and similar characteristics reducing the commercial value of a LOG.

(iii) The LOG is not merchantable if the volume of its sapwood exceeds one-third of its total volume, unless it can be sold, processed, or otherwise utilized commercially together with its sapwood.

(iv) The LOG is not merchantable if the diameter of any branch knot, decayed knot, hole, or decayed butt or the sum of the diameters of such defects exceeds the gross diameter of the LOG inside bark at its small end.

In applying this definition, use the standards for determining volume and grading referenced in AUTHORITY Regulation 108-07 on Establishing a Chain of Custody System, Sections 26 & 27. *MERCHANTABLE TREE (NOT APPLICABLE TO THIS CONTRACT)* means a tree that is at least 60 centimeters in diameter at BREAST HEIGHT that can produce at least one MERCHANTABLE LOG and is identified and marked for felling in the ANNUAL OPERATIONAL PLAN.

*MONETARY OBLIGATIONS* means all amounts the HOLDER owes under this Contract, including FEES, liabilities, and amounts owed under Social Agreements.

*PERSON* means any individual, partnership, joint venture, association, corporation, trust, estate, unincorporated entity, community, government, or state, and any branch, division, political subdivision, instrumentality, authority, or agency.

*PLANT AND EQUIPMENT* means the following assets, other than INFRASTRUCTURE, necessary or desirable for operations under this Contract:

- (i) Felling and extraction equipment;
- (ii) Facilities and equipment to saw, cut, and otherwise process TIMBER;
- (iii) Facilities and equipment used in connection with the operation of the foregoing, including offices, machine shops, repair shops, and warehouses;
- (iv) Facilities and equipment for the maintenance of personnel, including dwellings, stores, mess halls, and recreation facilities; and
- (v) Moveable equipment, including motor vehicles, used with assets in the above four categories or with INFRASTRUCTURE.

*PRE-FELLING OPERATIONS* means

- (i) Completion of an Environmental Impact Assessment;
- (ii) Execution of required Social Agreements;
- (iii) Preparation of a Business Plan;
- (iv) Preparation of an initial ANNUAL OPERATIONAL PLAN; and
- (v) Posting of an initial Performance Bond, followed by posting of an annual Performance Bond (from a reputable insurance company).

*TIMBER* means sawn or cut wood or LOGS.

*WOOD PRODUCT* means a processed item made substantially of wood, including but not limited to lumber, plywood, veneer, particleboard, and pulp. In case of doubt whether an item is a WOOD PRODUCT, follow how the term is used in AUTHORITY Regulation 108-07 on Establishing a Chain of Custody System.

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*WORK* means actions associated with the construction, reconstruction, demolition, repair, or renovation of a building or structure or surface and includes site preparation, excavation, assembling, installation of plant, fixing the equipment, and laying out of materials, and any action pertaining to logging or preparation of logging activities.

## **B2.0 – GRANT**

### **B2.1 – Contract Area**

AUTHORITY grants HOLDER the license to harvest TIMBER within the confines of the CONTRACT AREA (see Specific Provision A1). This license is contingent on adherence to the terms of this Contract. HOLDER's harvests must be consistent with sustainable management of FOREST RESOURCES and implementation of the plans required under Section B3.11. This license is exclusive, subject to the reservations in Section B2.11. FOREST PRODUCTS other than TIMBER are not granted under this license unless a specific provision in the Contract allows their harvest or use.

In the event of a resurvey, HOLDER shall promptly report to AUTHORITY any discrepancy in the metes and bounds and/or the CONTRACT AREA maps for appropriate action and adjustment.

### **B2.11 – Reservations**

The parties recognize that Chapters 11 and 12 of the National Forestry Reform Law of 2006 reserve rights for private landowners and the public, and HOLDER agrees to respect those rights. In addition, the GOVERNMENT reserves the right:

(a) Of access, or to allow others to access, the CONTRACT AREA for the purpose of exploring for or exploiting minerals or other substances or for any subsoil investigation or other reasonable investigation, provided HOLDER's operations and activities shall not be unduly interfered with nor its rights prejudiced and that if damages result to HOLDER's property as a result of such exploration, investigation, or exploitation, the GOVERNMENT agrees to provide fair compensation to HOLDER for such damages.

(b) To take from the CONTRACT AREA such TIMBER and FOREST PRODUCTS as may be required for public purposes or to allow others to access the CONTRACT AREA for traditional and customary community uses of TIMBER and FOREST PRODUCTS, provided HOLDER's operations and activities shall not be unduly interfered with nor its rights prejudiced.

(c) To enter the CONTRACT AREA to conduct reforestation or any other activity, as may be required for public purposes, provided HOLDER's operations and activities shall not be unduly interfered with nor its rights prejudiced.

(d) To construct roads, highways, railways, and communication lines within the CONTRACT AREA, provided the GOVERNMENT shall not unreasonably interfere with HOLDER's operations and shall compensate HOLDER for damage caused, including, but not limited to, property damage and economic or other losses, including lost profits.

## **B2.2 – Termination Date**

(a) HOLDER's license to harvest TIMBER ends on the termination date specified in this Contract, unless extended or shortened under a provision of this Contract or by operation of law.

(b) This Contract is not renewable. Limited extensions are possible under Section B8.5 (Force Majeure). HOLDER shall discharge all its obligations under this Contract in a timely manner, excepting only those obligations for which AUTHORITY has given written permission to delay performance. Absent an extension or written permission to delay, HOLDER's failure to honor time-related obligations is a breach of this Contract.

## **B2.3 – Assignment**

(a) HOLDER shall not assign or transfer this Contract or any interests, rights, privileges, or obligations under this Contract, without prior written approval from the Government of Liberia by and through the Ministry of Justice, Ministry of Finance, and the AUTHORITY.

(b) AUTHORITY shall not consent to any assignment or transfer of this Contract, except in compliance with the requirements of AUTHORITY Regulation 104-07, Section 71.

## **B3.0 – OBLIGATIONS OF CONTRACT HOLDER**

### **B3.1 – Pre-Felling Operations**

(a) HOLDER shall not fell trees, harvest TIMBER, or conduct any other ground-disturbing activities prior to the FELLING EFFECTIVE DATE.

(b) Within 7 days after approving (or, in the case of Social Agreements, attesting to) the last of HOLDER's PRE-FELLING OPERATIONS, AUTHORITY shall certify, in writing, that HOLDER has completed all PRE-FELLING OPERATIONS.

(c) The date on which AUTHORITY issues the certification under this Section is the FELLING EFFECTIVE DATE for this Contract.

### **B3.12 – Social Agreements**

(a) Before the first annual operating season, HOLDER shall execute the Social Agreements required by AUTHORITY Regulation 105-07.

(b) AUTHORITY shall promptly review and either attest to or reject the Social Agreements, in conformity with AUTHORITY Regulation 105-07, Section 36.

### **B3.13 – Business Plan**

(a) As part of its Forest Management Plan, HOLDER must include an up-to-date Business Plan demonstrating, to AUTHORITY's satisfaction, that HOLDER has the technical and financial capacity to manage the CONTRACT AREA sustainably.

(b) The Business Plan must conform to AUTHORITY's Guidelines for Forest Management Planning.

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### **B3.14 – Annual Operational Plan**

(a) Within 90 days before the first annual operating season, HOLDER shall submit to AUTHORITY an initial ANNUAL OPERATIONAL PLAN.

(b) Except for the timing of submission specified in this Section, the initial Plan must conform to the requirements of Section B6.11.

### **B3.15 – Initial Performance Bond and First Annual Performance Bond**

(a) Before the deadline set in AUTHORITY Regulation 104-07, Section 61(b), HOLDER shall deposit with the Ministry of Finance an initial Performance Bond, in the amount shown in Specific Provision A3.

(b) Before the first annual operating season, HOLDER shall deposit the first annual Performance Bond as required by AUTHORITY Regulation 104-07, Section 61, and by Section B6.12 of this Contract.

(c) The GOVERNMENT shall return the initial Performance Bond to HOLDER promptly after HOLDER posts the first annual Performance Bond.

### **B3.2 – Responsible Employment and Management Practices**

#### ***B3.21 – Safety***

(a) HOLDER shall follow internationally recognized, modern safety precautions in all activities, as are used elsewhere by others under comparable conditions. HOLDER shall comply with such safety instructions that the GOVERNMENT gives in writing.

(b) HOLDER shall employ temporary traffic controls only in compliance with AUTHORITY Regulation 104-07, Section 73(b).

#### **B3.22 – Health**

HOLDER shall employ internationally recognized, modern measures for the protection of general health and safety of its employees and all other PERSONS with legal access to the CONTRACT AREA. HOLDER shall comply with public health instructions given in writing by the GOVERNMENT.

#### **B3.23 – Use of Local Labor**

(a) In the selection of employees to conduct its operations under this Contract, HOLDER shall give preference to competent and qualified individuals living in and near the CONTRACT AREA, and particularly to individuals from communities benefiting from the HOLDER's Social Agreements.

(b) HOLDER shall not import unskilled labor from outside Liberia.

(c) HOLDER shall comply with all training and employment obligations required by law or regulation.

### **B3.3 – Responsible Environmental Practices**

HOLDER shall conduct operations in a manner that promotes the sustainable development of FOREST RESOURCES and environmental protection for the common good of the people of Liberia.

### **B3.4 – Laws and Regulations**

#### **B3.41 – Governing Law**

The laws of the Republic of Liberia govern this Contract.

#### **B3.42 – Third-Party Beneficiaries**

All PERSONS dealing with HOLDER, including employees and shareholders, and all PERSONS having an interest in the condition or management of the affected environment are third-party beneficiaries under this Contract.

#### **B3.43 – Harvesting Practices**

HOLDER shall comply with the Liberia Code of Forest Harvesting Practices.

#### **B3.44 – Prohibited Transactions**

HOLDER shall not directly or indirectly engage in any transaction with any government, faction, or armed movement that the GOVERNMENT has by law or by official pronouncement declared to be hostile or unfriendly; nor shall HOLDER engage in any other transaction prohibited by law.

#### **B3.45 – False Statements and Material Misrepresentations**

HOLDER shall not knowingly make false statements or material misrepresentations (including misrepresentation by omission) to the GOVERNMENT on any matter relating to this Contract.

#### **B3.46 – Indemnification and Liability**

(a) HOLDER shall at all times indemnify and hold the GOVERNMENT and its officers and agents harmless from all claims and liabilities for the death of or injury to PERSONS, and for damage to property, from any cause whatsoever arising out of HOLDER's operations or activities hereunder or as a result of HOLDER's failure to comply with any law or regulation.

(b) Holder acknowledges that in the event of any damage, injury, or loss caused by the acts or omissions of HOLDER's AGENTS, HOLDER is liable for the damage, injury, or loss to the extent provided by the laws of Liberia.



## ***B4.0 – RIGHTS OF HOLDER***

### **B4.1 – Occupancy of Surface and Easements**

#### **B4.11 – Public Lands Inside Contract Area**

Within the CONTRACT AREA, HOLDER shall have the right to enter and occupy any public land or use public rights-of-way to undertake operations and activities under this Contract. If not described in an approved ANNUAL OPERATIONAL PLAN, such occupancy is subject to prior approval in writing by AUTHORITY. HOLDER's occupancy and use must protect natural resource values.

#### **B4.12 – Use of Public Lands Outside Contract Area**

(a) HOLDER shall not use public land outside the CONTRACT AREA, unless the HOLDER has express, written permission from AUTHORITY.

(b) Before requesting permission, HOLDER shall consult with all potentially affected communities that are party to Social Agreements with HOLDER. HOLDER shall make a written record of the time, place, and general content of those consultations.

(c) HOLDER's requests to AUTHORITY to use such public lands must be in writing. For convenience, HOLDER may make such requests in its ANNUAL OPERATIONAL PLAN. If made in this manner, these requests must be expressly and clearly identified as requests to use public land outside the CONTRACT AREA. AUTHORITY shall approve or deny such requests as part of its review of the ANNUAL OPERATIONAL PLAN. AUTHORITY may deny the request while approving the remainder of the plan.

(d) AUTHORITY shall not unreasonably deny permission to use such land.

(e) AUTHORITY and HOLDER shall negotiate the terms and conditions under which an easement or other use rights may be exercised. If HOLDER occupies lands, the terms shall include payment of area fees and an amount for land rental at the Land Rental Bid rate. The right to use such land does not extend to the right to harvest TIMBER, unless the TIMBER is taken to clear land for a right-of-way or yarding area.

#### **B4.13 – Use of Private Lands**

(a) HOLDER may use private land with the express, written permission of the land owner.

(b) If HOLDER is unable to obtain the permission of the land owner for such use, then use is limited to rights of way, and any compensation is governed by Chapter 11 of the National Forestry Reform Law of 2006 and AUTHORITY Regulation 110-07, on the Rights of Private Land Owners.

(c) With or without permission of the land owner, (i) HOLDER shall not seek a use, lease, right-of-way, or easement that substantially interferes with the operations of another previously issued Forest Management Contract or Timber Sale Contract; and (ii) HOLDER shall not interfere with any good faith exercise of third-party rights to TIMBER or FOREST PRODUCTS, including customary rights, without permission of the third party.

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(d) For avoidance of doubt, Section B3.46 (Indemnification and Liability) applies to any claims against the GOVERNMENT for HOLDER's damage to or use of private lands. In acting under this Contract, even if done with AUTHORITY's knowledge and consent, HOLDER does not act as AUTHORITY's agent.

#### **B4.14 – Other Activities Outside of Contract Area**

(a) All of HOLDER's felling, construction, and other forest management activities on lands covered under Sections B4.11 and B4.12 must be described in the ANNUAL OPERATIONAL PLAN, and HOLDER shall not begin felling, construction, or other forest management activities before AUTHORITY has approved the plan. When the HOLDER undertakes felling, construction, or other forest management activities on these lands, HOLDER shall follow all laws, standards, and contract requirements that would govern those activities inside the CONTRACT AREA.

(b) If HOLDER fells MERCHANTABLE TREES anywhere in Liberia and fails to enter the resulting MERCHANTABLE LOGS in the CHAIN OF CUSTODY SYSTEM, HOLDER is in breach of this Contract.

#### **B4.2 – Holder Improvements**

##### **B4.21 – Construction of Improvements**

(a) Section 18.8 of the National Forestry Reform Law of 2006 grants HOLDER rights concerning construction of INFRASTRUCTURE. HOLDER agrees to exercise those rights subject to the requirements in this Contract.

(b) HOLDER shall comply with all laws governing the occupation of the land and with all laws governing construction, maintenance, and use of the improvements. HOLDER shall construct, maintain, and use the improvements in a manner that will not interrupt or interfere with the conduct of AUTHORITY business.

##### **B4.22 – Approval Requirements**

(a) By law, certain improvements require pre-authorization from GOVERNMENT agencies other than AUTHORITY. HOLDER shall secure such authorization before constructing the improvements. Activities affecting private land are subject to Section B4.13 and the prompt payment of fair compensation to any PERSON whose rights are affected.

(b) If HOLDER wishes to construct, maintain, alter, or operate any of the following improvements, HOLDER shall describe the proposed activity in an ANNUAL OPERATIONAL PLAN. HOLDER has the necessary permission to proceed only if AUTHORITY approves the plan.

- (i) Industrial buildings and installations, including roads, warehouses, storage places, and tanks;
- (ii) Means of communications, including telephone lines and wireless stations;
- (iii) Living accommodations and amenities for HOLDER's operations and activities under this Contract; and

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(iv) Other buildings, installations, and WORK necessary or useful for the effective carrying out of HOLDER's operations and activities under this Contract.

(c) In addition, HOLDER shall also obtain written permission from AUTHORITY, separately or through the ANNUAL OPERATIONAL PLAN, for the following kinds of improvements:

(i) Clearing the land of trees, shrubs, and other obstacles and cutting wood necessary for HOLDER's activities on private land or other land outside the CONTRACT AREA;

(ii) Development of roads outside the CONTRACT AREA;

(iii) Constructing any camp, quarry, borrow pit, storage, or service area (A "camp" includes the campsite or trailer parking area of any employee or contractor WORKING on the project for HOLDER); and

(iv) Any development or activity on the CONTRACT AREA not essential for performance under this Contract.

(d) Requests for approval outside of the ANNUAL OPERATIONAL PLAN must include the proposed plans of the improvement.

(e) AUTHORITY shall not unreasonably deny or delay approval.

(f) AUTHORITY shall not levy a charge for approval of these requests; however if the improvement is on public land outside the CONTRACT AREA, Section B4.12 (e) applies.

#### **B4.23 – Right of Others to Use Facilities**

HOLDER shall:

(a) Allow the GOVERNMENT and public to use, free of charge, any roads constructed and/or maintained by HOLDER; provided, however, that such use shall not unduly prejudice nor interfere with HOLDER's operations;

(b) Allow the GOVERNMENT and public to have access over the CONTRACT AREA, provided that such access does not amount to encroachment, as provided for in Section B6.31, and does not unduly prejudice nor interfere with HOLDER's operations;

(c) Allow the GOVERNMENT and public to use communication lines developed by HOLDER within the CONTRACT AREA, subject to fair compensation, provided that such use shall not unduly prejudice nor interfere with HOLDER's operations; and

(d) Allow the GOVERNMENT to construct roads, highways, railways, telegraph and telephone lines, and other transportation or communication facilities within the CONTRACT AREA, if they do not unreasonably interfere with HOLDER's activities and the GOVERNMENT provides fair compensation for damage caused, including property damage, lost profits, and other economic losses.

#### **B4.24 – Removal**

(a) All INFRASTRUCTURES revert to the GOVERNMENT upon termination of this Contract. HOLDER shall leave such facilities in a maintained and safe running order.

(b) All fixed PLANT AND EQUIPMENT on GOVERNMENT land shall revert to the GOVERNMENT upon termination of this Contract. The GOVERNMENT may choose to retain these assets or, with written notice to HOLDER, require HOLDER to remove or dispose of any or all such improvements. Should HOLDER fail to remove or dispose of PLANT AND EQUIPMENT within 90 days, AUTHORITY may dispose of these improvements at HOLDER's

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expense. HOLDER shall dispose of construction materials, materials from the demolition of assets, and other wastes in a lawful and environmentally responsible manner.

(c) The disposition of PLANT AND EQUIPMENT on private land will be based on the terms of the occupancy lease, right-of-way, or easement that allowed use under Section B4.14.

### **B4.3 – Right to Take and Use Water**

Subject to the written approval of the GOVERNMENT, the negotiated Social Agreement, and such conditions as the GOVERNMENT or the Social Agreement may impose, HOLDER may use free of charge any water found within the CONTRACT AREA and any water within the public domain within five kilometers of the CONTRACT AREA for purposes necessary or useful to HOLDER's operations and activities under this Contract; *provided*, however, that HOLDER shall not deprive any lands, tribes, villages, towns, houses, or watering places for animals of a reasonable supply of water in so far as such water has, through custom, been utilized for such lands, tribes, villages, towns, houses, or animals. Nor shall HOLDER interfere with the rights of water enjoyed by any PERSONS under the Land and Native Right Ordinance. HOLDER shall ensure that its use of water in no way results in environmental damage or creates other hazards.

### **B4.4 – Use of Gravel, Sand, Clay, and Stone**

Subject to written approval of the GOVERNMENT, the negotiated Social Agreement, and such conditions as the GOVERNMENT or the Social Agreement may impose, HOLDER may use, free of charge, gravel, sand, clay, and stone found within the public land on the CONTRACT AREA for purposes necessary or useful to HOLDER's operations and activities under this Contract. Such material may not be sold. Upon completion of use or termination of this Contract, any excavation shall be restored by HOLDER, as far as may be reasonably practical, to its original condition and, if required by the GOVERNMENT, fenced or otherwise safe-guarded.

### **B4.5 – Holder's Agents**

HOLDER may exercise any of the rights and powers conferred by this Contract through AGENTS, subject to this standard provision.

(a) HOLDER's use of AGENTS does not excuse HOLDER of any of its obligations or liabilities under this Contract. AGENTS must satisfy the same performance requirements, in all respects, as HOLDER.

(b) HOLDER shall not use AGENTS that are on the debarment list kept under the Public Procurement and Concessions Act; that are on the lists of debarred or suspended PERSONS kept under Part II of AUTHORITY Regulation 103-07, on Bidder Qualifications; that are ineligible under Section 22 of that Regulation; or that have voluntarily excluded themselves from eligibility for forest licenses.

(c) HOLDER shall not sell or otherwise give possession of TIMBER to any PERSONS that are on the debarment list kept under the Public Procurement and Concessions Act; that are on the lists of debarred or suspended PERSONS kept under Part II of AUTHORITY Regulation 103-07, on Bidder Qualifications; that are ineligible under Section 22 of that Regulation; or that have voluntarily excluded themselves from eligibility for forest licenses.

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(d) HOLDER shall use due diligence to assure compliance with the requirements of this Section. Upon request of AUTHORITY, HOLDER shall present evidence of its actions to assure compliance and shall take any additional reasonable steps requested by AUTHORITY, including obtaining sworn statements or certifications from AGENTS and other covered PERSONS.

## ***B5.0 – REPRESENTATIVES AND COMMUNICATIONS***

### **B5.1 – Holder's Representatives**

(a) HOLDER shall, before commencing operations under this Contract, furnish, in writing, to AUTHORITY and the Ministry of Finance, the name of the Local Resident Manager under whose supervision HOLDER intends to conduct operations and who is authorized to receive notices in regard to performance under this Contract and take related action. HOLDER shall give AUTHORITY written notice of any change in the name or address of the Local Resident Manager, or other supervising personnel, at least 14 days in advance of such change.

(b) HOLDER's Local Resident Manager shall designate, in writing, a Field Supervisor. The Field Supervisor shall provide on-the-ground direction and supervision of HOLDER's operations and shall be readily available to the CONTRACT AREA when operations are in progress. The designated Field Supervisor may receive notices related to performance under this Contract and act on behalf of HOLDER. The responsibilities of the Field Supervisor shall include the safeguarding of resources and satisfying the terms of this Contract. Local Resident Manager shall provide to AUTHORITY a complete list of names of PERSONS authorized to assume responsibilities in Field Supervisor's absence. HOLDER's Local Resident Manager shall provide a copy of this Contract to HOLDER's Field Supervisor and to any other PERSONS authorized to assume responsibilities in the Field Supervisor's absence.

(c) If there are co-participants or partners in this operation, Holder shall furnish to AUTHORITY and the Ministry of Finance, in writing, the name and address of the PERSON under whose supervision the co-participant or partner intend to conduct operations. Such supervising PERSON shall be considered the representative for that co-participant or partners for any purpose under this contract.

### **B5.2 – Government Representatives**

Promptly after the CONTRACT SIGNING DATE, AUTHORITY shall designate a CONTRACTING OFFICER to administer this Contract. AUTHORITY may change the CONTRACTING OFFICER at will. AUTHORITY shall give HOLDER notice in writing of the designation and any change of the CONTRACTING OFFICER.

The CONTRACTING OFFICER may delegate, in writing, powers and duties to other AUTHORITY officers.

CONTRACTING OFFICER shall designate an FDA Representative for this Contract and notify HOLDER in writing of the FDA Representative's identity and contact information. The designated FDA Representative for this Contract is authorized to:

- (i) Receive notices related to performance under this Contract; and
- (ii) Act on behalf of the GOVERNMENT under this Contract.

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FDA Representative shall remain readily available to the CONTRACT AREA. CONTRACTING OFFICER or FDA Representative shall designate, in writing, one or more additional on-the-ground FDA representatives who are authorized to assume responsibilities in the FDA Representative's absence. Representatives designated by FDA under this provision are the sole AUTHORITY personnel authorized to receive or provide notice, or to take related actions, under this Contract.

### **B5.3 – Government Inspection**

HOLDER consents to the GOVERNMENT, or any designated representative of GOVERNMENT, conducting reasonable inspections of the CONTRACT AREA, any premises within the CONTRACT AREA, and any other offices of HOLDER both in and outside of Liberia, to confirm compliance with the terms of this Contract and applicable laws. HOLDER understands that inspection activities may include all of the following:

- (i) Inspection of any activities and operations carried out under this Contract;
- (ii) Examination of office records relating to HOLDER's activities and operations under this Contract;
- (iii) Inspection of the boundaries and delineation of the CONTRACT AREA; and
- (iv) Inspection of LOGS and TIMBER to determine the quantity, quality, and type (including species and variety) of TIMBER harvested, transported, processed, and marketed by HOLDER.

### **B5.4 – Notices**

- (a) Notice is effective under this Contract when the notice is hand-delivered or delivered by commercial carrier. The party giving notice has the burden of proving delivery.
- (b) All notices, requests, or other communications required by, provided for, or otherwise related to this Contract must be in writing to the other party's designated representative.
- (c) Cables, telegrams, faxes, and other forms of electronic notice are effective only when delivery is executed and has been confirmed by the sender.
- (d) All notices must be written in the English language.

### **B5.5 – Reports**

#### **B5.51 – Records Maintenance and Inspection (Generally)**

(a) HOLDER shall keep all records necessary to demonstrate compliance with this Contract during the duration of the Contract and for 5 years after the Contract terminates, as required by AUTHORITY Regulation 104-07, Section 75, concerning recordkeeping and inspection requirements under forest management contracts. HOLDER shall retain all original records, maps, ANNUAL OPERATIONAL PLANS, reports, and other documents relating to its activities and operations carried out under this Contract. HOLDER shall take care to retain all documents relating to financial and commercial transactions involving:

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(i) HOLDER and any PERSON with a controlling interest in HOLDER (including any Significant Individual, as that term is defined in AUTHORITY Regulation 103-07, Section 1(j)); and

(ii) HOLDER and any PERSON in which HOLDER has a controlling interest.

(b) HOLDER shall retain copies (electronic or hard copy) of all records and reports related to operations outside of Liberia.

(c) HOLDER shall retain its business records and any other required records in the English language, with financial information expressed in terms of United States dollars, as required by AUTHORITY Regulation 104-07, Section 75, concerning recordkeeping and inspection requirements under timber sale contracts.

(d) HOLDER shall designate either its main office within Liberia or the field office within Liberia overseeing operations in the CONTRACT AREA as the prime repository of required records. HOLDER shall inform AUTHORITY of its designation. HOLDER shall keep a complete set of the records required under this Section at the prime repository. The records may be the originals or may be copies of the originals. HOLDER warrants that any copies it places in the repository are correct and complete. For purposes of determining compliance with this Contract and the law, AUTHORITY and the GOVERNMENT may presume that copies are correct and complete, and HOLDER waives any hearsay or best evidence objection to the use of records in the repository as evidence in an enforcement action.

(e) As provided by AUTHORITY Regulation 104-07, Section 75, concerning recordkeeping and inspection requirements under timber sale contracts, GOVERNMENT, through an authorized representative and during normal working hours, may conduct annual audits of HOLDER's operations and other reasonable inspections necessary to confirm HOLDER's compliance with the conditions of this Contract and all applicable laws.

### **B5.52 – Annual Reports**

(a) HOLDER shall, within 90 days of completing operations under each ANNUAL OPERATIONAL PLAN, provide to AUTHORITY and the Ministry of Finance a written activity report that describes the previous year's operations, including the following:

(i) Identification of each HARVESTING COMPARTMENTS in which HOLDER carried out operations during the prior year;

(ii) For each HARVESTING COMPARTMENTS identified, a full description of the TIMBER produced, including a description of the number, volume, and quality of trees per species felled; and

(iii) Any other information reasonably requested by AUTHORITY.

### **B5.53 – Other Reporting Requirements**

(a) HOLDER shall keep CONTRACTING OFFICER fully and regularly informed as to HOLDER's operations and any other activities related to this Contract.

(b) HOLDER shall comply with the Revenue and Finance Law concerning reporting related to taxes and FEES.

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(c) Upon written request by AUTHORITY, HOLDER shall provide to AUTHORITY all documents required by AUTHORITY to determine HOLDER's compliance with MONETARY OBLIGATIONS.

(d) Upon written request by AUTHORITY, HOLDER shall provide to AUTHORITY all other information of whatever kind that the GOVERNMENT or its agents may request to fully evaluate HOLDER's compliance with this Contract and all legal requirements related to HOLDER's operations.

#### **B5.54 – Holder to Provide Documents Free of Charge**

HOLDER shall provide to AUTHORITY records, reports, surveys, plans, maps, charts, accounts, and any other information required under this Contract or applicable law at no cost to GOVERNMENT. Upon written approval by AUTHORITY, HOLDER may provide any written reports to AUTHORITY in electronic format.

#### **B5.55 – Broad Public Access to Information**

The parties understand that Section 18.15 of the National Forestry Reform Law of 2006 guarantees to the public free access to all documents and information related to this Contract and its administration, subject only to limited exceptions.

#### **B6.0 – OPERATIONS**

##### **B6.1 – Operations Generally**

(a) HOLDER's operations include all activities carried out by HOLDER, or by HOLDER's employees or AGENTS, under this Contract.

(b) HOLDER shall ensure that operations comply at all times with HOLDER's approved ANNUAL OPERATIONAL PLAN.

(c) HOLDER shall conduct all operations in a workmanlike and orderly manner.

(d) HOLDER shall complete erosion control and other cleanup WORK necessary to close HARVESTING COMPARTMENTS promptly after skidding is completed.

##### **B6.11 – Annual Operational Plan**

(a) At least 60 days prior to the beginning of each annual operating season, HOLDER shall submit to AUTHORITY an ANNUAL OPERATIONAL PLAN.

(b) The ANNUAL OPERATIONAL PLAN must describe the next operating season's major activities, including logging, environmental protection measures, road construction and maintenance, and other actions required by law or AUTHORITY regulations.

(c) The ANNUAL OPERATIONAL PLAN must be consistent with the Forest Management Guidelines.



(d) The ANNUAL OPERATIONAL PLAN must identify HARVESTING COMPARTMENTS and all MERCHANTABLE TREES within the HARVESTING COMPARTMENTS on block maps according to the specification of the CHAIN OF CUSTODY and CHAIN OF CUSTODY SYSTEM standards for operations.

(e) HOLDER shall disclose in the ANNUAL OPERATIONAL PLAN all anticipated uses of public or private land outside of the CONTRACT AREA. AUTHORITY shall not approve activities outside of the CONTRACT AREA unless they are necessary to operations under this Contract.

(f) For purposes of levying the Annual Coupe Inspection Fee under Section 34 of AUTHORITY Regulation 107-07, on Certain Forest Fees, AUTHORITY and HOLDER shall consider the ANNUAL OPERATIONAL PLAN to contain the Annual Coupe Plan.

(g) Within 60 days of receiving from HOLDER (i) the proposed ANNUAL OPERATIONAL PLAN and (ii) verification of payment of the Annual Coupe Inspection Fee, AUTHORITY shall approve or deny the ANNUAL OPERATIONAL PLAN. AUTHORITY shall make its determination with respect to MERCHANTABLE TREES based on best available knowledge of international markets and marketability of Liberian lumber on these markets.

### **B6.12 – Annual Performance Bond**

(a) AUTHORITY shall set the amount of the annual Performance Bond based on the formula in AUTHORITY Regulation 104-07, Section 61(d). In using the formula, AUTHORITY shall include the Land Rental Bid payment in the estimated annual revenue, and shall base its estimate of revenue from the Log Stumpage Fee on the harvest level described in the ANNUAL OPERATIONAL PLAN.

(b) Within 30 days after AUTHORITY approves each ANNUAL OPERATIONAL PLAN, the HOLDER shall deposit with the Ministry of Finance an annual Performance Bond in the amount set in the preceding paragraph.

(c) The HOLDER shall not fell trees under an ANNUAL OPERATIONAL PLAN before the HOLDER has deposited the applicable Performance Bond.

(d) Each Performance Bond must be issued in favor of the GOVERNMENT, warranting that HOLDER shall faithfully and promptly commence operations and comply with all contract terms, pay MONETARY OBLIGATIONS, and obey applicable laws and regulations. HOLDER shall post the bond in one of the forms allowed under AUTHORITY Regulation 104-07, Section 61(c).

(e) The GOVERNMENT may draw upon the Performance Bond if HOLDER is in arrears on any amount owed the GOVERNMENT. Should HOLDER fail to comply with contract terms, pay MONETARY OBLIGATIONS, or obey applicable laws and regulations, AUTHORITY may use the Performance Bond to make the GOVERNMENT whole, including paying any amount owed to the GOVERNMENT, to replace lost revenues, and to pay for restoration of environmental damage.

(f) Although AUTHORITY assumes no liability for HOLDER's actions and does not act as the HOLDER's insurer or indemnifier, the Performance Bond must allow AUTHORITY, after any GOVERNMENT claims are satisfied, to draw upon the Performance Bond when ordered by a court to make payment of third-party claims against HOLDER for compensation of employees, payment of injuries, or return of property, as provided under the National Forestry Reform Law of 2006, Section 5.1(e).

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(g) If the Performance Bond is drawn upon or otherwise loses value, the HOLDER shall, within 30 days, replace the Performance Bond or restore the Performance Bond to the required value. If HOLDER fails to replace or restore the bond in time, HOLDER shall stop felling trees until the bond is replaced or restored.

(h) The GOVERNMENT shall return all but the final annual Performance Bond to the HOLDER when the HOLDER has satisfactorily completed all of HOLDER's contract obligations for actions covered in the year's ANNUAL OPERATIONAL PLAN. The GOVERNMENT shall return the final annual Performance Bond after the HOLDER has satisfactorily completed all of HOLDER's obligations under this Contract. If the GOVERNMENT properly draws upon the bond to cover HOLDER's MONETARY OBLIGATIONS, the GOVERNMENT does not need to return the amount drawn out.

### **B6.13 – Annual Harvesting Certificate**

(a) After AUTHORITY approves the ANNUAL OPERATIONAL PLAN, if HOLDER has met requirements under AUTHORITY Regulation 104-07, Section 62(b), concerning administration of Forest Management Contracts; is current on all MONETARY OBLIGATIONS due under this Contract and AUTHORITY regulations; and has deposited the annual Performance Bond required under the just-approved ANNUAL OPERATIONAL PLAN for the upcoming season, AUTHORITY shall promptly issue HOLDER an ANNUAL HARVESTING CERTIFICATE.

(b) HOLDER shall not begin operations under an ANNUAL OPERATIONAL PLAN before AUTHORITY issues an ANNUAL HARVESTING CERTIFICATE based on the plan.

### **B6.14 – Changes to Annual Operational Plan**

(a) If at any time the CONTRACTING OFFICER determines that HOLDER's operations are no longer substantially in compliance with the ANNUAL OPERATIONAL PLAN the CONTRACTING OFFICER may require HOLDER to submit to AUTHORITY a set of ANNUAL OPERATIONAL PLAN revisions. This power of the CONTRACTING OFFICER is in addition to and does not limit any rights that AUTHORITY may have to take action for breach of this Contract.

(b) HOLDER, on its own initiative, may submit a set of ANNUAL OPERATIONAL PLAN revisions to AUTHORITY if HOLDER'S operations are no longer in compliance with the original ANNUAL OPERATIONAL PLAN, or if HOLDER foresees future noncompliance.

(c) The revisions must describe the major activities for the remainder of the season and the plan as revised must meet the requirements of Section B6.11 (c), (d), and (e) of this Contract. The revisions take effect if approved by AUTHORITY.

(d) AUTHORITY may require an updated annual Performance Bond upon determination by the CONTRACTING OFFICER that there has been a material change in HOLDER'S operations.

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## **B6.18 – Infrastructure and Works**

(a) HOLDER shall ensure that all INFRASTRUCTURE and works installed in relation to this Contract comply with the Liberia Code of Forest Harvesting Practices and other applicable laws. HOLDER shall design, construct, and maintain INFRASTRUCTURE and works in a manner that avoids unreasonable risk to safety, health, welfare, and the environment.

(b) Upon written request of HOLDER to approve a completed installation, AUTHORITY shall perform an inspection within 15 days, so as not to delay unnecessarily the progress of HOLDER's operations. HOLDER shall request approval for construction of or major maintenance on roads; building construction; erosion control projects; and any other significant land-disturbing activity undertaken by HOLDER in relation to this Contract.

(c) In the event that AUTHORITY is unable to inspect the installation within 15 days of HOLDER's request, AUTHORITY shall notify HOLDER in writing of the necessity for postponement and provide a time when inspection may proceed.

(d) In conducting inspections, AUTHORITY shall apply the procedures, if any, in the Liberia Code of Forest Harvesting Practices and the standards in subsection (a) of this Section. Within 7 days of inspection, AUTHORITY shall furnish HOLDER with written notice either of acceptance or of WORK remaining to be done.

(e) Acceptance of HOLDER's WORK relieves HOLDER of further contractual obligations related to the inspected WORK, with the exception of roads and erosion control devices.

(i) HOLDER is responsible for maintaining erosion control devices for 1 year from the date of acceptance or until the Termination Date set at the beginning of this Contract.

(ii) HOLDER is responsible for repairing all road damage, from whatever cause, for 3 years from the date of acceptance or until the Termination Date set at the beginning of this Contract.

(f) Until HOLDER gains AUTHORITY's acceptance for WORK, HOLDER remains liable for repair or completion of the WORK, regardless of time elapsed.

## **B6.2 – Timber Specifications**

### **B6.21 – Merchantable Trees** *(NOT APPLICABLE TO THIS CONTRACT)*

All MERCHANTABLE TREES must be identified in the ANNUAL OPERATIONAL PLAN. Identification of MERCHANTABLE TREES must be consistent with the standards on scaling and grading referenced in AUTHORITY Regulation 108-07, on Establishing a Chain of Custody.

### **B6.22 – Minimum Diameter Limit** *(NOT APPLICABLE TO THIS CONTRACT)*

(a) HOLDER shall not cut or fell for commercial use any growing tree smaller than 40 cm diameter at BREAST HEIGHT.

(b) Regardless of the size of the tree, CONTRACTING OFFICER may permit, or require, HOLDER to remove the following (Sections B9.0 to B 9.11 govern HOLDER's payments for these trees.):

(i) TIMBER from standing trees cut through mistake;

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- (ii) TIMBER from standing trees damaged without negligence, including TIMBER from standing trees damaged by catastrophe; and
- (iii) TIMBER from standing trees unnecessarily damaged or negligently or willfully cut.

### **B6.23 – Felling and Utilization Standards**

HOLDER shall ensure that all felling and utilization activities comply with the requirements contained in the Liberia Code of Forest Harvesting Practices.

### **B6.24 – Tree Clearing**

HOLDER shall ensure that all tree clearing activities comply with the requirements contained in the Liberia Code of Forest Harvesting Practices.

### **B6.25 – Construction Timber**

HOLDER may cut any tree, free of charge, irrespective of the minimum diameter limits, if such tree is to be used for construction purposes necessary for HOLDER's operations and activities. Facilities constructed must remain in the CONTRACT AREA and become property of the GOVERNMENT upon termination of this Contract.

### **B6.3 – Protection of Environment and Contract Area**

(a) HOLDER shall conduct all operations and activities using only environmentally sound forest harvesting practices that conform to:

- (i) the Forest Management Guidelines;
- (ii) the Liberia Code of Forest Harvesting Practices; and
- (iii) internationally accepted, scientific principles and practices applicable to forest operations and TIMBER processing.

(b) HOLDER shall conduct all operations and activities so as to avoid waste and loss of natural resources and to protect natural resources from damage, as well as to prevent pollution and contamination of the environment.

(c) HOLDER shall conduct all operations and activities so as to prevent pollution of the surrounding environment.

### **B6.31 – Encroachment**

HOLDER shall use all reasonable means to prevent encroachment by unauthorized PERSONS into the CONTRACT AREA. However, HOLDER shall not employ or in any way use armed security guards for any purpose.

### **B6.32 – Damage to Trees**

HOLDER shall harvest trees in a manner that avoids unnecessary damage and waste. HOLDER shall use all reasonable means to prevent unnecessary damage to young growth, residual trees, other trees to be reserved, and other FOREST PRODUCTS.

### **B6.33 – Protection of Land Survey Monuments**

HOLDER shall protect all survey monuments, witness corners, reference monuments, and bearing trees from destruction, obliteration, or damage during HOLDER's operations. If any monuments, corners, or accessories are destroyed, obliterated, or damaged by HOLDER's operations, HOLDER shall hire a land surveyor to reestablish or restore at the same location the monuments, corners, or accessories.

### **B6.34 – Protection Measures for Plants, Animals, and Cultural Resources**

(a) HOLDER shall identify in the ANNUAL OPERATIONAL PLAN areas requiring special measures for the protection of plants, animals, and cultural resources. Special protection measures needed to protect these areas shall be described in the ANNUAL OPERATIONAL PLAN.

(b) In addition to taking special protection measures, HOLDER shall protect these areas from damage or removal during HOLDER's operations.

(c) If additional areas, resources, or species are identified before and during duration of this Contract, either party to this Contract shall promptly give written notice to the other party, and HOLDER shall cease operations in the affected area, under Section B8.6; if CONTRACTING OFFICER determines there is risk of damage to such areas, resources, or species from continued operations.

(d) HOLDER shall not operate wheeled or track-laying equipment in any area identified as requiring special protection measures, except on roads, landings, tractor roads, or skid trails approved Section B6.4. Nor shall HOLDER fell trees in any area identified as requiring special protection measures.

(e) HOLDER shall immediately notify AUTHORITY of a disturbance in any area identified as requiring special protection measures and shall immediately halt operations in the vicinity of the disturbance until AUTHORITY authorizes HOLDER, in writing, to proceed. HOLDER shall bear costs of resource evaluation and restoration to identified sites. Such payment does not relieve HOLDER of any civil or criminal liability otherwise provided by law.

(f) HOLDER shall not facilitate the harvest of bushmeat. HOLDER shall, within contract area, close and block all roads and skid trails so that they are no longer passable by vehicle when no longer necessary for HOLDER's operation. HOLDER shall allow not any vehicle used in connection with operations for hunting of the transport of hunters or bushmeat.

(g) HOLDER shall comply with the requirements contain in the Liberian Code of Forest Harvesting Practices for protection of plants, animals and cultural resources

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### **B6.35 – Wildlife Management and Protection**

(a) HOLDER shall comply with the requirements contained in the Liberia Code of Forest Harvesting Practices for the protection of wildlife in the CONTRACT AREA.

(b) HOLDER shall immediately close and block all logging roads and major skid trails in the CONTRACT AREA when the roads are no longer necessary to HOLDER's operations. In no case shall HOLDER allow roads to remain open beyond the Contract Termination Date.

(c) HOLDER shall prevent any vehicle used in connection with HOLDER's operations to be used for hunting or for the transport of hunters or BUSHMEAT.

(d) HOLDER shall prevent employees from hunting with snares, hunting in protected areas, hunting protected animals listed in the Wildlife Conservation Law or any other law, and commercially selling BUSHMEAT in HOLDER camps and worksites.

(e) If an AGENT of HOLDER fails to comply with the prohibitions of this Section, HOLDER shall notify AUTHORITY and shall, on written request of AUTHORITY, dismiss the AGENT.

### **B6.36 – Watercourse Protection**

HOLDER shall comply with all requirements for watercourse protection contained in the Liberia Code of Forest Harvesting Practices.

### **B6.37 – Erosion Prevention and Control**

(a) HOLDER shall conduct all operations so as to reasonably minimize soil erosion.

(b) HOLDER shall comply with all requirements for erosion prevention and control contained in the Liberia Code of Forest Harvesting Practices.

### **B6.38 – Prevention of Pollution**

(a) HOLDER shall provide for the proper disposal of sawdust, mill, and other wastes so as to prevent pollution or contamination to the environment or to rivers, streams, and other waterways, and to prevent such wastes from becoming a nuisance or injurious to PERSONS or property.

(b) HOLDER shall take all reasonable precautions to prevent pollution of air, soil, and water by HOLDER's operations. If facilities for employees are established on CONTRACT AREA, they shall be operated in a sanitary manner.

(c) HOLDER shall maintain all equipment operating on CONTRACT AREA in good repair and free of abnormal leakage of lubricants, fuel, coolants, and hydraulic fluid. HOLDER shall not service tractors, trucks, or other equipment where servicing is likely to result in pollution to soil or water. HOLDER shall furnish oil-absorbing mats for use under all stationary equipment or equipment being serviced to prevent leaking or spilled petroleum-based products from contaminating soil and water resources. HOLDER shall remove and dispose of all contaminated soil, vegetation, debris, vehicle oil filters (drained of free-flowing oil), batteries, oily rags, and waste oil resulting from use, servicing, repair, or abandonment of equipment. In the event that HOLDER's operations or servicing of equipment result in pollution to soil or

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118 

water, HOLDER shall conduct cleanup and restoration of the polluted site to the satisfaction of AUTHORITY.

(d) If HOLDER maintains storage facilities for oil or oil products on CONTRACT AREA, HOLDER shall take appropriate preventive measures to ensure that any spill of such oil or oil products does not enter any stream or other waters. If the total oil or oil products storage exceeds 5,000 liters, HOLDER shall prepare a Spill Prevention Control and Counter Measures Plan.

(e) HOLDER shall notify CONTRACTING OFFICER and appropriate agencies of all spills of oil or oil products or hazardous substances on or in the vicinity of CONTRACT AREA. HOLDER shall take whatever action may be safely accomplished to contain all spills.

## **B6.4 – Practice of Silviculture**

### **B6.41 – Conduct of Logging**

(a) HOLDER shall fell trees in compliance with the approved ANNUAL OPERATIONAL PLAN.

(b) HOLDER shall comply with the requirements contained in the Liberia Code of Forest Harvesting Practices with respect to each of the following:

- (i) Felling;
- (ii) Stumps;
- (iii) Bucking
- (iv) Limbing
- (v) Scaling, skid trails and landings; and
- (vi) Presentation of logs for scaling

### **B6.5 – Road Construction and Maintenance**

HOLDER shall carry out road construction and maintenance activities in compliance with the requirements contained in the Liberia Code of Forest Harvesting Practices.

### **B6.6 – Fire Precautions and Control**

(a) HOLDER shall take all necessary measures to prevent and control fires and shall notify AUTHORITY of any fire that occurs.

(b) HOLDER shall comply with the requirements for fire prevention and control contained in the Liberia Code of Forest Harvesting Practices.

#### **B6.61 – Fire Control**

HOLDER shall, both independently and in cooperation with AUTHORITY, take all reasonable and practicable action to prevent and suppress fires on or off the CONTRACT AREA. HOLDER's independent initial fire suppression action on such fires shall be immediate and shall include the use of all necessary personnel and equipment at HOLDER's disposal. AUTHORITY may require further actions by HOLDER until such fire is controlled and mopped up to a point of safety.

## **B6.62 – Fire Suppression Costs**

HOLDER shall pay fire-fighting costs for any fire on or off the CONTRACT AREA, if caused by HOLDER's operations.

## **B7.0 – Participation in Chain of Custody System**

(a) HOLDER shall comply with all requirements concerning CHAIN OF CUSTODY for TIMBER contained in AUTHORITY Regulation 108-07.

(b) HOLDER shall neither transport nor process any LOG or TIMBER PRODUCT outside of the CHAIN OF CUSTODY SYSTEM.

## **B8.0 – FISCAL OBLIGATIONS**

### ***Income and Other Taxes***

*Holders of Forest Resource licenses shall be subject to taxes, duties, and fees of general application under the Revenue Code of Liberia.*

## **B8.1 – Fees and Rental Bids**

### **B8.11 – Land Rental Bid Payments**

(a) AUTHORITY shall calculate the annual Land Rental Bid payment based on the bid provided in the bid opening ceremony multiplied by the surface area in hectares of the CONTRACT AREA.

(b) AUTHORITY shall increase the payment if required due to negotiations under Section B4.12 (e) (Use of Public Lands Outside Contract Area).

(c) HOLDER shall make payment of the Land Rental Bid fee annually (each and every year of contract duration of 2 years) to the GOVERNMENT not later than 30 days after the CONTRACT EFFECTIVE DATE.

### **B8.12 – Stumpage Fees**

(a) HOLDER shall pay log stumpage fees to the GOVERNMENT in the amounts and at the times established by Part II of AUTHORITY Regulation 107-07, on Certain Forest Fees.

(b) The parties will use the methods set out in Sections 26 and 27 of AUTHORITY Regulation 108-07, establishing a Chain of Custody System, to determine volumes and grades.

(c) HOLDER shall prevent LOGS from being processed or exported before HOLDER has paid the log stumpage fees.

### **B8.13 – Land Rental Fees**

(a) HOLDER shall pay the GOVERNMENT an annual contract administration fee as required under Section 32 of AUTHORITY Regulation 107-07, on Certain Forest Fees.

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(b) HOLDER shall pay an annual area fee to the GOVERNMENT as required under Section 33 of AUTHORITY Regulation 107-07, on Certain Forest Fees. For purposes of calculating the area fee, the land subject to this Contract is the adjusted area determined under Section B8.11 (a).

(c) HOLDER shall pay an annual coupe inspection fee to the GOVERNMENT as required under Section 34 of AUTHORITY Regulation 107-07, on Certain Forest Fees. For purposes of applying that section, the ANNUAL OPERATIONAL PLAN contains the annual coupe plan.

#### **B8.14 – Forest Product Fees**

HOLDER shall pay forest product fees to the GOVERNMENT in the amounts and at the times established by Part IV of AUTHORITY Regulation 107-07, on Certain Forest Fees.

#### **B8.2 – Other Payment Rates**

#### **B9.0 – Timber Cut Through Mistake** *(NOT APPLICABLE TO THIS CONTRACT)*

Standing trees smaller than the minimum diameter limit specified in Section B6.22, cut by HOLDER through mistake and included by CONTRACTING OFFICER, shall be removed and paid for by HOLDER at the LOG stumpage fee rate.

#### **B9.1 – Timber Damaged Without Negligence**

Standing trees smaller than the minimum diameter limit specified in Section B6.22, damaged without negligence by HOLDER and designated by AUTHORITY, shall be cut, removed, and paid for by HOLDER at the LOG stumpage fee rate. *(NOT APPLICABLE TO THIS CONTRACT)*

#### **B9.11 – Timber Unnecessarily Damaged or Negligently or Willfully Cut** *(NOT APPLICABLE TO THIS CONTRACT)*

Standing trees smaller than the minimum diameter limit specified in Section B6.22, unnecessarily damaged or negligently or willfully cut by HOLDER, if included by CONTRACTING OFFICER, shall be cut, removed, and paid for by HOLDER at the LOG stumpage fee rate. Such damage is a breach of the Contract. In addition to any penalties that may be incurred, HOLDER shall pay liquidated damages under Section B7.25. *(NOT APPLICABLE TO THIS CONTRACT)*

#### **B9.12 – Careless Felling or Extraction** *(NOT APPLICABLE TO THIS CONTRACT)*

HOLDER shall pay the sum of the LOG stumpage fee and LOG export fee for MERCHANTABLE LOGS damaged or broken by careless felling or extraction and not removed, in addition to any penalties that may be incurred.

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### **B9.13 – Liquidated Damages**

Unnecessary damage to or negligent or willful cutting of undesignated standing trees by HOLDER, as described in Sections B7.21, B7.22, B7.23 and B7.24, or otherwise, is likely to cause substantial silvicultural or other damage to the forest. It will be difficult, if not impossible, to determine the amount of such damage. Therefore, HOLDER shall pay as fixed, agreed, and liquidated damages an amount equivalent to the market value of any LOGS plus the cost of restoring appropriate vegetative cover to the cut area as determined by AUTHORITY. If removal is allowed by CONTRACTING OFFICER, HOLDER shall remove and pay all required FEES for the TIMBER, in addition to the liquidated damages and any assessed penalties.

### **B9.2 – Payments**

#### **B9.21 – Designated Account**

HOLDER shall pay MONETARY OBLIGATIONS owed to the GOVERNMENT to an account designated under Section 71 of AUTHORITY Regulation 107-07, on Certain Forest Fees. Payments will be credited on the business day that the keeper of the account receives payment.

#### **B9.22 – Accrual**

(a) AUTHORITY shall give the Ministry of Finance prompt notice of accrual of HOLDER's MONETARY OBLIGATIONS owed to the GOVERNMENT, to facilitate accounting of payments.

(b) FEES are due as stated in AUTHORITY Regulation 107-07, on Certain Forest Fees.

(c) The annual Land Rental Bid payment is due on the dates stated in Section B7.11(b); however, if AUTHORITY fails to give HOLDER written notice of the amount due at least 15 days before the due date, payment is due 15 days after AUTHORITY gives HOLDER that notice and provides a written copy to the Ministry of Finance.

#### **B9.23 – Payment Guaranteed by Bond or Deposited Securities**

(a) As noted in Sections B3.15 and B7.34, the GOVERNMENT may draw on HOLDER's performance bond to cover unpaid MONETARY OBLIGATIONS. Whether and when to do so is entirely left to the discretion of GOVERNMENT.

(b) HOLDER may also provide individual security through advance deposit in the designated account or additional Performance Bonds. If HOLDER provides such individual security, the GOVERNMENT shall draw upon such security on the date the payments become due, unless HOLDER gives AUTHORITY and Ministry of Finance other written instructions for drawing upon such security.

#### **B9.24 – Payments Not Received**

The provisions of this Section apply unless Part VI of AUTHORITY Regulation 107-07, on Certain Forest Fees, or some other applicable law is more stringent.

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112

(a) MONETARY OBLIGATIONS are due and payable on the date on which the MONETARY OBLIGATION accrues. HOLDERS owing amounts due for 30 days or fewer may pay the amounts due in full without interest or penalty.

(b) Failure to pay amounts due within 30 days of the date due is a breach of this Contract.

(c) If payment is not credited within 30 days after the date due:

(i) AUTHORITY shall assess and the GOVERNMENT shall collect a penalty of five percent.

(ii) The GOVERNMENT may collect the payment, plus any penalties, plus any interest assessed under subparagraph (c)(iii), through the Performance Bond required under Section B3.15. Such collection does not cure the breach or waive AUTHORITY's right to seek remedies based on the breach. However, it does stop accrual of further interest.

(iii) On amounts past due more than 60 days, AUTHORITY shall assess and the GOVERNMENT shall collect interest at the standard interest rate published by the Central Bank, compounded monthly, on all amounts and penalties past due, with the interest on both the amounts and the penalties accruing from the dates the original amounts were due.

(iv) To facilitate collection of debt, AUTHORITY may waive penalties under this Section if HOLDER in arrears pays all amounts due, with interest, within 1 year of the amounts coming due.

(v) Subparagraph (c)(iv) shall not apply if anyone has filed a lawsuit to collect the amounts.

(d) The remedies for HOLDER's failure to make payment when due shall be stayed for so long as:

(i) A bona fide dispute exists as to HOLDER'S obligation to make such payment; and

(ii) HOLDER files and prosecutes a timely CLAIM.

## **B9.25 – Prohibitions**

(a) If HOLDER owes amounts past due for log stumpage fees, HOLDER shall not fell trees, or process, trade, or export FOREST PRODUCTS until HOLDER has paid all past due amounts, penalties, and interest due.

(b) If HOLDER owes amounts past due for forest product fees, HOLDER shall not trade or export FOREST PRODUCTS until HOLDER has paid all amounts, penalties, and interest due.

(c) If FOREST PRODUCTS harvested are exported without paying the required stumpage fees or forest products fees, AUTHORITY may terminate the Contract or suspend the Contract until the amounts are paid.

## **B10.0 – PERFORMANCE AND SETTLEMENT**

### **B10.1 – Non-Waiver**

The failure of either party, at any time, to require performance by the other party of any provision shall in no way affect the party's rights to enforce that provision or any of the other provisions of the Contract; nor shall the waiver by either party of the breach provisions be taken or held to be a waiver of any subsequent breach of a provision or as a waiver of the provision.

## **B10.12 – Approval and Consent**

Any approvals and consents required under the terms and conditions of this Contract shall not be unreasonably withheld or delayed, nor granted subject to conditions that are unduly onerous or discriminatory against HOLDER.

## **B10.13 – Disputes and Claims**

(a) Failure by HOLDER to submit a CLAIM for resolution within 60 days of the disputed action by AUTHORITY shall relinquish AUTHORITY from any and all obligations whatsoever related to the dispute.

(b) Any CLAIM arising under this Contract shall be decided by CONTRACTING OFFICER. CONTRACTING OFFICER shall have 60 days after receipt of the CLAIM, or such longer time as the parties may agree upon, to consider HOLDER's CLAIM and such evidence as HOLDER may present.

(c) CONTRACTING OFFICER's decision shall be consistent with law and shall be based on strict interpretation of Contract requirements and the established facts concerning the CLAIM.

(d) CONTRACTING OFFICER shall prepare a written decision and furnish a copy to HOLDER. The decision of CONTRACTING OFFICER shall be final and conclusive, if, within 45 days from receipt, HOLDER fails to appeal the decision to an appropriate Liberian court.

## **B10.14 – Contract Documents**

The parties intend all Contract documents to be consistent with each other. In case of discrepancy, the following is the order of precedence:

- (a) Specific Provisions (Part A)
- (b) General Provisions (Part B)
- (c) Metes and bounds descriptions
- (d) CONTRACT AREA maps
- (e) Plans, such as erosion control and fire precautions and control
- (f) Agreements between HOLDER and AUTHORITY, as authorized under this Contract
- (g) Engineering plans:
  - (i) Figured dimensions over scaled dimensions
  - (ii) Large scale plans over small scale plans
  - (iii) Lists and/or tables in plans over any conflicting notations on plans
  - (iv) Shop drawings

## **B10.2 – Title and Liability**

### **B10.21 – Title Passage**

GOVERNMENT retains all right, title, and interest in and to any standing trees or TIMBER until the standing trees or TIMBER have been cut and scaled, and all MONETARY OBLIGATIONS owed to the GOVERNMENT paid, at which time title vests in HOLDER. After this Contract terminates, title to any TIMBER that HOLDER has not removed from the CONTRACT AREA vests in GOVERNMENT.

## **B10.22 – Liability for Loss**

If standing trees or TIMBER are destroyed or damaged by an unexpected event that significantly changes its nature, such as fire, wind, flood, insects, disease, or similar cause, the party holding title shall bear the value loss resulting from such destruction or damage. This Section shall not be construed to relieve either party of liability for negligence.

## **B10.23 – Force Majeure**

(a) The term force majeure, as used in this Contract, means any cause beyond the reasonable control of the parties and which the parties could not foresee and/or reasonably provide against and that prevents the parties from wholly or partially performing any respective duties under this Contract for 15 consecutive days or more (except as noted). Force majeure includes the following:

- (i) Acts of God, accidents, fires, explosions, earthquake, flood, violent storm, hurricane, lightning, or other natural disasters;
- (ii) War (whether declared or not), revolution, insurrection, invasions, acts of public enemies, or hostilities;
- (iii) Riot, civil commotion, sabotage, strikes and similar labor related disputes (if continuing for a period of 60 days or more), or civil uprising (not resulting from a negligent act of the employer);
- (iv) Epidemic;
- (v) Expropriation of facilities or goods;
- (vi) Unforeseen restrictions on trade, embargoes, blockades, or other activities imposed by any sovereign; or
- (vii) AUTHORITY demands by written order that operations be delayed or interrupted for reasons other than suspension for breach of the Contract.

(b) The rainy season is foreseeable and, therefore, does not qualify for force majeure.

(c) Failure on the part of HOLDER or of the GOVERNMENT to fulfill any of the terms and conditions of this Contract, other than HOLDER's obligations to make payments of money that accrued before the commencement of the force majeure, shall not be deemed to be a breach of the Contract by either party, insofar as such failure arose by force majeure.

(d) If through force majeure, the fulfillment by HOLDER of the terms and conditions of this Contract is delayed, the period of such delay shall be added to the periods fixed by this Contract.

(e) The party failing to fulfill the terms and conditions of this Contract because of force majeure shall give written notice to the other party of the obligations affected and the reasons for failure within 30 days after the occurrence.

(f) Any party who fails because of force majeure to perform its obligations shall, upon the cessation of the force majeure, take all reasonable steps within its power to make good and resume, with the least possible delay, compliance with those obligations.

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## **B10.24 – Contract Interruption**

(a) CONTRACTING OFFICER may, by written order, delay or interrupt authorized operations under this Contract or modify this Contract, in whole or in part:

(i) To prevent environmental degradation or resource damage, including, but not limited to, harm to habitat, plants, animals, or cultural resources;

(ii) To ensure consistency with the Environmental Impact Assessment and related documents;

(iii) To conduct additional environmental analysis; or

(iv) To comply with a court order.

(b) HOLDER's recourse for delay or interruption, if any, is limited to invoking force majeure under Section B8.5.

## **B10.25 – Breach**

In event HOLDER breaches any of the material provisions of this Contract, AUTHORITY shall give HOLDER notice of such breach and of AUTHORITY's election to suspend all or any part of HOLDER's operations. Such notice of breach and notice to suspend HOLDER's operations shall be written, except oral notices of suspension may be given if such breach constitutes an immediate threat to human life or a threat of immediate and irreparable damage to FOREST RESOURCES. Such oral suspension notice may be given to HOLDER's WORK supervisor or, in WORK supervisor's absence, to those performing the operation. An oral suspension notice shall be promptly followed by telephone notice and a written explanation from CONTRACTING OFFICER to HOLDER.

Immediately upon oral or written suspension, FDA Representative shall notify CONTRACTING OFFICER of the suspension and related circumstances. CONTRACTING OFFICER shall promptly review the suspension to determine if the suspension should be continued or lifted. Such suspension shall be lifted as early as conditions permit.

Upon receipt of oral or written notice of such breach, HOLDER shall remedy the breach within 30 days, except under emergency conditions when action should not be delayed to prevent major damage.

## **B10.26 – Failure to Execute Contract**

This Contract is open for signing for only 30 days after the AWARD NOTICE DATE, unless CONTRACTING OFFICER gives a written extension of time. CONTRACTING OFFICER shall terminate this Contract in its entirety in the event that HOLDER fails to submit an initial Performance Bond in a timely fashion as required under Section B3.2 of this Contract. If the HOLDER fails to execute the Contract or post the initial Performance Bond in a timely fashion, liquidated damages shall be equivalent to the Bidder's Bond amount.

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## B10.27 – Termination for Breach

CONTRACTING OFFICER, with concurrence from BOARD OF DIRECTORS, shall terminate this Contract in its entirety in the event that HOLDER commits any of the following breaches of the Contract and is unable to or fails to satisfactorily remedy them:

- (a) HOLDER fells trees prior to the FELLING EFFECTIVE DATE;
- (b) HOLDER fells trees not covered by a valid ANNUAL HARVESTING CERTIFICATE;
- (c) HOLDER fails to complete all PRE-FELLING OPERATIONS within one year of the CONTRACT SIGNING DATE;
- (d) HOLDER abandons operations for a period of 1 year or more;
- (e) HOLDER significantly fails to meet the requirements of an approved ANNUAL OPERATIONAL PLAN;
- (f) HOLDER assigns to a third-party, in whole or part, rights held under this Contract without the consent of AUTHORITY;
- (g) HOLDER goes into bankruptcy or liquidation, whether voluntary or involuntary (other than for the purpose of reorganization), or if a receiver is appointed, or if HOLDER fails to maintain its status as a corporate entity lawfully able to do business in Liberia;
- (h) HOLDER fails to comply with any final decision of a Liberian court of competent jurisdiction in a controversy between HOLDER and the GOVERNMENT;
- (i) HOLDER fails to meet any MONETARY OBLIGATIONS, including payment of bids or FEES to the GOVERNMENT or payments to local communities, in a timely fashion;
- (j) HOLDER fails to remedy a material breach of contract within time limits stated in Section B8.7 of this Contract;
- (k) HOLDER has engaged in a pattern of activity that demonstrates flagrant disregard for the terms of this Contract, such as, but not limited to, repeated suspensions for breach, causing undesignated standing trees or TIMBER to be unnecessarily damaged or negligently or willfully cut, or causing other serious environmental degradation or resource damage;
- (l) HOLDER fails to meet the requirements of the annual contract audit;
- (m) HOLDER fails to comply with any provisions of law or any regulations promulgated thereunder;
- (n) HOLDER willfully or intentionally wastes any FOREST PRODUCT for financial gain;
- (o) HOLDER intentionally removes any TIMBER, FOREST PRODUCTS, or natural resources not provided for in this Contract without written approval by CONTRACTING OFFICER;
- (p) HOLDER misrepresents to the GOVERNMENT any facts material to the issuance or use of this Contract;
- (q) HOLDER is convicted for violation of criminal statutes or civil standards, orders, permits, or other regulations for environmental protection issued by a GOVERNMENT agency, county agency, or political subdivision thereof;
- (r) HOLDER fails to comply with a Social Agreement; or
- (s) HOLDER or its senior officers are convicted for violation of criminal statutes, civil standards, or any other offense indicating a lack of business integrity or honesty that seriously and directly affects the responsibility of HOLDER; including:
  - (i) Intentional misclassification or mislabeling of FOREST PRODUCTS for any purpose;

(ii) Payment of a bribe, gratuity, facilitation money, or kickback; or the granting of a gift, boon, or favor beyond the scope of ordinary courtesy or hospitality to secure or avoid a GOVERNMENT action relating to FOREST RESOURCES;

(iii) Theft, forgery, bribery, embezzlement, falsification or destruction of records, making false statements or misrepresentations, smuggling or other trade-related crimes, or receiving stolen property;

(iv) Fraud, tax evasion, or violation of AUTHORITY Regulation 104-07, on Tender, Award, and Administration of Forest Management Contracts, Timber Sale Contracts, and Major Forest Use Permits;

(v) Human rights violations or crimes against the defense and stability of Liberia; or

(vi) Threatening, resisting, intimidating, or interfering with AUTHORITY officers engaged in, or on account of, the performance of their official duties involving the protection, improvement, or administration of forest lands.

### **B10.28 – Termination for Breach Procedure**

(a) CONTRACTING OFFICER shall give HOLDER notice, in writing, that all operations are suspended and specifying the particular breach and requiring HOLDER, within 90 days or such extended time that CONTRACTING OFFICER allows, to remedy breach, if possible, and pay any compensation due to the GOVERNMENT.

(b) If HOLDER fails to suspend operations, CONTRACTING OFFICER shall obtain a court order to require suspension of operations and immediately terminate this Contract.

(c) If HOLDER suspends operations, but fails to remedy the breach within 90 days or such extended time as is allowed, CONTRACTING OFFICER shall proceed to termination of this Contract.

(d) CONTRACTING OFFICER shall not terminate this Contract if:

(i) If HOLDER disputes whether there has been a breach of the Contract, and

(ii) If HOLDER has, within 90 days or such extended time as is allowed, referred the dispute to CONTRACTING OFFICER for decision and has thereafter diligently prosecuted its CLAIM.

(e) Upon termination by CONTRACTING OFFICER, every right of HOLDER shall cease and HOLDER shall be liable for damages or any other obligations to the GOVERNMENT under this Contract.

(f) In addition to any outstanding damages and contract obligations, AUTHORITY shall charge HOLDER liquidated damages due to termination equivalent to total Land Rental Bid Fees for 1 year, which is the estimated time necessary to re-offer and award the Timber Sale Contract.

### **B10.3 – Periodic and Other Reviews**

HOLDER's operations are subject, under Section B5.3 of this Contract, to regular and routine monitoring undertaken by AUTHORITY staff and accredited third-party independent monitoring organizations. AUTHORITY may also conduct or allow other reviews to assure compliance with applicable requirements.

19 FT

112 



## **B10.31 – Annual Compliance Audit**

(a) AUTHORITY shall convene an ad hoc Contract Audit Committee to promptly complete an annual contract audit including each specific and general provisions and written report in the first quarter of each fiscal year. After consultation with the appropriate agencies, AUTHORITY shall name up to five individuals to the Contract Audit Committee, including at least one representative from each of the following four organizations: AUTHORITY, the Ministry of Finance, the Ministry of Justice, and a civil society group not affiliated with or controlled by the HOLDER.

(b) HOLDER shall appear before the Contract Audit Committee at the Committee's request. HOLDER shall demonstrate that HOLDER is in full compliance with this Contract. Specifically, HOLDER shall attend the session and present:

- (i) A certificate issued by the CHAIN OF CUSTODY SYSTEM Manager showing all forest taxation and related forest charges have been paid during the preceding fiscal year;
- (ii) A certificate issued by AUTHORITY on the status of breaches of contract provisions and violations of forest laws and regulations for the preceding fiscal year;
- (iii) A certificate issued by the Ministry of Finance showing that all income and corporate tax obligations have been discharged for the preceding fiscal year;
- (iv) A business certificate for the current fiscal year;
- (v) A copy of HOLDER's audited accounts for the preceding fiscal year; and
- (vi) A copy of HOLDER's forest certification, if applicable.

## **B10.32 – Additional Audits**

(a) The GOVERNMENT reserves the right to allow unscheduled third party and civil society monitoring of HOLDER's contract operations. Monitoring organizations shall have access to all financial records, management plans, and ANNUAL OPERATIONAL PLANS to facilitate monitoring activities. The GOVERNMENT shall not extend access to any civil society monitoring organization until the monitoring organization agrees, in writing, to not publish any confidential business information protected under Section 18.15 of the National Forestry Reform Law of 2006 without written consent from HOLDER.

(b) If HOLDER fails to demonstrate compliance with the Contract or operational regulations at any point in time during the Contract life, then HOLDER shall be liable to AUTHORITY for the cost of conducting additional field audits to measure compliance.

## **B10.4 – Settlement and Contract Closure**

### **B10.41 – Settlement**

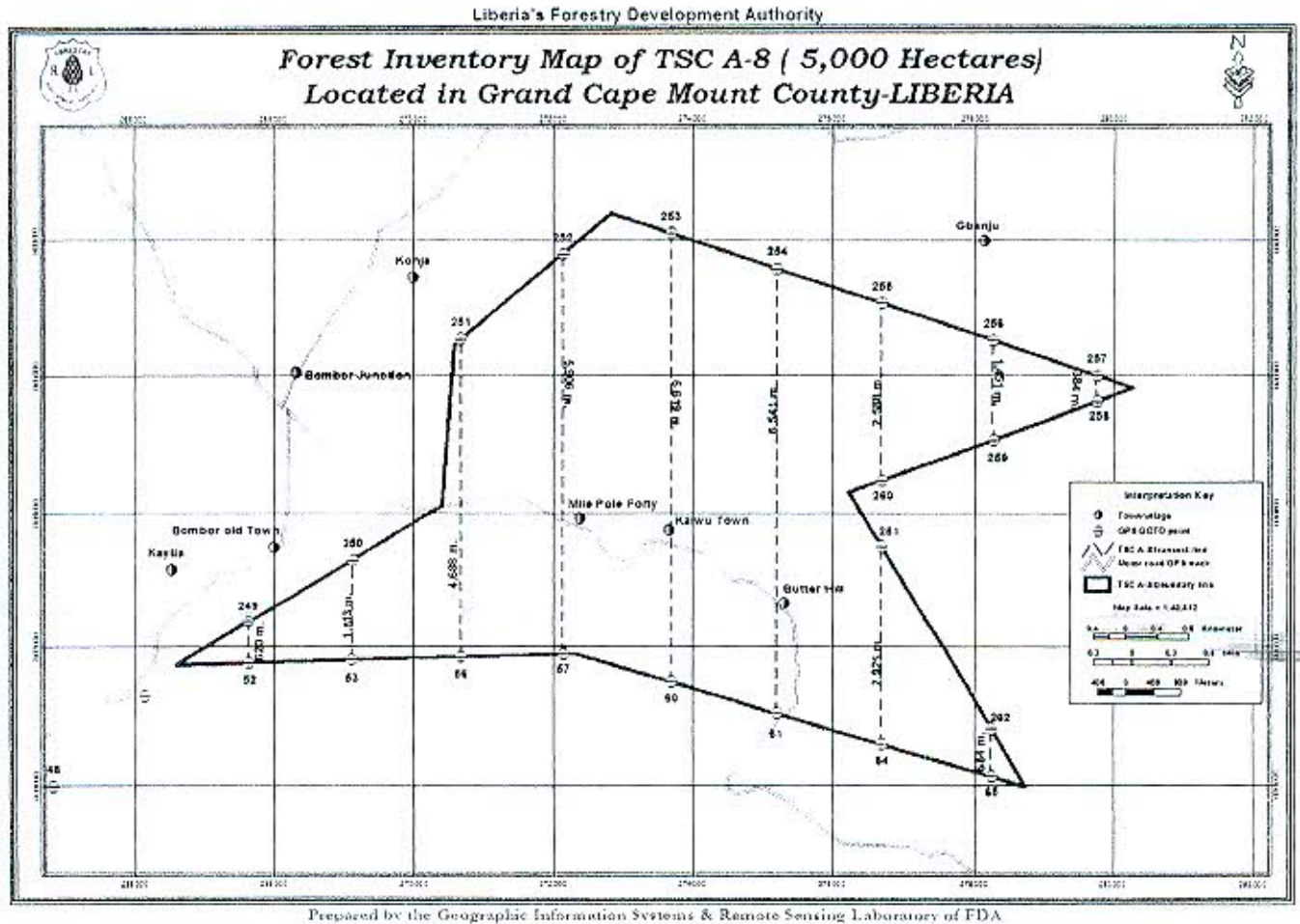
If obligations of HOLDER have not been fully discharged by termination date, AUTHORITY may use the Performance Bond or retain any money advanced or deposited hereunder and apply such funds toward unfulfilled obligations of HOLDER without prejudice to any other rights or remedies of AUTHORITY.

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116

## B10.42 – Contract Closure

CONTRACTING OFFICER shall give written notice to HOLDER when HOLDER has complied with the terms of this Contract. HOLDER shall be paid any refunds due from overpayments.



1975

*Red*